

IN RE: PETITION FOR SPECIAL HEARING
SW/2 Royal Oak and Gwynndale
Avenues (5818 Royal Oak Ave.)
1st Election District
2nd Councilmanic District
Raymond E. McClellan, II, et ux
Petitioners;
BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-51-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as a multi-family dwelling, in accordance with that depicted in Petitioner's Exhibit 1.

The Petitioners appeared, testified, and were represented by Charles Lamasa, Esquire. Also appearing on behalf of the Petition were Eleanor S. O'Neill, William B. Budda, a former resident of the area, appeared as an interested party. Gary S. Miller, adjoining property owner, and Karen Gray, representing the Gwynn Oak Improvement Association, appeared as Protestants.

Testimony indicated that the subject property, known as 5818 Royal Oak Avenue, consists of 0.208 acres zoned D.R. 5.5 and is improved with a three-story frame dwelling unit and a detached two-car garage. Petitioners testified they purchased the subject property in approximately June 1962 at which time the dwelling contained four apartments. Testimony indicated that there is an apartment in the basement with two exterior entrances; an apartment on the first floor with an exterior entrance; and an apartment on the second and third floors which share an exterior entrance into a hallway which provides separate interior entrances. Mr. McClellan testified that none of the apartments provide access from one floor to the other. Mr. McClellan stated that since his ownership of the property, the

apartments have at no time been vacant or unoccupied for greater than a year.

Testimony presented by Mr. Miller, a Protestant, indicated that at one time the basement apartment was vacant for an extended period of time due to broken water pipes. Mr. McClellan argued the basement apartment was not vacated for greater than six months. In fact, he believed it was a much less period of time. Mr. Miller testified that in his opinion, the basement apartment was vacant for greater than one year beginning some time in the Winter of 1985 to the Spring of 1987. Upon cross-examination, Mr. Miller was not able to provide any reference dates to support his position; however, he did submit copies of Health Department documents dated January 1986 and August 1986 which mentioned the occupancy of three apartments. The January correspondence indicated that three units were occupied and the basement unit was vacant.

To further support Petitioners' request, Petitioner introduced copies of the Department of Assessments and Taxation records from 1970 to 1988 which indicate the multi-family use of the subject property. In fact, Page 2 of the document identified as Petitioner's Exhibit 3A, which reflects the period 1970 to 1976, indicates the use and occupancy of the subject property as a four-family dwelling.

Additionally, Petitioners called Eleanor O'Neill who testified that she lived across the street from the subject property at 5817 Royal Oak Avenue from 1943 until she sold her property in 1988. Ms. O'Neill indicated that since some time in the middle 1970s she did not reside at 5817 Royal Oak Avenue on a full-time basis, but frequented the area regularly. She testified that to the best of her knowledge from the date she resided on Royal Oak Avenue in 1943 to the time she sold the property,

- 2 -

5818 Royal Oak Avenue was used as a four apartment dwelling unit. Ms. O'Neill testified that she had been in all four apartments at one time or another and that she was familiar with the builder of 5818 Royal Oak Avenue, John White, who was the owner until some time in the 1970s. She further testified that while she could not remember when she was first in the basement apartment, it was some time in the late 1940s. Ms. O'Neill testified that it was her recollection that even prior to her physically being in the unit, the basement was always used as an apartment.

Ms. Gray testified as a representative for the Gwynn Oak Improvement Association, stating they are concerned about individuals converting large homes in the Gwynn Oak area to multi-family uses. She requested that if there was any doubt as to the subject property's nonconforming use as four apartments, that this building be limited to three apartments. Mr. Miller testified that it was his belief the subject property enjoyed a nonconforming use as a three apartment dwelling unit only. He ardently argued that the basement apartment was left vacant for over a year. He testified as to his concerns with the conditions of the property until recently and indicated his frustrations with Petitioners' failure to maintain the property free of trash and debris until just prior to the hearing. All parties were advised that the issues to be addressed at this hearing were limited to the validity of the use of the subject property as a four-apartment dwelling. Mr. Budda testified that he lived at 5803 Royal Oak Avenue from 1923 until 1941 and continued to have contact with the area thereafter. He testified that while he had never been in any of the apartments, he "thought" the building was used as "three apartments."

- 3 -

Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations (Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945. See Kahl v. Cons. Gas Elec. Light. and Pwr. Co., 191 Md. 249, 254, 60 A.2d 754 (1948); Calhoun v. County Board of Appeals, 262 Md. 265, 277 A.2d 589 (1971).

Section II of those regulations created seven zones, four being residential, one commercial, and two industrial. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

Those original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different nonconforming use or any discontinuance of such nonconforming use for a period of one year, or in case a forming use for a period of one year, or in case a nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75%) percent of its value, the right to continue to resume such nonconforming use shall terminate. Provided, however, that any such lawful nonconforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

- 4 -

Baltimore County adopted a new set of comprehensive zoning regulations on March 30, 1955. The issue of nonconforming uses are dealt with in Section 104 of those regulations. The Section then read:

"104.1 - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel or land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

Section 104.1 was changed to its current language on March 15, 1976 by Bill No. 18-76. The current effective regulation reads as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)"

On August 4, 1980, the current language found in Section 104.2 was added to the B.C.Z.R. by Bill No. 167-80. This regulation placed an exception upon the general nonconforming rule for Special Exception office buildings, which provision is inapplicable to this factual situation.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior

- 5 -

to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning. Testimony indicated that the house was used as a four-apartment dwelling prior to 1943.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978). In this instance, there has been no change in the use of the subject property, only a question as to when the nonconforming use of the basement apartment ceased. In the opinion of the Deputy Zoning Commissioner, said use did not expire as the use was not abandoned or discontinued by Petitioner for a period of one year or more.

After due consideration of the testimony and evidence presented, it appears that the subject property has been used continuously and without interruption as a four-apartment dwelling unit, except for a change in tenants or for repairs, since prior to the effective date of the zoning regulations. The testimony of Ms. O'Neill as to the property originating as a four apartment dwelling was supported by her clear recollection of and contact with the property. Mr. Miller's testimony regarding the vacancy of the basement apartment for greater than one year was unsupported by any facts other than a 6-month period as indicated by the County Health Department notes. In the opinion of the Deputy Zoning Commissioner, a nonconforming use of the subject property as four apartments exists.

- 6 -

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 10th day of November, 1989 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a multi-family dwelling (four apartments), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

November 20, 1989

Charles Lamasa, Esquire
1023 Cathedral Street
Baltimore, Maryland 21201

RE: PETITION FOR SPECIAL HEARING
SW/2 Royal Oak and Gwynn Oak Avenues
(5818 Royal Oak Avenue)
1st Election District - 2nd Councilmanic District
Raymond E. McClellan, II, et ux - Petitioners
Case No. 90-51-SPH

Dear Mr. Lamasa:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Mr. Gary S. Miller
5820 Royal Oak Avenue, Baltimore, Md. 21207

Ms. Karen Gray
2504 Poplar Drive, Baltimore, Md. 21207

People's Counsel

File

WORK SHEET

1. TYPE OF BUILDING

2. EXTERIOR WALLS

3. ROOF STRUCTURE

4. ROOF COVER

5. ATTIC

6. OWNER OCCUPIED

7. SPECIAL FEATURES

8. REMARKS

9. DIMENSIONS

10. SUMMARY

11. MARKET VALUE

12. ASSESSOR'S VALUE

13. TAXES

14. NOTES

15. SIGNATURES

16. DATE

17. PAGE

18. TOTAL

19. TOTAL

20. TOTAL

21. TOTAL

22. TOTAL

23. TOTAL

24. TOTAL

25. TOTAL

26. TOTAL

27. TOTAL

28. TOTAL

29. TOTAL

30. TOTAL

31. TOTAL

32. TOTAL

33. TOTAL

34. TOTAL

35. TOTAL

36. TOTAL

37. TOTAL

38. TOTAL

39. TOTAL

40. TOTAL

41. TOTAL

42. TOTAL

43. TOTAL

44. TOTAL

45. TOTAL

46. TOTAL

47. TOTAL

48. TOTAL

49. TOTAL

50. TOTAL

51. TOTAL

52. TOTAL

53. TOTAL

54. TOTAL

55. TOTAL

56. TOTAL

57. TOTAL

58. TOTAL

59. TOTAL

60. TOTAL

61. TOTAL

62. TOTAL

63. TOTAL

64. TOTAL

65. TOTAL

66. TOTAL

67. TOTAL

68. TOTAL

69. TOTAL

70. TOTAL

71. TOTAL

72. TOTAL

73. TOTAL

74. TOTAL

75. TOTAL

76. TOTAL

77. TOTAL

78. TOTAL

79. TOTAL

80. TOTAL

81. TOTAL

82. TOTAL

83. TOTAL

84. TOTAL

85. TOTAL

86. TOTAL

87. TOTAL

88. TOTAL

89. TOTAL

90. TOTAL

91. TOTAL

92. TOTAL

93. TOTAL

94. TOTAL

95. TOTAL

96. TOTAL

97. TOTAL

98. TOTAL

99. TOTAL

100. TOTAL

ACKNOWLEDGMENT

1. DATE

2. LOCATION

3. OWNER

4. OCCUPANT

5. COMPLAINT

6. REASON FOR INVESTIGATION

7. RECEIVED BY

8. DATE

9. ASSIGNED TO

10. DATE

11. REPORT

12. DATE

13. TIME

14. WEATHER

15. COMMENTS

16. SIGNATURES

17. DATE

18. PAGE

19. TOTAL

20. TOTAL

21. TOTAL

22. TOTAL

23. TOTAL

24. TOTAL

25. TOTAL

26. TOTAL

27. TOTAL

28. TOTAL

29. TOTAL

30. TOTAL

31. TOTAL

32. TOTAL

33. TOTAL

34. TOTAL

35. TOTAL

36. TOTAL

37. TOTAL

38. TOTAL

39. TOTAL

40. TOTAL

41. TOTAL

42. TOTAL

43. TOTAL

44. TOTAL

45. TOTAL

46. TOTAL

47. TOTAL

48. TOTAL

49. TOTAL

50. TOTAL

51. TOTAL

52. TOTAL

53. TOTAL

54. TOTAL

55. TOTAL

56. TOTAL

57. TOTAL

58. TOTAL

59. TOTAL

60. TOTAL

61. TOTAL

62. TOTAL

63. TOTAL

64. TOTAL

65. TOTAL

66. TOTAL

67. TOTAL

68. TOTAL

69. TOTAL

70. TOTAL

71. TOTAL

72. TOTAL

73. TOTAL

74. TOTAL

75. TOTAL

76. TOTAL

77. TOTAL

78. TOTAL

79. TOTAL

80. TOTAL

81. TOTAL

82. TOTAL

83. TOTAL

84. TOTAL

85. TOTAL

86. TOTAL

87. TOTAL

88. TOTAL

89. TOTAL

90. TOTAL

91. TOTAL

92. TOTAL

93. TOTAL

94. TOTAL

95. TOTAL

96. TOTAL

97. TOTAL

98. TOTAL

99. TOTAL

100. TOTAL

ACKNOWLEDGMENT

1. DATE

2. LOCATION

3. OWNER

4. OCCUPANT

5. COMPLAINT

6. REASON FOR INVESTIGATION

7. RECEIVED BY

8. DATE

9. ASSIGNED TO

10. DATE

11. REPORT

12. DATE

13. TIME

14. WEATHER

15. COMMENTS

16. SIGNATURES

17. DATE

18. PAGE

19. TOTAL

20. TOTAL

21. TOTAL

22. TOTAL

23. TOTAL

24. TOTAL

25. TOTAL

26. TOTAL

27. TOTAL

28. TOTAL

29. TOTAL

30. TOTAL

31. TOTAL

32. TOTAL

33. TOTAL

34. TOTAL

35. TOTAL

36. TOTAL

37. TOTAL

38. TOTAL

39. TOTAL

40. TOTAL

41. TOTAL

42. TOTAL

43. TOTAL

44. TOTAL

45. TOTAL

46. TOTAL

47. TOTAL

48. TOTAL

49. TOTAL

50. TOTAL

51. TOTAL

52. TOTAL

53. TOTAL

54. TOTAL

55. TOTAL

56. TOTAL

57. TOTAL

58. TOTAL

59. TOTAL

60. TOTAL

61. TOTAL

62. TOTAL

63. TOTAL

64. TOTAL

65. TOTAL

66. TOTAL

67. TOTAL

68. TOTAL

69. TOTAL

70. TOTAL

71. TOTAL

72. TOTAL

73. TOTAL

74. TOTAL

75. TOTAL

76. TOTAL

77. TOTAL

78. TOTAL

79. TOTAL

80. TOTAL

81. TOTAL

82. TOTAL

83. TOTAL

84. TOTAL

85. TOTAL

86. TOTAL

87. TOTAL

88. TOTAL

89. TOTAL

90. TOTAL

91. TOTAL

92. TOTAL

93. TOTAL

94. TOTAL

95. TOTAL

96. TOTAL

97. TOTAL

98. TOTAL

99. TOTAL

100. TOTAL

RECEIVED

AUG 17 1989

BALTIMORE COUNTY, MARYLAND

ZONING OFFICE

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines, Zoning Commissioner

FROM: Pat Keller, Deputy Director, Office of Planning and Zoning

SUBJECT: Raymond and Janie McCallan, Item 506, Zoning Petition No. 90-51-SPH

DATE: August 16, 1989

The petitioners request a Special Hearing to approve a non-forming use. In reference to this request, staff offers no comment.

PK/JL/sf

ACCOUNTING

1. DATE

2. LOCATION

3. OWNER

4. OCCUPANT

5. COMPLAINT

6. REASON FOR INVESTIGATION

7. RECEIVED BY

8. DATE

9. ASSIGNED TO

10. DATE

11. REPORT

12. DATE

13. TIME

14. WEATHER

15. COMMENTS

16. SIGNATURES

17. DATE

18. PAGE

19. TOTAL

20. TOTAL

21. TOTAL

22. TOTAL

23. TOTAL

24. TOTAL

25. TOTAL

26. TOTAL

27. TOTAL

28. TOTAL

29. TOTAL

30. TOTAL

31. TOTAL

32. TOTAL

33. TOTAL

34. TOTAL

35. TOTAL

36. TOTAL

37. TOTAL

38. TOTAL

39. TOTAL

40. TOTAL

41. TOTAL

42. TOTAL

43. TOTAL

44. TOTAL

45. TOTAL

46. TOTAL

47. TOTAL

48. TOTAL

49. TOTAL

50. TOTAL

51. TOTAL

52. TOTAL

53. TOTAL

54. TOTAL

55. TOTAL

56. TOTAL

57. TOTAL

58. TOTAL

59. TOTAL

60. TOTAL

61. TOTAL

62. TOTAL

63. TOTAL

64. TOTAL

65. TOTAL

66. TOTAL

67. TOTAL

68. TOTAL

69. TOTAL

70. TOTAL

71. TOTAL

72. TOTAL

73. TOTAL

74. TOTAL

75. TOTAL

76. TOTAL

77. TOTAL

78. TOTAL

79. TOTAL

80. TOTAL

81. TOTAL

82. TOTAL

83. TOTAL

84. TOTAL

85. TOTAL

86. TOTAL

87. TOTAL

88. TOTAL

89. TOTAL

90. TOTAL

91. TOTAL

92. TOTAL

93. TOTAL

94. TOTAL

95. TOTAL

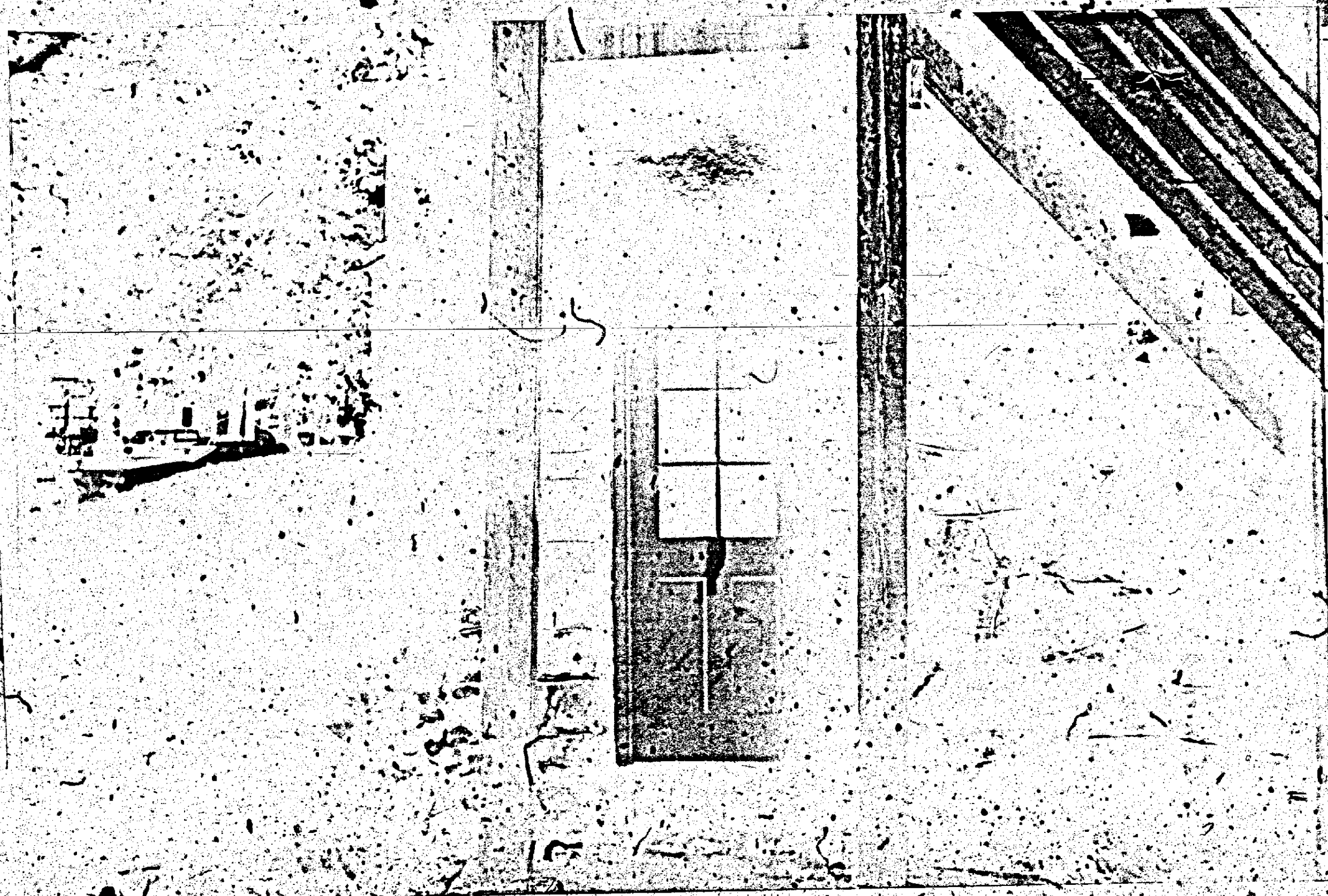
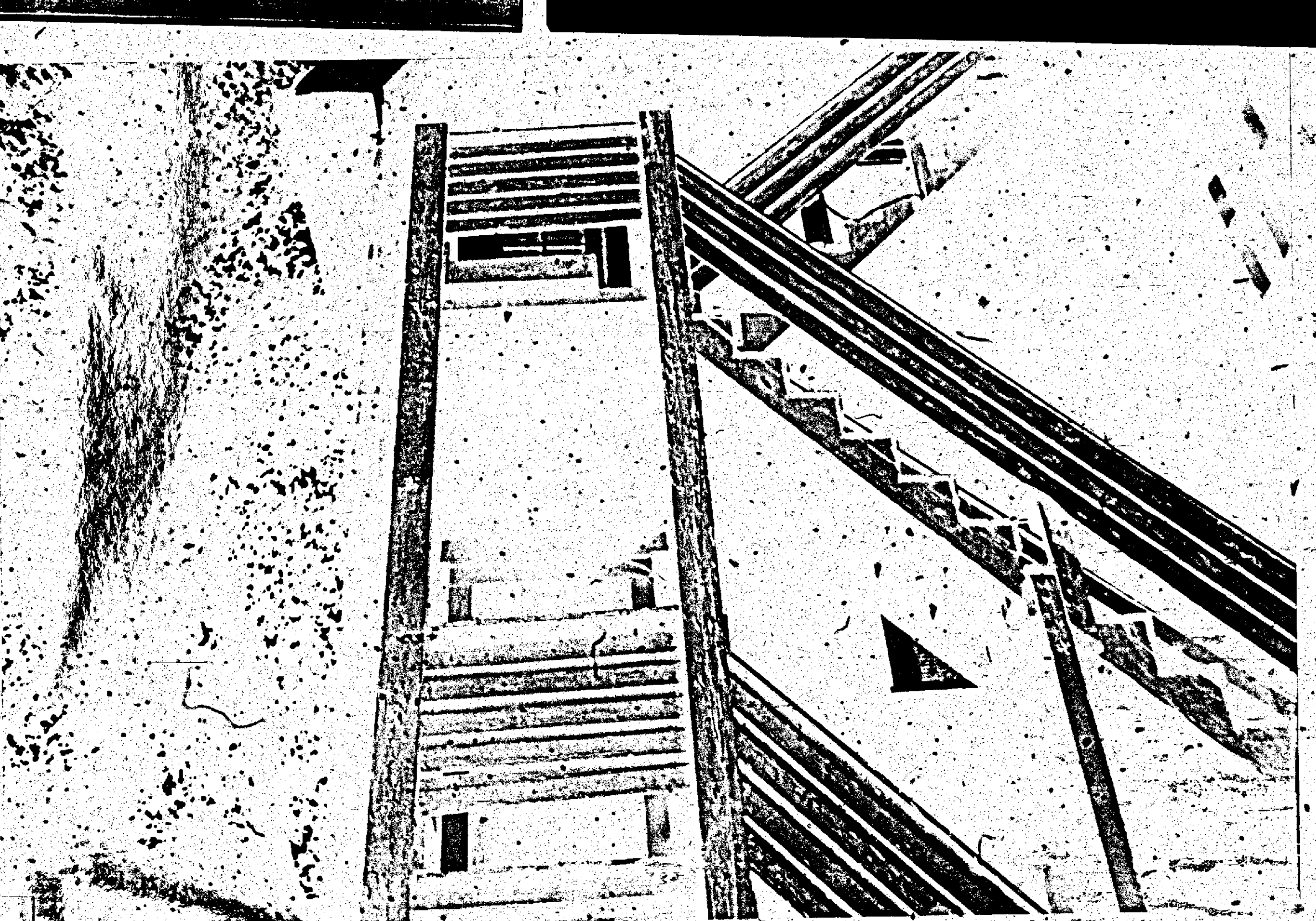
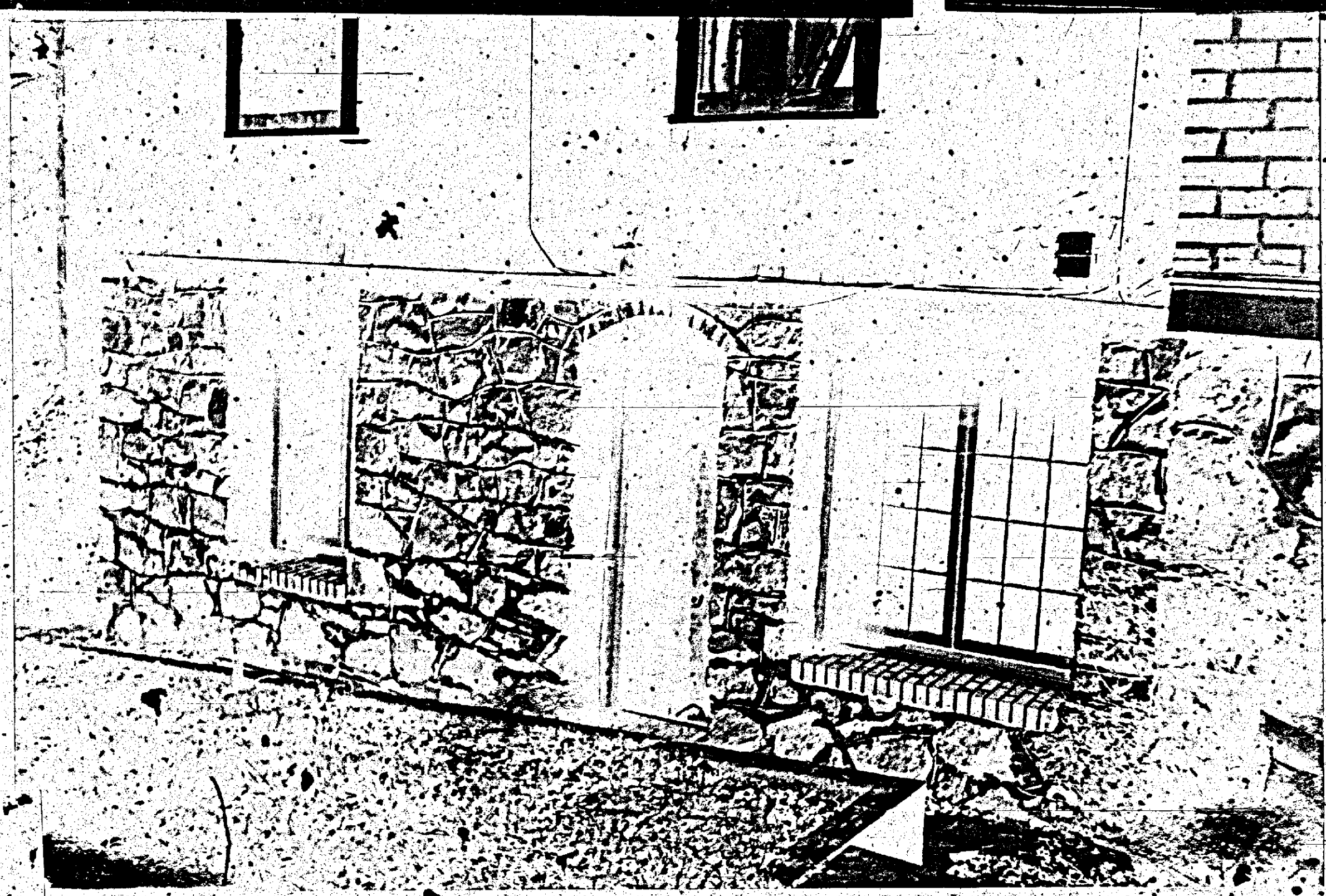
96. TOTAL

97. TOTAL

98. TOTAL

99. TOTAL

100. TOTAL



BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

August 7, 1989

Charles Lamasa, Esquire
1023 Cathedral Street
Baltimore, MD 21201

RE: Item No. 506, Case No. 90-51-SPH
Petitioner: Raymond E. McClellan, et ux
Petition for Special Hearing

Dear Mr. Lamasa:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

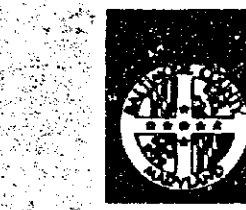
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Raymond E. McClellan, II
13101 Arctic Avenue
Rockville, MD 20853

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this 7th day of June, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: Raymond E. McClellan, et ux

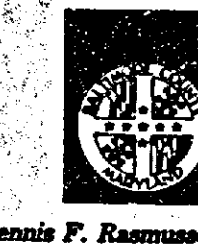
Petitioner's Attorney: Charles Lamasa

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Townson, Maryland 21204
(301) 887-3334

July 24, 1989

RECEIVED
AUG 3 1989

ZONING OFFICE



Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Townson, MD 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 407, 417, 502, 503, 504, 505, 506, 507, 508, 509, 510 and 512.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lab

Baltimore County
Fire Department
80 Oak Road
Townson, Maryland 21204-2538
(301) 887-4500
Paul H. Roberts
Chief

JUNE 12, 1989



Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Townson, MD 21204

RE: Property Owner: RAYMOND E. MCCLELLAN, II

Location: SW CORNER OF ROYAL OAK AND GWYNN DALE AVENUES

Item No.: 506 Zoning Agenda: JUNE 6, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *John J. Kelly* Noted and Approved *Capt. Jim Brady*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/NER

JUN 14 1989

CHARLES LAMASA
ATTORNEY AT LAW
1023 CATHEDRAL STREET
BALTIMORE, MARYLAND 21201
(301) 727-4131
TELECOMPER 727-4178

RECEIVED
OCT 30 1989

ZONING OFFICE

October 26, 1989

Ann M. Nastarowicz
Deputy Zoning Commissioner
for Baltimore County
Office of Planning & Zoning
Townson, Maryland 21204

RE: Petition for Special Hearing
5818 Royal Oak Avenue
40-51-SPH

Dear Ms. Nastarowicz:

Pursuant to the statement made by you at the hearing of October 17, 1989, I enclose herewith a rental application and receipts dated June 4 and June 5, 1986 regarding the basement apartment of the above address. As you will recall, there was some dispute as to whether this apartment had remained vacant for a period in excess of one year. At the hearing you agreed to allow me to supplement the record should I discover documents tending to show that the apartment was rented during the relevant period. Mr. Miller produced documents tending to show that around Christmas time 1985, the apartment had water damage which caused it to be vacated. There was some question of the length of time that the apartment was vacant. Mr. Miller produced a document showing apparent vacancy in August of 1986. Mr. Miller, himself, was unclear as to how long the apartment had remained vacant.

The records enclosed herewith provide proof that the apartment was vacant for approximately six months, it having been occupied on June 5, 1986 by Ms. Tanya Pryor.

It is submitted that as the evidence in the record proves that the apartment was not vacated for a period in excess of one year,

Ann M. Nastarowicz
October 26, 1989
Page 2

the grandfather clause to the zoning law will permit a non-conforming use of four apartments in the subject dwelling. It is felt that it is unnecessary to supply cases which tend to extend the one year vacancy rule as mentioned at the hearing. Should you still wish to have a brief of such cases please notify me and I will supply them forthwith.

Please contact me if you have any questions.

Very truly yours,

Charles Lamasa
Charles Lamasa

CL:ll

Enclosure

CC: Mr. & Mrs. Raymond E. McClellan
Gary Miller

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 20, 1989
FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for June 6, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for items 502, 503, 505, 506, 507, 509, and 512.

For items 417 and 510 the previous County Review Group comments are still valid.

Comments are attached for item 407.

For item 504, Oak Avenue shall ultimately be improved as a 50-foot street cross-section on a 50-foot right-of-way.

For item 506, parking should not be set up to back out onto future Craddock Lane.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Encl.

Received from Ms. Tanya Pryor \$25.00
Twenty-five Dollars, for Rental application
re 5818 Royal Oak ave. Garden apt.
application fee Not returnable.

Geneva Davis
for Ray Mc Clellan

June 5, 1986
Received from Ms. Tanya Pryor \$480.00
Four Hundred Eighty Dollars, for Rental
and Security Deposit on apt
Garden apt. 5818 Royal Oak ave.
First Rent Due July 5, 1986.
Lease should be sign within
30 days.

Geneva Davis
for Ray Mc Clellan

BALTIMORE COUNTY ZONING COMMISSION
OFFICE OF PLANNING & ZONING

Raymond E. McClellan
Petitioner
v.
Baltimore County Zoning
Commission

Case No. 90-51-SFR
PETITION FOR SPECIAL HEARING

REQUEST FOR SUBPOENA

Dear Mr. Commissioner:

Please issue a subpoena directed to:

Ms. Eleanor B. O'Neill
524 N. Charles Street
Apartment 1412
Baltimore, Maryland 21201

ordering her to appear and give testimony at a public hearing on
Tuesday, October 17, 1989 at 9:30 a.m. in Room 106 of the County
Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

Respectfully submitted,

Charles Lamasa
Charles Lamasa
1023 Cathedral Street
Baltimore, Maryland 21201
301-727-4131
Attorney for Petitioner

Benett
Mr. Schertz/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule
IV(c).

J. Robert Haines
Zoning Commissioner

QUALIFICATIONS:
1. MATURE
2. AMBITIOUS
3. CAREER ORIENTED
4. PEOPLE PERSON
5. FOLLOWING EXPERIENCE HELPFUL, BUT NOT ESSENTIAL:
A. COSMETIC SALES
B. JEWELRY SALES
C. PARTY PLAN SALES
D. TELEVISING

ALARY PAID WHILE TRAINING, CALLED "THE SECRETARY"

301-574-5381
10 a.m. - 8 p.m.

LEGAL NOTICE
NOTICE OF HEARING
 The Board of the Bureau of State Courts, in the County of Baltimore, will hold a public hearing on the proposed amendments to the Charter of the County of Baltimore, at 10:00 a.m. on Monday, September 23, 1989, at the County Administration Center, 100 North E. Street, Baltimore, Maryland 21202. The proposed amendments are available for public inspection at the County Administration Center, 100 North E. Street, Baltimore, Maryland 21202, from 9:00 a.m. to 5:00 p.m. on Monday, September 23, 1989, and on Tuesday, September 24, 1989, from 9:00 a.m. to 5:00 p.m. on Tuesday, September 24, 1989.

LEGAL NOTICE
PUBLIC NOTICE OF CONVEYANCE OF COUNTY PROPERTY
 Notice is hereby given that the County of Baltimore, Maryland, will hold a public hearing on the proposed amendments to the Charter of the County of Baltimore, at 10:00 a.m. on Monday, September 23, 1989, at the County Administration Center, 100 North E. Street, Baltimore, Maryland 21202. The proposed amendments are available for public inspection at the County Administration Center, 100 North E. Street, Baltimore, Maryland 21202, from 9:00 a.m. to 5:00 p.m. on Monday, September 23, 1989, and on Tuesday, September 24, 1989, from 9:00 a.m. to 5:00 p.m. on Tuesday, September 24, 1989.

CERTIFICATE OF POSTING
JOINT DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1st
 Posted for: Special Hearing
 Date of Posting: September 22, 1989
 Petitioner: Raymond E. McEllan, II, et al.
 Location of property: 5115 Royal Oak Avenue and Guyan Park Avenue
5118 Royal Oak Avenue
 Location of Sign: In front of 5118 Royal Oak Avenue

Remarks: _____
 Posted by: A.J. Crater
 Number of Signs: 1

Date of Signing: September 23, 1989

A ROBERT HARGES
Joint Commissioners of Baltimore County
 CCSC Seat 2A

209 M34205
cc 90-51-SP4
ps \$ 41.37

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

September 11, 1989

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER: 90-51-SPH
585 Royal Oak Avenue and Dawn Dale Avenue
5818 Royal Oak Avenue
1st Election District - 2nd Councilmanic
Petitioner(s): Raymond E. McCallan, II, et ux
HEARING SCHEDULED: TUESDAY, OCTOBER 17, 1989 at 9:30 a.m.

Special Hearings Non-conforming use to allow the above property to continue to be used as a multi-family dwelling in excess of current zoning regulations. The property has been so used since prior to 1945.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH:gs
cc: Raymond E. McCallan, II
Charles Lemus, Esq.
Gary Miller
File

CHARLES LAMASA
ATTORNEY AT LAW
1023 CATHEDRAL STREET
BALTIMORE, MARYLAND 21201
(202) 787-4131

July 18, 1989

J. Robert Haines,
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204

RE: Case No. 90-51-SPH
Petition for Special Hearing
SNC Royal Oak & Gwynn Dale
Avenues
5820 Royal Oak Avenue
1st Election District - 2nd
Councilmanic
Petitioner: Raymond E.
McCellan, II, et ux

Dear Mr. Haines:

This is to request a postponement from the August 16, 1989
trial date in this matter. The reason for the request is that I
am scheduled for vacation that week.

I thank you for your attention to this matter.

Very truly yours,

Charles Lamasa

CL:ll

RECEIVED
JUL 20 1989
ZONING OFFICE

Request for Assistance

Date: 12/27/87 Suspense Date: 12/14/87

CITIZEN INFORMATION

Name: Gary Miller
Address: 5820 Royal Oak Ave. 21207
Telephone: 243-8448
Form Initiated By: Chris Kees

PROBLEM 5818 Royal Oak Ave - renting out 4 units in single family dwelling.

CITIZEN CONTACT

Date:
Contact By:

AGENCY ACTION

ACK. SENT 12-28-87
CASE NO. C-88-1149
INSTR. OR WILL KEEP CITIZEN INFORMED

Completed By:

FINAL DISPOSITION

Date:
DCA Staff Person:

Division of Citizens Assistance

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3363

J. Robert Haines
Zoning Commissioner

July 17, 1989

NOTICE OF HEARING

Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Case Number: 90-51-SPH
Petition for Special Hearing
SUC Royal Oak & Gwynndale Avenues
Royal Oak Avenue
1st Election District - 2nd Councilmanic
Petitioner(s): Raymond E. McClellan, II, et ux
HEARING SCHEDULED: WEDNESDAY, AUGUST 16, 1989 at 9:30 a.m.

Special Hearing: Non-conforming use to allow the above property to continue to be used as a multi-family dwelling in excess of current zoning regulations. The property has been so used since prior to 1945.

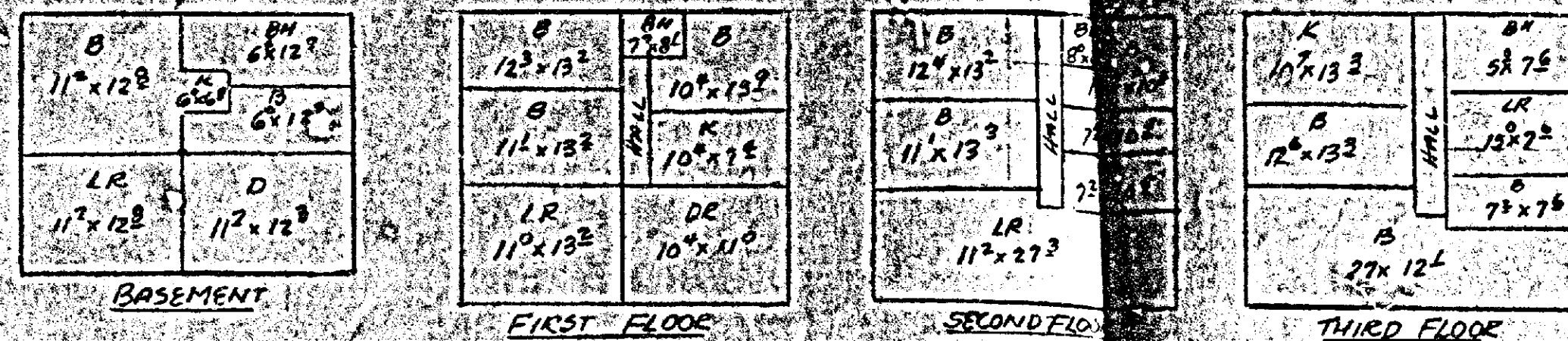
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines

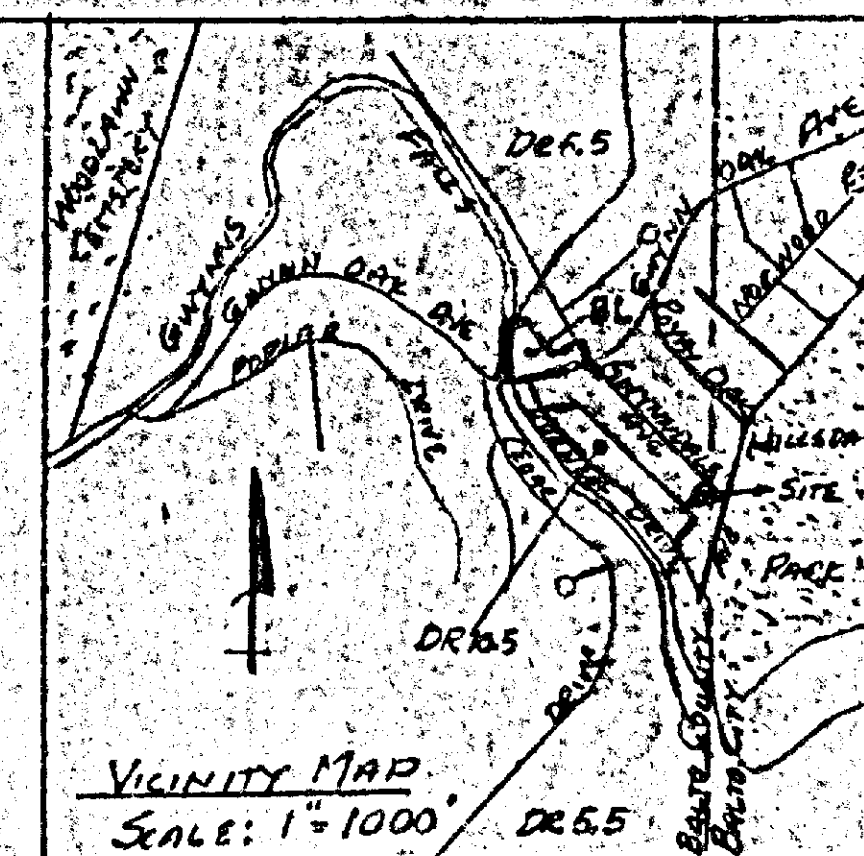
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH:gs

cc: Raymond E. McClellan, II
Charles Lamasa, Esq.
File
Gary Miller



FLOOR ARRANGEMENT
SCALE: NONE



VICINITY MAP
SCALE: 1"=1000'

DISTRICT No. 1
BALTIMORE CO., MD.

GENERAL NOTES:

1. DWELLING AT 5818 ROYAL OAK AVENUE IS FOR RESIDENTIAL USE AND CONTAINS 4 APARTMENTS.

CALCULATION FOR PARKING

USE: 4 APARTMENTS.
NO. PARKING SPACES REQD: 4 x 2 = 8 SPACES.
NO. PARKING SPACES FURNISHED
ON-SITE CAR GARAGE = 2 SPACES
OFF-SITE = 6 SPACES } 8 SPACES

PLAN

SCALE: 1"=50'

PLAT TO ACCOMPANY SPECIAL HEARING

OWNERS: RAYMOND AND JANIE MCCLELLAN
ELECTION DISTRICT NO. 1 ZONED DP 55
DEED REFERENCE LK 6423 PAGE 274
UTILITIES IN ROYAL OAK AVENUE.
LOT SIZE: 9084 SQ. FT. = 0.208 ACRES ±



AMERICAN ENGINEERING
SUITE 206 GLENMONT TOWERS
6920 DUNACHIE ROAD
BALTIMORE MD 21239
PHONE: 821-6844

MCCLELLAN PROPERTY

5818 ROYAL OAK AVE
BALTIMORE MD 21207
SCALE: AS NOTED APRIL 1989

REV 5-11-89

1/8/89
Petitioners
Exhibit 1