

IN RE: PETITION FOR ZONING VARIANCE
W/S Rosebank Avenue, 350' +/-
W of the c/l of Edgewater Place
(8230 Rosebank Avenue)
15th Election District
5th Councilmanic District

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-275-A

Robert R. Zacherl, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a side yard setback of 4 feet in lieu of the required 35 feet for a proposed addition, and a side yard setback of 6 feet in lieu of the required 35 feet and a street centerline setback of 21 feet in lieu of the required 75 feet for an existing dwelling, in accordance with Petitioner's Exhibit 1.

The Petitioners, by Robert Zacherl, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 8230 Rosebank Avenue, consists of 17,559.25 sq.ft. zoned M.H.-I.N., and is improved with a single family dwelling and attached covered carport. Said property is a very long and narrow lot located within the Chesapeake Bay Critical Areas near Back River. Petitioners are desirous of constructing a 17' x 40' addition to the existing dwelling in the location of the covered carport to provide more habitable space. However, due to the size and shape of the lot, the proposed improvements cannot be made in strict compliance with the zoning regulations. Petitioners testified that they have studied other options in order to construct the proposed addition in accordance with zoning regulations, including buying additional property from an adjoining neighbor and building a second story addition. The options were not the answer as the neighbors were not interested in sell-

upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

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

- 3 -

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: November 27, 1989

FROM: Mr. Robert W. Sheasley
Zacheryl Property

SUBJECT: Petition for Zoning Variance - Item 153
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 8230 Rosebank Avenue in the North Point Area. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. and Mrs. Zacherl

APPLICANT'S PROPOSAL

The applicant has requested a variance from section 1A05.4.D of the Baltimore County Zoning Regulations and Zoning Policy 5-12 to permit a side yard setback of 4 feet for a proposed addition in lieu of the required 35 feet and a side yard setback of 6 feet and a street centerline setback of 21 feet in lieu of the required 35 feet and 75 feet respectively, for an existing dwelling.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.0>

Chapter 4

Rainy Day Blues

Low rain water moves over and through the ground in important ways. It is the lifeblood of those of us who have experienced flooded basements, wet yards, or broken septic systems. Solving the problems associated with surface water runoff and poorly drained soil is also important to improving the health of the Chesapeake Bay.

Rain from roofs and driveways runs off, often eroding yards and destroying plants. Much of the soil washed off vacant lots and lawns is carried into streams and eventually reaches the Bay. This sediment smothers fish and shellfish. Nutrients, such as nitrogen and phosphorus from fertilizer in runoff, can cause excessive algae growth, using up oxygen needed by the Bay's aquatic life. This runoff may also contain pesticides, oil, antifreeze, and other substances toxic to life in the Bay.

Pollution also occurs when the soil is too wet to filter sewage outflow. Effluent can percolate into the groundwater without proper filtration, or it can rise to the surface and be carried into streams and drainage ways.

Dealing with Surface Runoff

On large tracts of land, controlling surface water flow (storm water management) is the developer's responsibility. There are many ways you can control excess runoff created by patios, driveways, sidewalks, and swimming pools. Whatever the soil drainage condition in your neighborhood, you can use swales, berms, and basins to control runoff on your property. Reduce its speed, and increase the time over which the runoff is released. For example, land immediately adjacent to your house needs to have a

downhill slope so that water does not seep through the foundation. Once the water has been carried ten feet from the house, you should regrade the surface so that runoff is released gradually.

Where drainage is good or where infiltration devices are in use, you can regrade the land to create a basin, which holds all runoff and allows it to infiltrate the soil over a longer period of time. The effectiveness of a basin depends on the soil's ability to absorb and filter the surface water. Soils with less than two feet of depth to bedrock or one foot of depth to soil having a high clay content or a clay hardpan beneath the surface, and low-lying soil that receives runoff from a large land area may not have sufficient infiltration capacity.

When you try to retain runoff in these situations, the soil will rapidly become saturated, and rainfall that should filter down through the soil will collect on the surface and either create head, safety, and use pit - lems or move across the surface as excess runoff.

Be on the lookout for small wet patches in your yard. These wet spots mean that the soil around your house has soaked and surface water is collecting on the ground. Plant areas and erosion often occurs. Filling these patches with top soil and seeding them with grass will usually solve the problem by using water flow on its natural path.

In some instances, you may be able to correct an existing wet soil problem by creating a system of berms and swales around your yard. When it's not feasible to avoid a wet area, you may be able to move it to a less used area of the yard (around shrubs or trees, for example) by installing a swale to carry the water across the yard. Plant the new

Rainwater runs downhill - some filtering through the soil, some running off into nearby streams. By encouraging nature to move slowly across the soil so much of it filters and the ground, you will help prevent erosion problems.

DRAINAGE

ing any portion of their property and due to the structural nature of the existing dwelling, a second story addition was not possible. Testimony indicated that the granting of the variance will not result in any detriment to the health, safety or general welfare of the community and meets the spirit and intent of the zoning regulations. In support of their request, Petitioners submitted letters of consent from adjoining property owners.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore 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.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of January, 1990 that the Petition for Zoning Variance, to permit a side yard setback of 4 feet in lieu of the required 35 feet for a proposed addition, and a side yard setback of 6 feet in lieu of the required 35 feet and a street centerline setback of 21 feet in lieu of the required 75 feet for an existing dwelling, 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 Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, 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 Petitioners would be required to return, and be responsible for returning, said property to its original condition.

IT IS FURTHER ORDERED that the Petitioners shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated November 27, 1989, attached hereto and made a part hereof.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

Memo to Mr. J. Robert Haines
November 27, 1989
Page 3

Findings: The existing forested vegetation on this property covers at least 15%. Any trees removed shall be replaced on a 1:1 basis.

Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorus associated with them.

4. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

Findings: The applicant has proposed to increase impervious surfaces from 10.8% to 11.7% of the property. The sum of impervious surfaces shall not exceed 15% of the site.

5. Regulation: "Infiltration of [storm]water [shall be] maximized throughout the site, rather than directing flow to single discharge points" <Balto. Co. Code, Section 22-217(h)(2)>.

Findings: Stormwater runoff shall be directed from impervious surfaces to pervious areas to encourage maximum infiltration. Rooftop runoff shall be directed through downspouts and into a seepage pit or Dutch drain, to encourage maximum infiltration (see attached information).

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above.

Upon compliance with Chesapeake Bay Critical Area Regulations, this project will be approved. If you have any questions, please call Mr. David C. Flowers at 887-2904.

RWS:KMH:ju
Attachment

cc: The Honorable Ronald B. Hickernell
The Honorable Norman R. Lauenstein
The Honorable Dale T. Vols
Mrs. Janice B. Outen

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Town Hall, Maryland 21204
(301) 887-2553

January 22, 1990

Mr. & Mrs. Robert R. Zacherl
8230 Rosebank Avenue
Baltimore, Maryland 21222

RE: PETITION FOR ZONING VARIANCE
W/S Rosebank Avenue, 350' +/- W of the c/l of Edgewater Place
(8230 Rosebank Avenue)
15th Election District 5th Councilmanic District
Robert R. Zacherl, et ux - Petitioners
Case No. 90-275-A

Dear Mr. & Mrs. Zacherl:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance 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 the Order. For further information on filing an appeal, please call Mr. Charles A. Latta at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Chesapeake Bay Critical Areas Commission
Tawes State Office Building, D-4, Annapolis, Md. 21404

DEPER

People's Counsel

File

10413

2230

<COMAR 14.15.10.01.0>

cc: The Honorable Ronald B. Hickernell
The Honorable Norman R. Lauenstein
The Honorable Dale T. Volz
Mrs. Janice B. Outen

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

J. Robert Haines
Zoning Commissioner

RECEIVED
NOV 16 1989
ZONING OFFICE

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 500, 131, 132, 133, 134, 136, 137, 138, 139, 140, and 141.

Very truly yours,
Michael S. Flanagan
Traffic Engineer Associate II

Received By:
James E. Hynes
Chairman,
Zoning Plans Advisory Committee

Petitioner: Robert R. Zacherl, et ux
Petitioner's Attorney:

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 403
Towson, Maryland 21204
(301) 887-3554

November 9, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

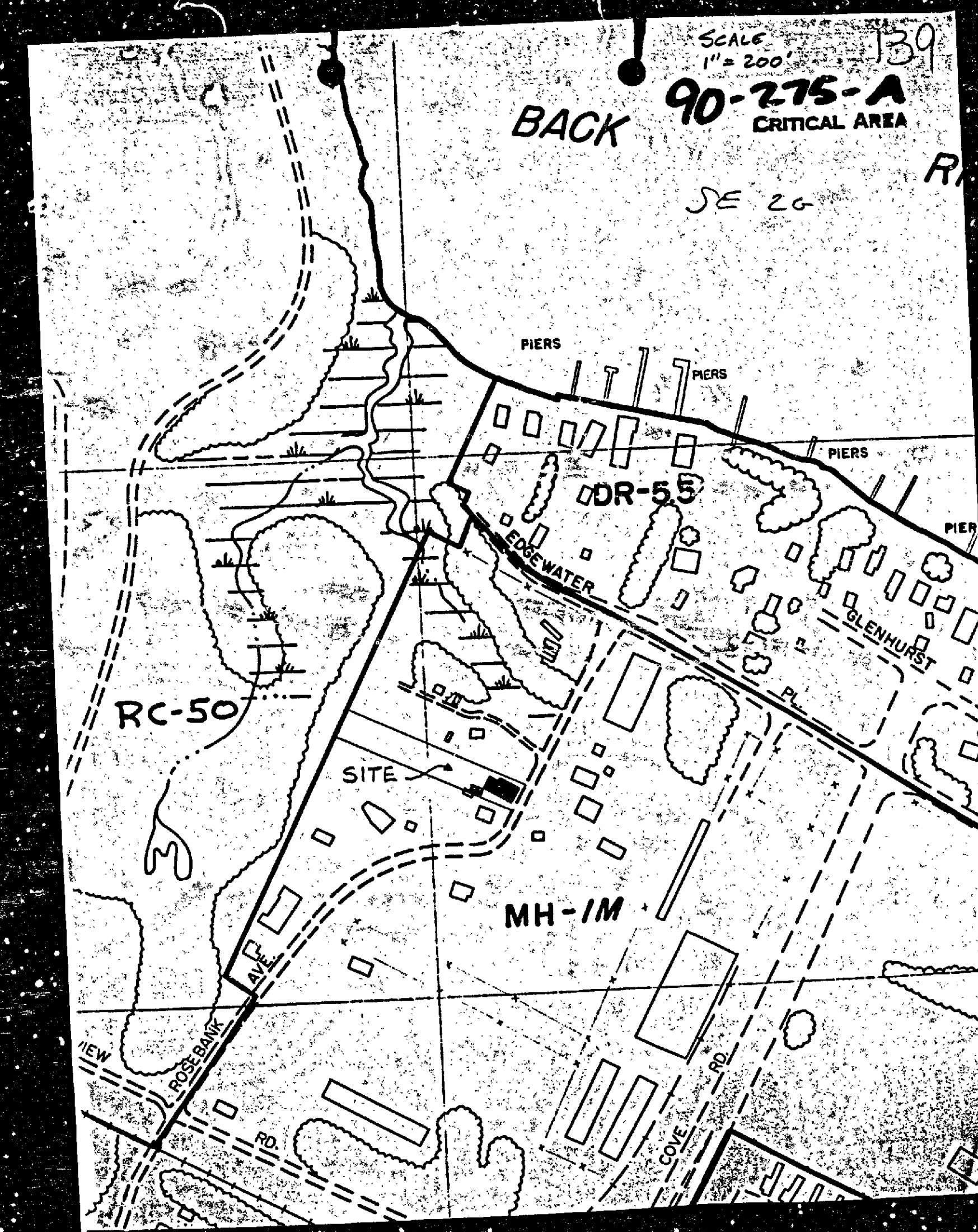
RECEIVED
NOV 16 1989
ZONING OFFICE

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 500, 131, 132, 133, 134, 136, 137, 138, 139, 140, and 141.

Very truly yours,
Michael S. Flanagan
Traffic Engineer Associate II

MSF/lab



BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

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

SUBJECT: Robert R. Zacherl, et ux, Item 139
Zoning Petition No. 90-275A

DATE: December 15, 1989

The Petitioners request a variance to front yard and side yard setback requirements.

In reference to this request, staff offers no comment.

If there should be any further questions of if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

Baltimore County
Fire Department
3rd Road
Towson, Maryland 21204-2536
(301) 887-4500

Paul H. Roberts
Chief

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

RE: Property Owner: Robert R. Zacherl, et ux
Location: W/S of Rosebank Avenue
Item No.: 139 Zoning Agenda: 10/31/89

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: [Signature] Noted and Approved
Special Inspection Division Fire Prevention Bureau

NOV 07 1989

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number: No 931

90-275-A

17/10/89

PUBLIC HEARING FEES QTY PRICE
000 POSTING SIGNS / ADVERTISING 1 \$118.57
TOTAL \$118.57

LAST NAME OF OWNER: ZACHERL

93.57

CERTIFICATE OF POSTING 90-275-A
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1524 Date of Posting: 10/25/89

Posted for: [Signature]
Petitioner: Robert R. Zacherl, et ux
Location of property: W/S of Rosebank Ave, 30' W/S of Rosebank Ave
Location of Sign: [Signature]
Remarks: [Signature]
Posted by: [Signature] Date of return: 10/26/89
Number of Signs: 1

93.57

CERTIFICATE OF PUBLICATION

December 14, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Dec 14, 1989.

THE JEFFERSONIAN
NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

S. Zacherl
Publisher

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 10/15/89 ACCOUNT: R-01-615

AMOUNT: \$ 35.00

FOR: [Signature]

RECEIVING CODE: 01 [Signature]

VALIDATION OR SIGNATURE OF CASHIER: [Signature]

CH # 0403