

IN RE: PETITION FOR ZONING VARIANCE
7926 Pulaski Highway, 639.6' NE
of the c/l of Rosedale Avenue
(7926 Pulaski Highway)
15th Election District
5th Councilmanic District
Joyce E. Derka
Petitioner

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-88-A

MAP NEZE
4B
DATE 1-14-91
200 BF
1000 BF
DP G

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit a distance between buildings of 35 feet in lieu of the required 60 feet; a side yard setback of 12 feet in lieu of the required 30 feet; and a front yard setback of 16 feet in lieu of the required 50 feet, for a Pit Beef stand in accordance with Petitioner's Exhibit 1.

The Petitioner, by Michael DiCarlo, Contract Lessee, appeared, testified and was represented by Paul Cvach, Esquire. The property owner, by notarized statement dated September 6, 1989, authorized Mr. DiCarlo to proceed without her presence. Ms. Derka was called out of town due to a family medical emergency. There were no Protestants.

Testimony indicated that the subject property, known as 7926 Pulaski Highway, consists of 0.32 acres zoned B.R.-C.S.1, and is improved with a single family dwelling used as Petitioner's residence. Petitioner proposes leasing a portion of her property to Mr. DiCarlo for purposes of establishing a Pit Beef stand approximately 11' x 11' in size as set forth in Petitioner's Exhibit 1. Testimony indicated that due to the location of the existing dwelling and the size of the lot, strict compliance with the zoning regulations is impossible. Mr. DiCarlo presented numerous petitions from neighboring business owners indicating their support of Petitioner's request. Additionally, exhibits were introduced evidencing

Mr. DiCarlo's involvement and sponsorship of recreational activities in the community. Petitioner contends the granting of the variance will not result in any detriment to the health, safety or general welfare of the community.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Deputy Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of September, 1989 that the Petition for Zoning Variance to permit a distance between buildings of 35 feet in lieu of the required 60 feet; a side yard setback of 12 feet in lieu of the required 30 feet; and a front yard setback of 16 feet in lieu of the required 50 feet, for a Pit Beef stand in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her 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

- 2 -

Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The variances granted herein are limited to the operation of a Pit Beef stand, approximately 11' x 11' in size, by Michael DiCarlo, in the location set forth on Petitioner's Exhibit 1.

3) Compliance with the requirements of the Department of Planning and Zoning as set forth in their comments dated August 31, 1989. Petitioners shall submit proof of compliance within ninety (90) days of the date of this Order.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:mjs

ORDER RECEIVED FOR FILING
Date 9/14/89
By [Signature]

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 79-88-A

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 102.2 (302), 238.1 and 238.2 To permit a 35' distance between buildings, a 12' side yard setback, and a 16' front yard setback in lieu of the minimum 60', 30' and 50' respectively.

Property is to be posted and advertised as prescribed by Zoning Regulations.

- 1) The location is the one best suited for the easy flow of parking and service of customers.
 - 2) If property was zoned B.R. a member would be needed, but since there was no B.R. member available this B.R. site was chosen requiring more setback.
 - 3) Services here on block away was not necessary so the location was the only one available close to serve customers.
- I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

Michael W. DiCarlo
(Type or Print Name)
Signature
5816 Caplan Ave
City and State
Baltimore, MD 21204

Legal Owner(s):

Joyce E. Derka
(Type or Print Name)
Signature
Joyce E. Derka
City and State
Baltimore, MD 21204

Attorney for Petitioner:

Paul Cvach
(Type or Print Name)
Signature
Address
City and State

7926 Pulaski Hwy 686-8219

Address
City and State
Baltimore, MD 21204

Attorney's Telephone No.:

Address
City and State
Baltimore, MD 21204

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Michael W. DiCarlo
5816 Caplan Ave
Baltimore, MD 21204
Phone No. 686-2008

ORDERED By The Zoning Commissioner of Baltimore County, this 28th day

of June 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 1st day of July 1989, at 3 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING - 1/2 HR.
AVAILABLE FOR HEARING (over)
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER DATE 6/25/89
REVIEWED BY: [Signature] DATE 6/25/89

FRANK S. LEE

Registered Land Surveyor

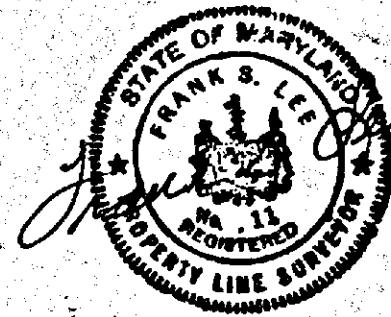
1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

June 8, 1989

No. 7926 Pulaski Highway
15th District Baltimore County, Maryland

Beginning for the same on the northwest side of Pulaski Highway at the distance of 639.6 feet more or less measured northeasterly along the northwest side of Pulaski Highway from the east side of Rosedale Avenue, thence running and binding on the northwest side thereof North 65 degrees 21 minutes East 100.42 feet, thence running for three lines of division as follows: North 29 degrees 54 minutes West 146.16 feet, South 60 degrees 06 minutes West 100 feet and South 29 degrees 54 minutes East 175.89 feet to the place of beginning.

Containing 0.32 acres of land more or less.



PARS & PROPERTIES UNLIMITED, INC.
PULASKI HIGHWAY
BALTIMORE, MARYLAND 21237
(301) 686-8219 - 686-8082

September 6, 1989

Baltimore County Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204

Re: Case Number
90-88-A

Attn: J. Robert Haines

Dear Mr. Haines:

My sincere and deepest apologies for not being able to attend this hearing. The reason being is due to the illness of my daughter in South Carolina, who is being operated on for cancer on Friday, September 9, 1989.

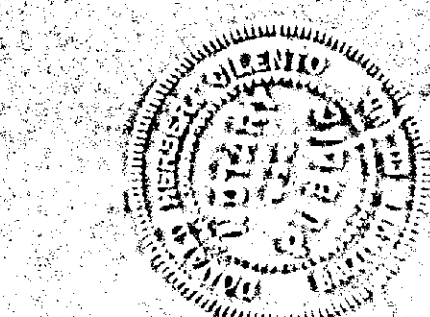
I have given Mr. Decarlo my complete authority to make any decisions concerning the property that the Pit Beef Stand is located on. I have absolutely no problems with the business and this in no way hinders the house on the living conditions. I feel that by Mr. Decarlo's business being there is very much an asset for the surrounding businesses and the community.

I pray that you may grant any permits or what ever may be necessary for Mr. Decarlo to proceed.

Thank you for your kind consideration in this matter and if I can be of further assistance please feel free to contact me.

Sincerely,
Pars & Properties Unlimited, Inc.

Joyce E. Derka



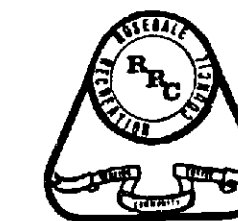
As statement above on form to be the
David D. Carro
Notary Public
Notary Public Expires July 1, 1990
Petitioner's Exhibit 2

Attention:
We the neighboring businesses of Big Al's Pit Beef have no objection at all of Big Al's new location at 7926 Pulaski Hwy.

Thomas A. Beard 7909 Pulaski Hwy. Homeless
Howard A. Hammer 7913 Pulaski Hwy. Choice pest control
Henry A. Hammer 7924 Shirley Ave. Homeless
Shel Johnson 7915 Pulaski Hwy. Homeless
Nancy Lei del 7931 Pulaski Hwy. Bakery line
Anthony Allet 7910 Pulaski Hwy. Barber shop
Melody Antelope 7910 Pulaski Hwy. 2127 Gals
Basil Giff 7930 Pulaski Hwy. Wash House
Petitioner's Exhibit 3

Rosedale Recreation & Parks Council

6700 Kenwood Avenue - Rosedale, Maryland 21237



COMMUNITY SUPERVISOR
Ronald R. Schaeffer
887-0294 10-2 PM
ROSEDALE CENTER SUPERVISOR
Leo Roberts
887-0219 1-3 PM

June 26, 1989

Baltimore County Office of Zoning

Dear Madam/Sir:

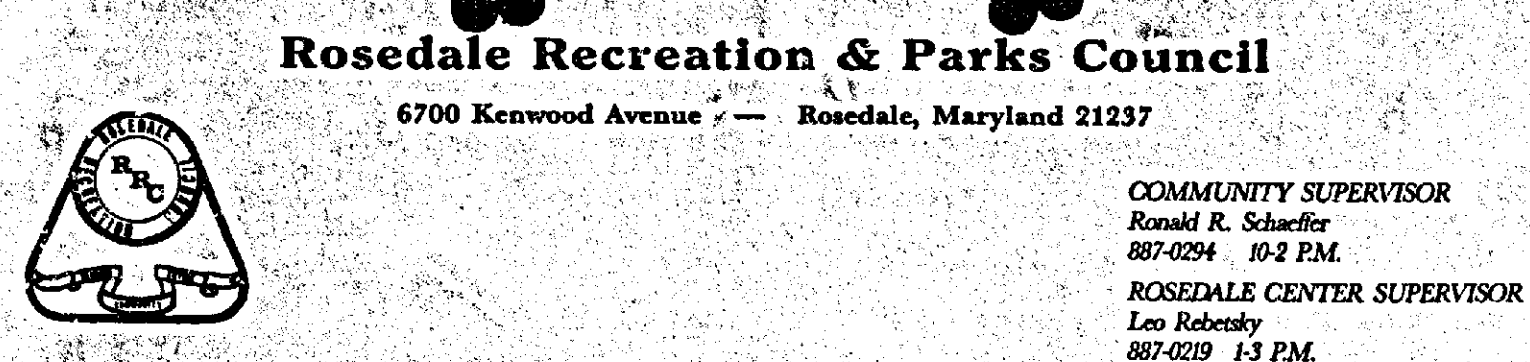
It is my pleasure to write this letter of reference on behalf of Michael DiCarlo, proprietor of "Big Al's Carryout". Michael has been a long time supporter of recreational activities in the Rosedale community. Whenever he is asked to support our programs he is always more than willing to do so.

Michael can be seen on a regular basis at our recreational activities. In my opinion, I consider him to be a model businessman--someone who puts something back into his community.

In the event you should have any question regarding the above, please do not hesitate to contact me.

Very truly yours,
Ronald R. Schaeffer
Community Supervisor

RRS:rl



Rosedale Recreation & Parks Council
6700 Kenwood Avenue — Rosedale, Maryland 21237

COMMUNITY SUPERVISOR
Ronald R. Schaefer
887-0294 10:2 PM
ROSEDALE CENTER SUPERVISOR
Leo Rebecky
887-0219 1:3 PM

September 6, 1989

Mr. Michael DiCarlo
7926 Pulaski Highway
Rosedale, Md. 21237

Dear Mike:

The Rosedale Soccer Program again thanks you for your continuing generosity. It is through support such as yours that we can continue to meet the recreational needs of the 300 youngsters who participate in our program.

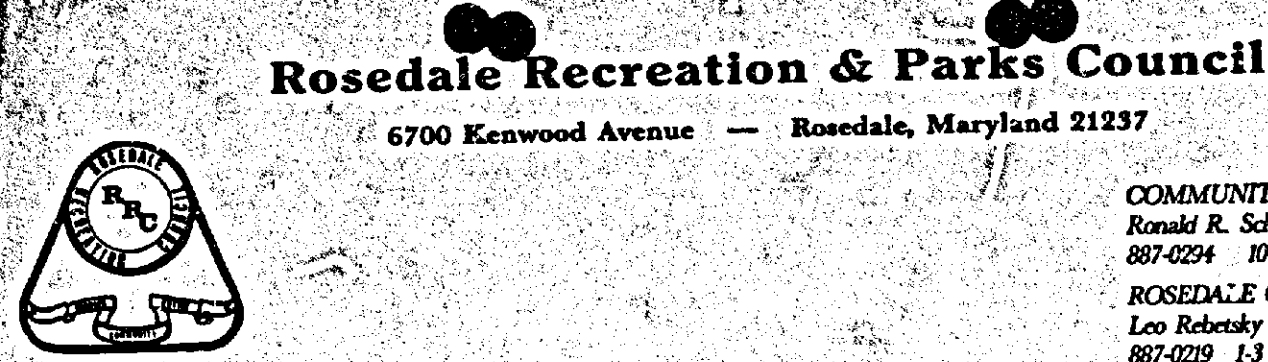
We feel fortunate to be associated with a person who is always willing to put something back into his community.

Thanks again!

Very truly yours,
Fred Gelhaus
Fred Gelhaus
Chairman
Rosedale Boys Soccer

FG:r1

BALTIMORE COUNTY DEPARTMENT OF RECREATION & PARKS



Rosedale Recreation & Parks Council
6700 Kenwood Avenue — Rosedale, Maryland 21237

COMMUNITY SUPERVISOR
Ronald R. Schaefer
887-0294 10:2 PM
ROSEDALE CENTER SUPERVISOR
Leo Rebecky
887-0219 1:3 PM

September 6, 1989

Mr. Michael DiCarlo
7926 Pulaski Highway
Rosedale, Md. 21237

Dear Mike:

As chairman of the Rosedale Baseball program, I am writing to thank you for your generous support over the years. Your financial generosity and general willingness to help whenever needed have been invaluable.

It is quality people such as yourself who help to make the Rosedale Baseball program one of the finest in Baltimore County.

Thanks for your continuing support!

Very truly yours,
Butch Tirschman
Butch Tirschman
Chairman,
Rosedale Baseball

BT:r1

BALTIMORE COUNTY DEPARTMENT OF RECREATION & PARKS

JUNE 21, 1989

MICHAEL DICARLO
7/A BIG AL'S PIT BEEF
5916 CLAYTON AVENUE
BALTIMORE, MD 21206

DEAR MIKE:

I WOULD LIKE TO TAKE THIS OPPORTUNITY ON BEHALF OF THE BIG AL'S PIT BEEF SOFTBALL TEAM TO THANK YOU FOR YOUR PAST AND CURRENT SUPPORT. WITHOUT YOUR SPONSORSHIP I AM CERTAIN THAT OUR TEAM WOULD HAVE NEVER FORMED AND STAYED TOGETHER SO LONG. WE APPRECIATE THE FACT THAT YOU ALONE HAVE GIVEN US THE CHANCE TO CONTINUE PLAYING SOFTBALL. WE LOOK FORWARD TO CONTINUING OUR ASSOCIATION IN THE FUTURE.

SINCERELY,
Phil N. Kreis
PHILIP N. KREIS
MANAGER

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

DATE 9/15/89

Michael W. DiCarlo
5916 Clayton Avenue
Baltimore, Maryland 21206

Re: Petition for Zoning Variance
CASE NUMBER: 90-88-A
M/S Pulaski Highway, 639.6' NE of c/l of Rosedale Avenue
7926 Pulaski Highway
15th Election District - 5th Councilmanic
Legal Owner(s): Joyce E. Derka, t/a Bars & Properties Unlimited, Inc.
Contact Purchaser(s): Michael W. DiCarlo
HEARING SCHEDULED: THURSDAY, SEPTEMBER 7, 1989 at 3:00 p.m.

Dear Mr. DiCarlo:

Please be advised that \$89.99 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204 (15).

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 074652
DATE 9/25/89 ACCOUNT R-01-615-000
AMOUNT \$ 89.99
RECEIVED FROM Michael DiCarlo
P/A 90-88-A
B 089*****8959: a 5265F
VALIDATION OR SIGNATURE OF CARRIER

MODIFIED

HY'S COUNTRY PALACE, 1100
7926 PULASKI HIGHWAY
BALTIMORE, MARYLAND 21237
666-8082 687-5654

LEASE AGREEMENT

THIS AGREEMENT, Made the 1st day of June, 1989 between *Michael G. Murphy*, owner of the real estate described, hereinafter as Landlord and *Mike DiCarlo*, hereinafter designated as Tenant.

WITNESSETH, That the Landlord does hereby lease unto the Tenant and the tenant does hereby lease from the Landlord the Parking Lot Property known as 7916 Pulaski Highway for the term of 3 years to commence on the 1st day of June, 1989, and to end on the 31st day of May, 1992, at the rent of \$1,200.00 per annum, PAYABLE MONTHLY IN ADVANCE, in equal monthly installments of \$100.00 on the 1st DAY OF EACH MONTH.

This letting is on the following terms, conditions, and covenants, which parties hereto respectively, for themselves, their respective successors, and legal representatives, hereby agree to keep and perform:

1- The leased premises, hereinafter called the "Premises" shall be used only as, and for the purpose of Parking for Prospective Customer(s), and Employees.

2- The Tenant agrees and covenants to pay said rent at the office of Landlord or such other address as Landlord may from time to time specify, promptly as it accrues, and to abide by and perform all covenants on his part to be performed, and it is further agreed that if said rent of any part thereof shall be in arrears at any time, that the Landlord may distrain therefor, and if said rent in whole or in part shall be in arrears and UNPAID FOR THE PERIOD OF FOUR (4) DAYS A 10% LATE CHARGE WILL BE CHARGED ALONG WITH PAYMENT OF RENT.

3- It is mutually agreed that payments made by check which do not clear the bank cause the Landlord additional expenses for bookkeeping and clerical services. A charge of \$25.00, for each time said check is returned, shall be added along with rent that is due plus the late charge.

4- Landlord hereby acknowledges receipt from Tenant of the sum of \$100.00 paid prior thereto for which a separate receipt has been given, to be held as security for the FAITHFUL PERFORMANCE OF THE COVENANTS AND AGREEMENTS MADE BY THE TENANT IN THIS LEASE. Nothing is contained in this paragraph shall be construed to permit tenant to vacate the premises and/or be relieved of his obligations under the Lease prior to the termination of the then-current term.

5- In the event Tenant does not carry out terms of said Lease, Security Deposit will be forfeited.

MODIFIED

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 15th
Date of Posting 9/12/89
Posted for: Variance
Petitioner: *Loysa Derka, t/a Bars & Properties Unlimited, Inc.*
Location of property: *M/S Pulaski Hwy., 639.6' NE of c/l of Rosedale Ave., 7926 Pulaski Hwy.*
Location of Sign: *Posting Pulaski Hwy., 639.6' NE of c/l of Rosedale Ave., property of P.H. Haines*
Remarks:
Posted by: *Michael W. DiCarlo* Date of return: 9/15/89
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., August 18, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on August 17, 1989.

THE JEFFERSONIAN,

S. Zeke Nelson
Publisher

PO 15179
reg M34119
ca 90-88-A
price \$13.34

MODIFIED

M & M ENTERPRISE

7916 PULASKI HWY. BALTIMORE, MARYLAND 21237
(301) 686-8082

6-3-89

To Who It May Concern:

As the owner of property at 7916 Pulaski, I have no problem with a beef pit being at 7916 Pulaski Hwy.

I think it would be a good asset to the community.

Michael D. Decker

ENCLOSURE

D & C ENTERPRISES
7833 Kentley Road
Baltimore, Maryland 21221
(301) 285-2162

June/1989

To Whom It May Concern:

As the owner of 7930 Pulaski Highway:

I, Donald H. Clento do not have any objections to Mike DeCarlo running a Pit Beef Stand at 7926 Pulaski Highway. I feel that this will help my business and will also help the other businesses in the surrounding area.

Very Truly Yours,

Donald H. Clento
Donald H. Clento

ENCLOSURE

Bars & Properties Unlimited, Inc.
228 Pulaski Highway
Baltimore, Maryland 21237
(301) 686-8219

June/1989

To Whom It May Concern:

As the owner of 7926 Pulaski Highway:

I, Joyce E. Derka having 100% Stock in the company, Bars & Properties Unlimited, Inc. do not have any objection to Mike DeCarlo operating a Pit Beef Stand at this location. I feel that this will help other surrounding businesses.

Very Truly Yours,
Bars & Properties Unlimited, Inc.

Joyce E. Derka
Joyce E. Derka

ENCLOSURE

Dear Mr. [Name]

The letter is to let you know I have filed the petition for a variance in respect to the building plans. The plans have recently been completed by a registered surveyor so they might give you more insight into what I am referring to.

At this time I would like to get permission for the building permit to be filed since the building is already constructed and just about completed. With this done, I can have each department make a final inspection of the site and building.

After this, has been done I ask that you consider the possibility of the business being allowed to open pending the outcome of the hearing. I would appreciate and agree to take consideration of it as at all possible. I realize I give the case before the house and know realize my error but am in no position to turn back. I will not go in depth about my responsibilities to employees, family and creditors again.

If it was at all possible to relocate the building to a location that didn't require a variance I would. Although I feel the location to be the best suited for the success of the business and the flow of traffic.

Being on the highway and this type of business generated a lot of traffic. While considering this location before I moved there it was against the myself and the property. The idea would be the ideal location. I have been a house for the parking lot of the Country Palace nightclub for as long as I have the property. The building is on a lot. The Country Palace is not open when the beef stand is. The majority of the food business for my is at lunch and the majority of their business is for the evening hours. I have also spent about \$3000 in locating the building where it is now. This being another reason I would like to keep it there. Anyplace on the highway that I located the building would need a variance. I would feel the best location for this choice.

I am eager to receive business and a fast response, any assistance or consideration on this matter would be most appreciated. I can be reached at 866-2008.

Michael D. Decker
Michael D. Decker

I am writing this letter so as to obtain some insight into how I can remain in business. I owned and operated a very successful beef stand at 8014 Pulaski Hwy. from May of 1984 to June of 1989. At that particular time I was forced to relocate my building and business because my landlord no longer wanted the eight hundred dollars a month rent. He decided he wanted to open his own beef stand.

At that time I had a lease to relocate my building at 7926 Pulaski Hwy. I have lived the property. The building is on and have an additional lease for the use of the Country Palace parking lot for additional parking.

I was unable to acquire the necessary permits because of the minimal amount of time I was given by my previous landlord to relocate. I have made application for a building permit which has had each department sign off as to issue the permit except the zoning department. The zoning law that a variance is needed for the building. I was supposed to file the petition today, but was informed the plans I have must be completed by a registered surveyor. I also have a surveyor track by drawing the proper site plans but thought the plans I had

could be used at least to file, but was wrong. My lawyer informs me the plans will take a couple of weeks and the variance a few months. Mr. Harris I appreciate for being so persistent but I honestly can't wait that long. I'm not sure their is anyway you can help but would greatly appreciate anything you can do for me. I will file the petition as soon as possible, properly. I will very much like to get the permit issued because the building is already constructed all electrical and plumbing work is completed. The health dept. has already approved the operation. If the permit was issued I could have all agencies give a final inspection.

If at that point the petition for a variance hearing could be expedited and on my business allowed to operate pending the hearing, I would be very grateful. I understand this is a lot to ask for but to be honest I am desperate. I have four employees depending on me. I have a mortgage and two other companies. There are many small businesses, restaurants, liquor, dry cleaners and also my family depending on me to be in business. I understand now where I made my error, this would have went a lot easier if the variance wasn't necessary but now all I can do is try to rectify the problem.

My new location is much better because there is a greater area for parking. I also have written letters from surrounding businesses stating that they would have no problem with the beef stand where it is and it being in operation.

Every day I am closed my business that I built by myself from scratch five years ago is in jeopardy. I have attached one of my site plans with this letter so you might understand better what I am talking about. If you have any questions or an answer my phone number is 866-2008. I understand that you are working on much bigger matters than this but to me this is of the utmost importance. While I'm closed down my previous landlord capitalizes on a business I worked so long time to get. Also he has capitalized on a variance that I worked a year to acquire.

Thank you I appreciate you taking your time to read this letter and hope there is some light at the end of this dark tunnel.

Michael D. Decker
Michael D. Decker

ENCLOSURE

