

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
W/S Galloway Road, 265' N of * ZONING COMMISSIONER
the c/l of Cold Spring Road (2507 East Avenue) * OF BALTIMORE COUNTY
15th Election District * Case No. 91-418-A
7th Councilmanic District
Frank Limmer, et al
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an accessory structure (above-ground swimming pool) to be located in the side yard in lieu of the required rear yard in accordance with Petitioner's Exhibit 1.

The Petitioners, Frank Limmer and his son, Robert A. Limmer, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 2507 East Avenue, consists of .41 acres zoned D.R. 5.5 and is improved with a single family dwelling with attached garage. Said property is located within the Chesapeake Bay Critical Areas. Petitioners are desirous of installing a swimming pool in the side yard as shown on Petitioner's Exhibit 1. Testimony indicated that due to the location of existing improvements and a steep hill to the rear of the property which abuts open space wetlands, as depicted in Petitioner's Exhibits 2 and 3, the relief requested is necessary to construct the proposed pool. Petitioners testified the relief requested will not result in any detriment to the health safety or general welfare of the community and to deny same would create undue hardship and practical difficulty.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the petitioner and

his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

The subject property is located within the Chesapeake Bay Critical Areas and will be required to comply with the recommendations submitted by the Department of Environmental Protection and Resource Management upon completion of their findings. The relief granted is conditioned upon said compliance.

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17 day of June, 1991 that the Petition for Zoning Variance to permit an accessory structure (above-ground swimming pool) to be located in the side yard in lieu of the required rear yard, in accordance with

dance 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.
- 2) Compliance with Department of Environmental Protection and Resource Management comments.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

ORDER RECEIVED FOR FILING
Date 6/14/91
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21284

June 21, 1991

887-3353

Mr. Frank Limmer
Mr. Robert A. Limmer
2507 East Avenue
Baltimore, Maryland 21219

RE: PETITION FOR ZONING VARIANCE
W/S Galloway Road, 265' N of the c/l of Cold Spring Road
(2507 East Avenue)
15th Election District - 7th Councilmanic District
Frank Limmer, et al - Petitioners
Case No. 91-418-A

Dear Messrs. Limmer:

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 this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

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

DEPRM

People's Counsel

File

PETITION FOR ZONING VARIANCE CRITICAL AREA
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-418-A

The undersigned, legal owner(s) of the property situate 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 400.1 To permit an accessory structure (above ground pool) in the side yard in lieu of the required rear yard.

1. 35 ft. from the back of the house, property drops off approx. 8.0 ft.
2. 35 ft. from back of house property also slopes towards drainage and utility reservation.
3. Mid point between rear of house and property line falls on 8 ft. drop area.
4. 15.60' of existing dwelling built on lot #1 (garage)

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

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: Frank Limmer (Type or Print Name)
Signature: *Frank Limmer*
Address: 2507 East Avenue, Towson, Md. 21284
City and State: Towson, Md. 21284
Attorney for Petitioner: Robert A. Limmer (Type or Print Name)
Signature: *Robert A. Limmer*
Address: 2507 East Avenue, Towson, Md. 21284
City and State: Towson, Md. 21284
Attorney's Telephone No.: 417-8657

ORDERED By The Zoning Commissioner of Baltimore County, this 24 day of April 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through-out Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 19 day of June 1991 at 7 o'clock P.M.

(over)

ORDER RECEIVED FOR FILING
Date 6/14/91
By [Signature]

ESTIMATED LENGTH OF HEARING - 1/2HR. + 1HR.
AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS

REVIEWED BY: WCR DATE 4/10/91

DESCRIPTION

Beginning on the east side of East Avenue, 40 ft. wide opposite Beekay Road. Being lots 1 & 2 in the subdivision of Lodge Forest (Re-subdivision of Lots 3112-3119 & 3200-3207). Book No. 46, Folio 147. Also known as 2507 East Avenue in the 15th Election District, containing .41 acre.

91-418-A

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 6/14/91
Posted for: Variance
Petitioner: Robert A. Limmer
Location of property: 2507 East Avenue, Towson, Md.
Location of Sign: 2507 East Avenue, Towson, Md.
Remarks: See plat attached to petition.
Posted by: [Signature] Date of return: 6/14/91
Number of Signs: 1

CERTIFICATE OF PUBLICATION
TOWSON, MD. May 24, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 23, 1991.

THE JEFFERSONIAN,

S. Zabe Orban
Publisher

NOTICE OF HEARING

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 21284 at 7:00 p.m. on June 19, 1991 at 7:00 p.m. Petitioners: Robert A. Limmer and Frank Limmer. Hearing Date: Wednesday, June 19, 1991 at 7:00 p.m. Petitioners to present an accessory structure (above ground pool) in the side yard in lieu of the required rear yard.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
5226 May 23

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle

4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222

May 23, 1991

THIS IS TO CERTIFY, that the annexed advertisement of Baltimore County Zoning Office - Notice of Hearing - Case #91-418-A - P.O. #0112786 - RBQ. #MS2844 - 57 lines @ \$28.50 was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for One successive weeks before the 24th day of May 1991; that is to say the same was inserted in the issues of May 23, 1991.

Kimbel Publication, Inc.

per Publisher.

[Signature]

Baltimore County Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21284

Account # 001-6150
 Number

CRITICAL AREA receipt

Date: _____

FRANK LIMMER

DESCRIPTION	QUANTITY	PRICE
SEALING OF PERMITS FEES		
SEALING OF VARIANCE (FRL)	1 X	\$35.00
TOTAL:		\$35.00

LAST NAME OF OWNER: LIMMER

04A04#0101MICHC
 Please Make Checks Payable To: Baltimore County 12:55PM04-11-91 \$35.00

Cashier Validation

Baltimore County Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21284

Account # 001-6150
 Number

receipt

Date: _____

91-418 ✓ sign req. JMD

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 887-3353

DATE: 6/19/91

Frank and Robert Limmer
 2507 East Avenue
 Baltimore, Maryland 21219

RE:
 Case Number: 91-418-A
 W/S Galloway Road, 265' N of c/1 Cold Spring Road
 2507 East Avenue
 15th Election District - 7th Councilmanic
 Petitioner(s): Robert A. Limmer and Frank Limmer
 HEARING: WEDNESDAY, JUNE 19, 1991 at 3:00 p.m.

Dear Petitioner(s):

Please be advised that \$ 88.68 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 fifteen (15) minutes before your hearing is scheduled to begin.

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

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 887-3353

May 10, 1991

NOTICE OF HEARING

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 21204 as follows:

Case Number: 91-418-A
 W/S Galloway Road, 265' N of c/1 Cold Spring Road
 2507 East Avenue
 15th Election District - 7th Councilmanic
 Petitioner(s): Robert A. Limmer and Frank Limmer
 HEARING: WEDNESDAY, JUNE 19, 1991 at 3:00 p.m.

Variance to permit an accessory structure (above ground pool) in the side yard in lieu of the required rear yard.

J. Robert Haines
 J. ROBERT HAINES
 Zoning Commissioner of
 Baltimore County

cc: Frank and Robert Limmer

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 887-3353

May 28, 1991

Mr. Frank Limmer
 3507 East Avenue
 Baltimore, MD 21219

RE: Item No. 389, Case No. 91-418-A
 Petitioner: Frank Limmer, et al
 Petition for Zoning Variance

Dear Mr. Limmer:

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.

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

JED:jw
 Enclosures

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 887-3353

Your petition has been received and accepted for filing this 24th day of April, 1991.

J. Robert Haines
 J. ROBERT HAINES
 ZONING COMMISSIONER

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

Petitioner: Frank Limmer, et ux
 Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
 INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: April 24, 1991
 Zoning Commissioner

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

SUBJECT: John Gwiazdowski, Item No. 377
 Roland E. Hess, Item No. 356
 Richard S. Cook, Item No. 382
 Frank Limmer, Item No. 389
 David C. Berg, Item No. 391
 Marie E. Martin, Item No. 357
 Steven G. Hipley, Item No. 374
 David G. Rorison, Item No. 376
 Timothy C. Seiss, Item No. 378
 John Alban, Item No. 383

In reference to the following variance requests, staff offers no comments.

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

PK/JL/cmm
 MULTI-ITM/ZACL

received
 4/24/91

Baltimore County Government
 Fire Department

780 East Joppa Road, Suite 901
 Towson, MD 21204-5500 (301) 887-4500

APRIL 24, 1991

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

RE: Property Owner: FRANK LIMMER AND ROBERT A. LIMMER
 Location: #2507 EAST AVENUE
 Item No.: 389 Zoning Agenda: APRIL 23, 1991

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.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Carl Long* 4/24/91 Noted and Approved
 Planning Group Fire Prevention Bureau
 Special Inspection Division

JK/REK

BALTIMORE COUNTY, MARYLAND
 INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 26, 1991

FROM: Dennis A. Kennedy, P.E.

RE: Zoning Advisory Committee Meeting
 for April 23, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for items 356, 377, 382, 386, 388, 389, 390 and 391.

For Item 379, this site must be submitted through the minor subdivision process for review and comments.

Dennis A. Kennedy
 Dennis A. Kennedy, P.E., Acting Chief,
 Developers Engineering Division

DAK:s

received
 5/10/91

401 Bosley Avenue, Suite 405
Towson, MD 21204

887-3554
Fax 887-5784

May 14, 1991

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

A.Z.C. Meeting Date: April 23, 1991

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 356, 377, 379, 382, 386, 388, 389, 390 and 391.

Very truly yours,

Rahee J. Familli
Rahee J. Familli
Traffic Engineer II

RJF/lab

JUNE 19 1991

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines DATE: June 25, 1991
Zoning Commissioner

FROM: Mr. J. James Dieter, Director

SUBJECT: Petition for Zoning Variance - Case No. 91-418
Limmer Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 2507 East Avenue. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. Frank Limmer

APPLICANT PROPOSAL

The applicant has requested a variance from section 400.1 of the Baltimore County Zoning Regulations to permit "an accessory structure (above ground pool) in the site yard in lieu of the required rear".

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>

Memo to Mr. J. Robert Haines
June 25, 1991
Page 2

REGULATIONS AND FINDINGS

1. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-213(a)>.

Finding: A stream not shown on this plan runs adjacent and through this property. The proposed location of the pool is approximately 20 feet from the stream, well within the 100 foot buffer. However, there is no portion of the yard that is not within 100 feet of this stream, therefore simply moving the location of the pool would still not bring this project into compliance. For approval of this project the applicant may apply for a Variation of Standards from the Chesapeake Bay Critical Area Regulations. To receive positive support for this from the Department of Environmental Protection and Resource Management the applicant must show that there will be a net improvement to water quality and habitat.

2. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination" <Baltimore County Code Sec. 22-98>

Finding: Non-tidal wetlands also exist on this property in association with the stream. These must be delineated on the plan along with their associated buffers. A determination of the wetlands impact can be made at that time.

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

Finding: The proposed pool creates impervious surfaces that sum to just below 15% of the lot. The applicant shall not be permitted to have impervious surfaces that exceed 15% of the lot.

4. Regulation: "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland of at least 15%" <COMAR 14.15.02.04 C.(5)>.

Finding: This property contains 15% forest cover. No additional trees are required. However, applicants are always encouraged to plant additional trees. 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 phosphorous associated with them.

Memo to Mr. J. Robert Haines
June 25, 1991
Page 3

5. Regulation: "The stormwater management system shall be designed so that:

- (1) Development will not cause downstream property, watercourses, channels or conduits to receive stormwater runoff at a higher rate than would have resulted from a ten year frequency storm if the land had remained in its predevelopment state;
- (2) Infiltration of water is maximized throughout the site, rather than directing flow to single discharge points; and
- (3) Storm drain discharge points are decentralized to simulate the predevelopment hydrologic regime.
- (4) There is sufficient storage capacity to achieve water quality goals of COMAR 14.15 and to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its predevelopment state" <Baltimore County Code, Section 22-217(h)>.

Findings: In order to comply with the above regulation, rooftop runoff shall be directed through downspouts and into Dutch drains or seepage pits (see attached drainage information sheet). This will encourage maximum infiltration of stormwater and decrease the amount of runoff leaving the site.

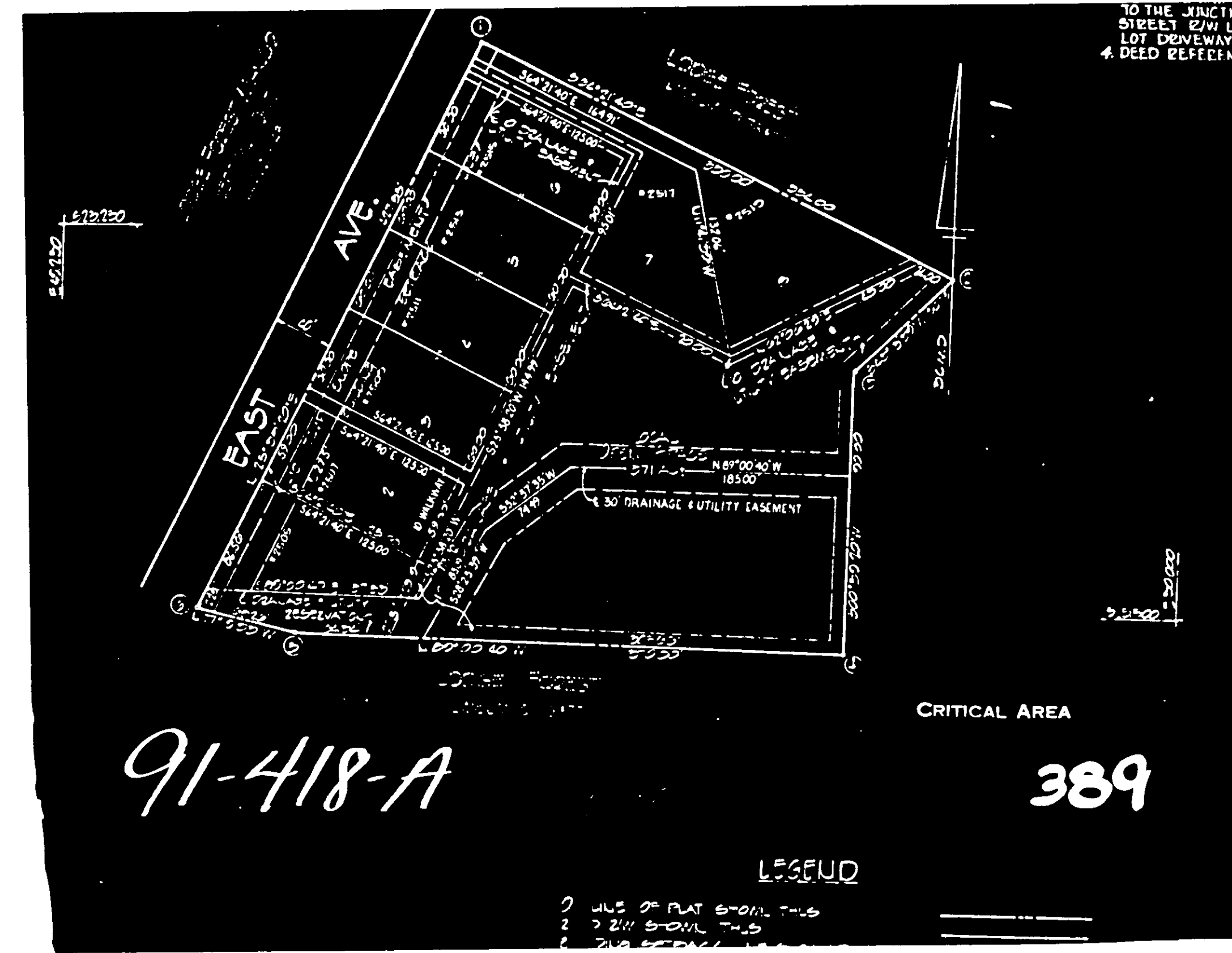
CONCLUSION

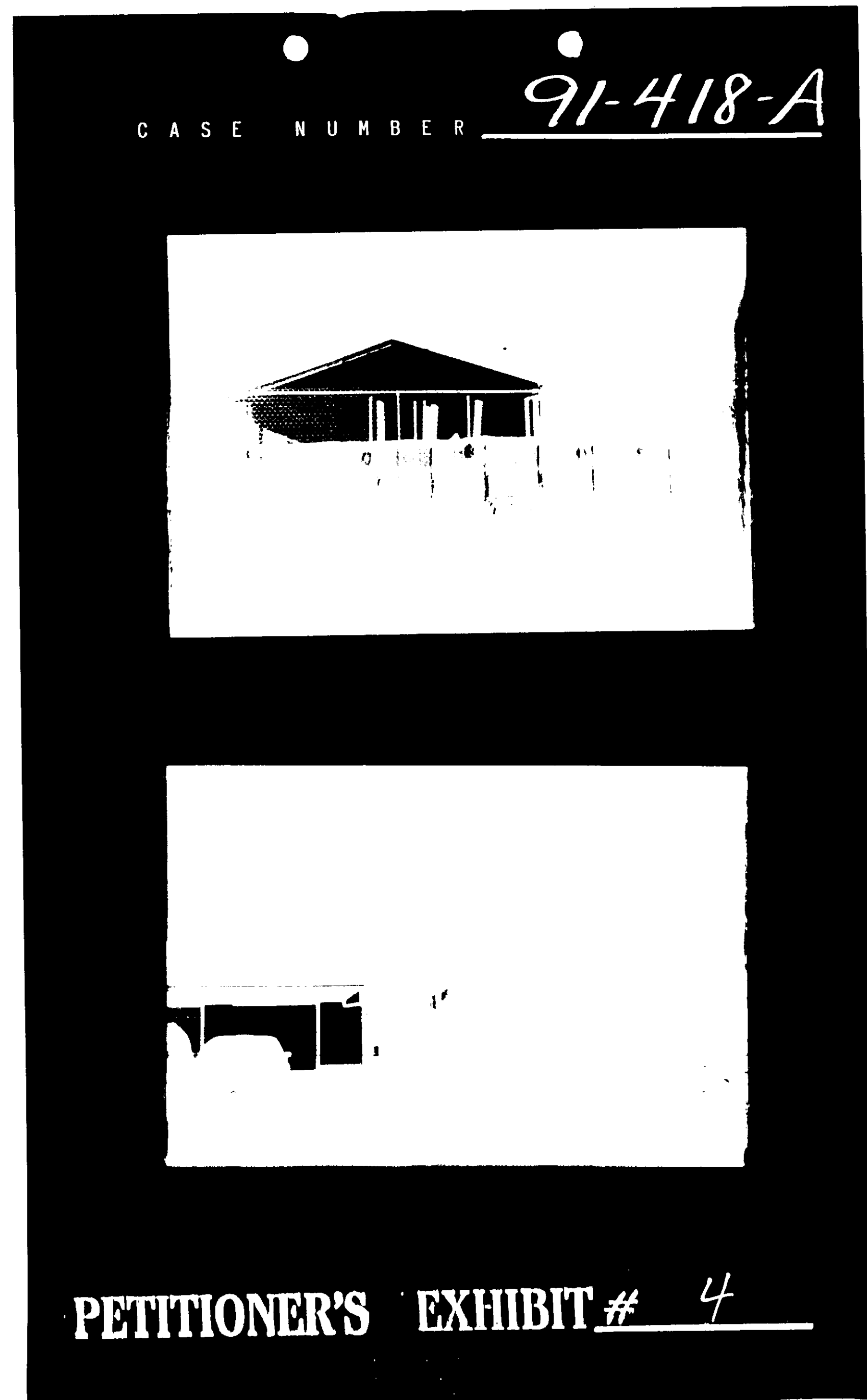
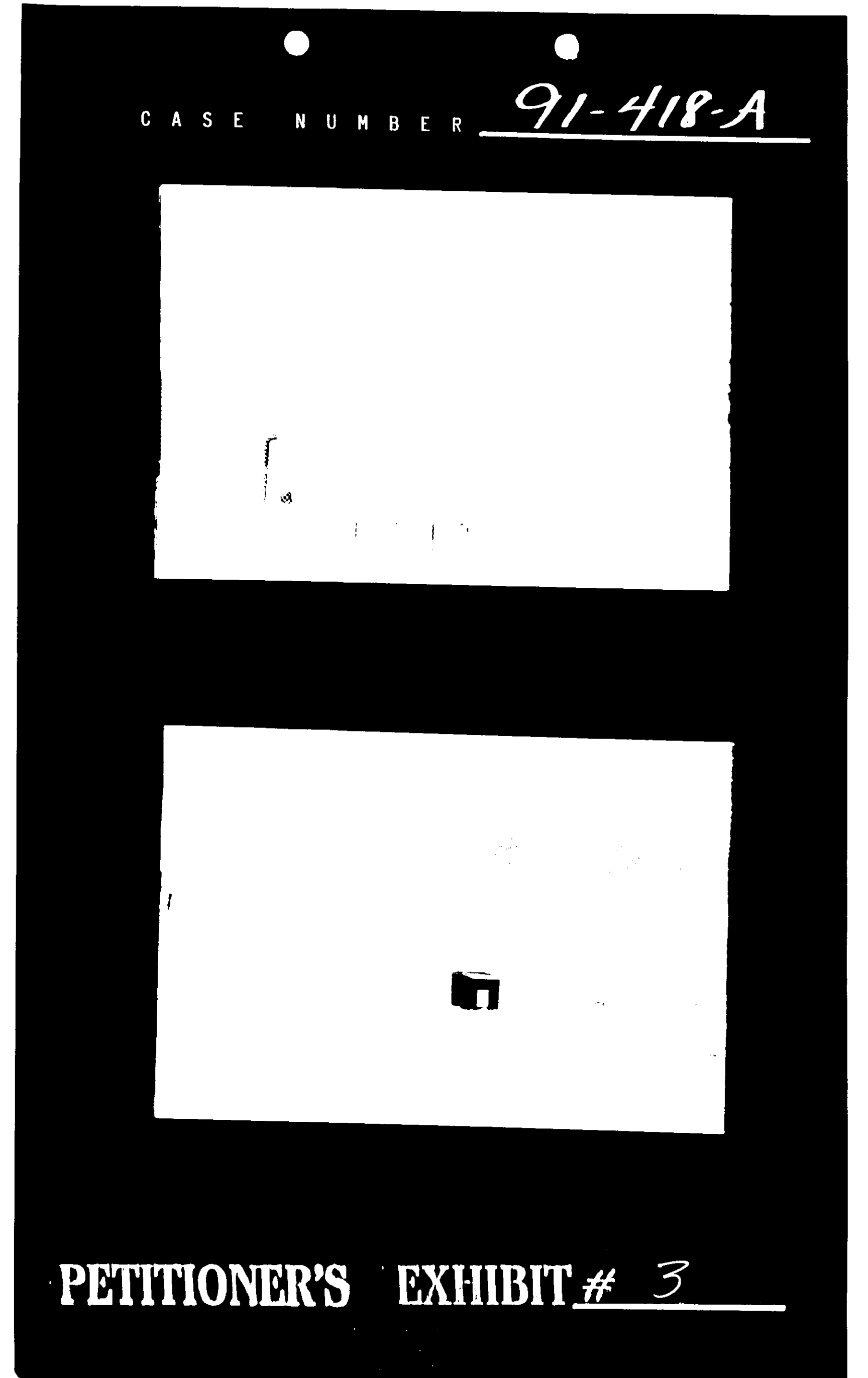
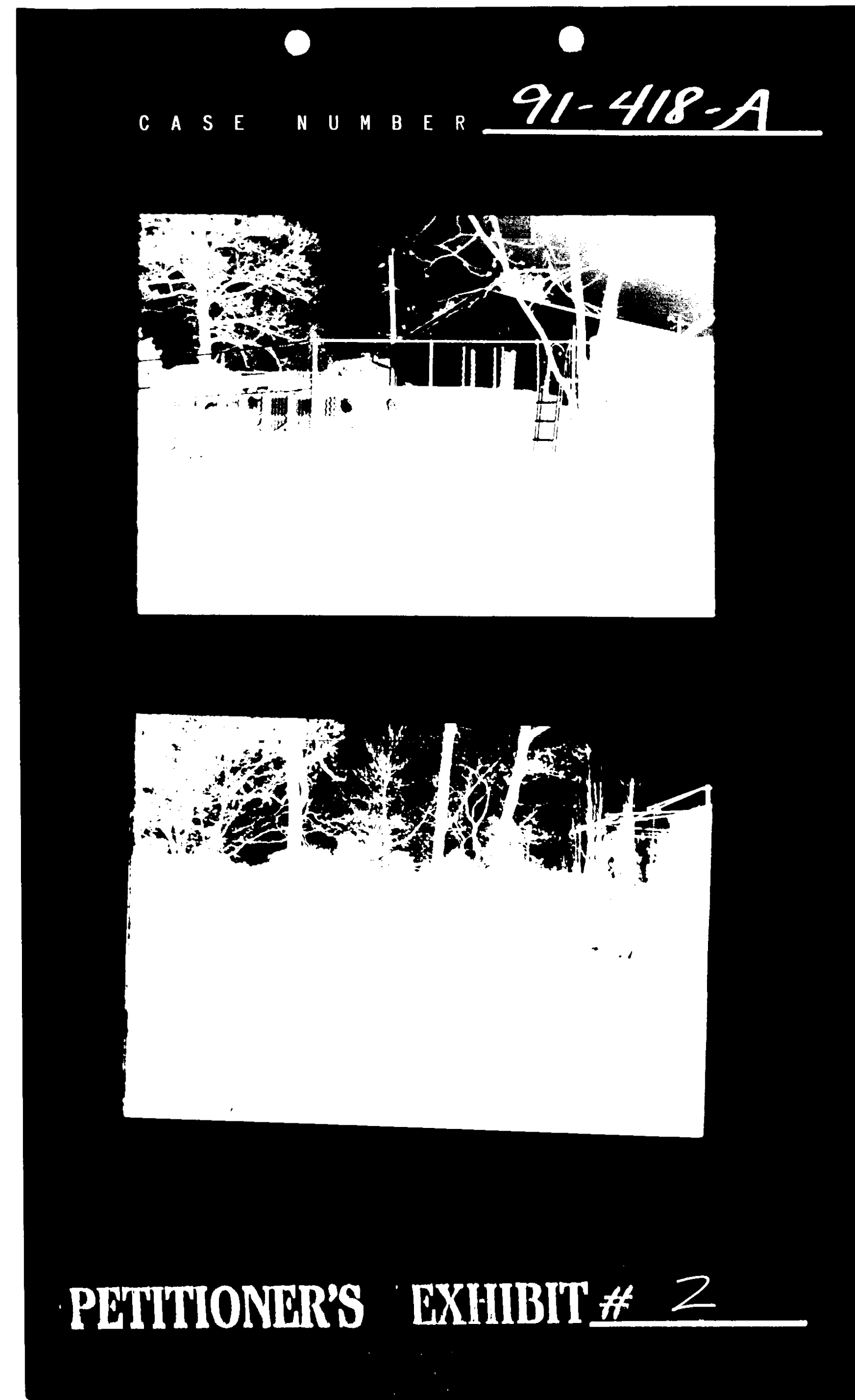
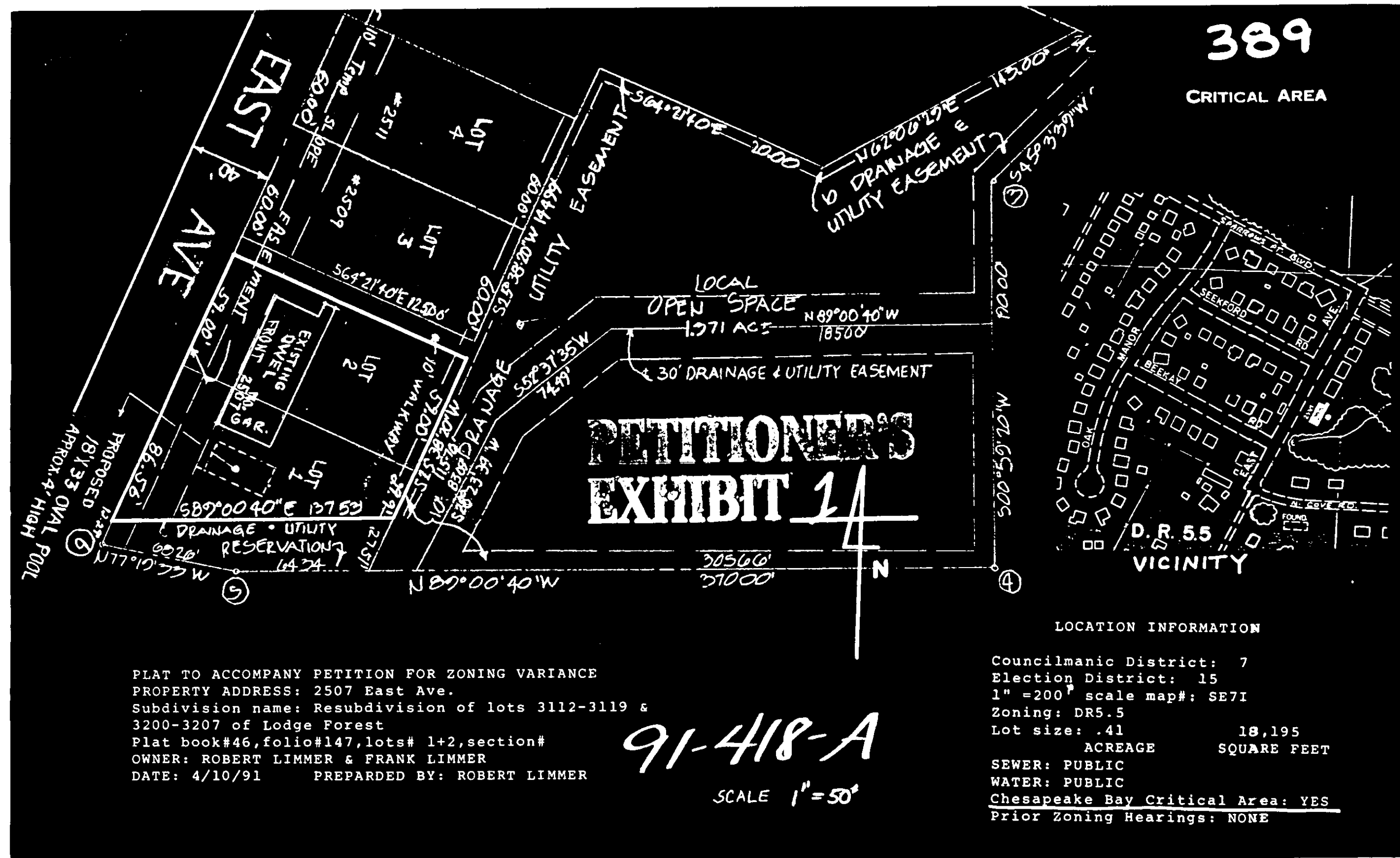
This proposal does not comply with Chesapeake Bay Critical Area Regulations, and therefore is not approved. The applicant may apply for a Variation of Standards from the Chesapeake Bay Critical Area Regulations. For further information, please contact Mr. David C. Flowers at 887-2904.

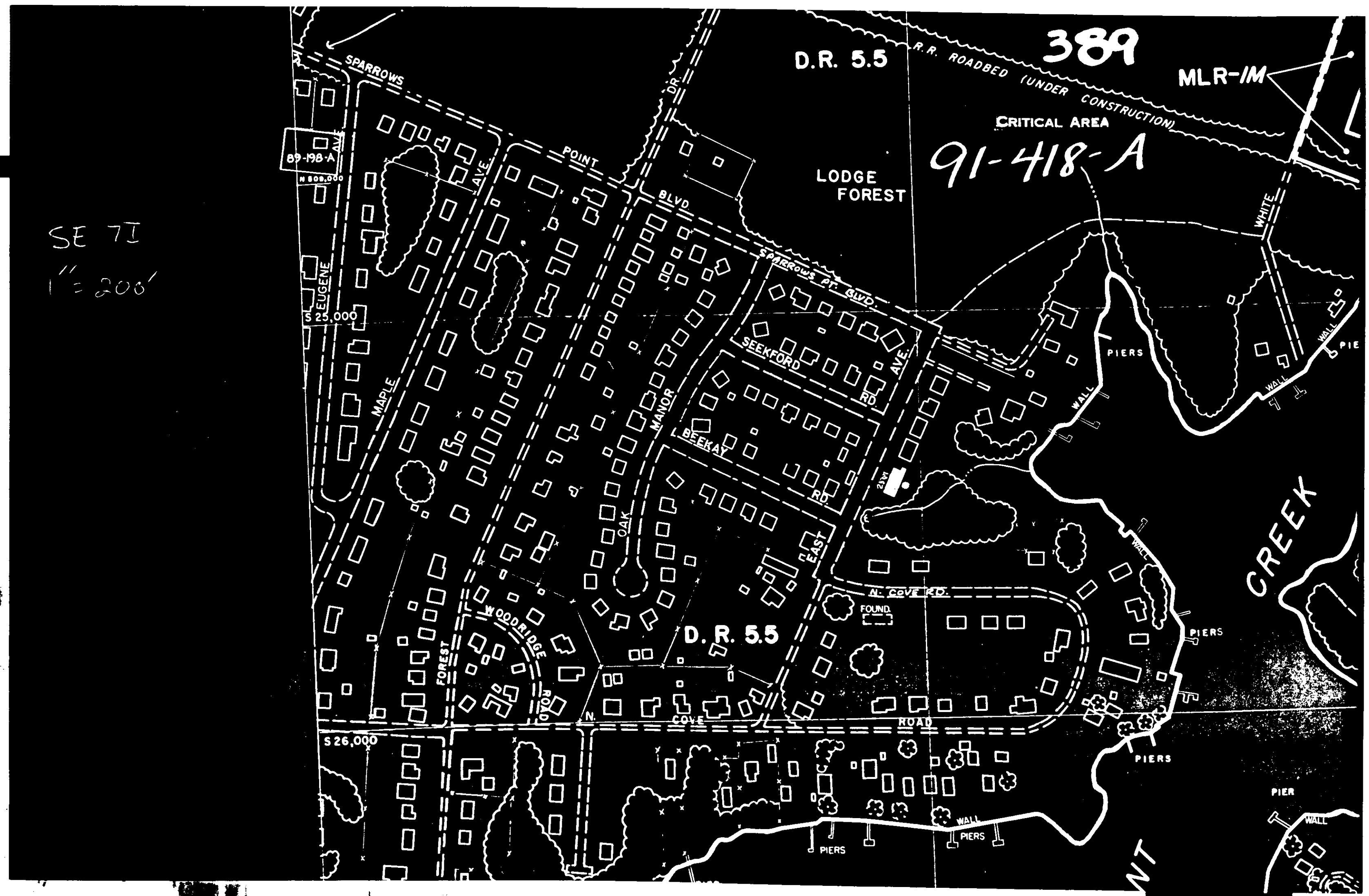
J. James Dieter
J. James Dieter, Director

JJD:DCF:ju
Attachment

cc: The Honorable Vincent Gardina
The Honorable Donald Mason
Mr. Ronald B. Hickernell
Mrs. Janice B. Outen
Mr. Frank Limmer







BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	LODGE FOREST	# 389
DATE OF PHOTOGRAPHY	91-418-A	S.E. 7-I
JANUARY 1986		CRITICAL AREA