

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - W/S of Greenspring Avenue, 300' N of Kelley Avenue (11614 Greenspring Avenue) 3rd Election District 3rd Councilmanic District
Howard Miller, et al
Petitioners

AMENDED OPINION AND ORDER

On October 1, 1991, the undersigned Deputy Zoning Commissioner of Baltimore County issued Findings of Fact and Conclusions of Law and an Order in the above-captioned matter. The Deputy Zoning Commissioner has reviewed the Findings of Fact and Conclusions of Law and Order issued in the proceedings and finds that it is ambiguous, in need of clarification, and does not adequately express the intent of the Deputy Zoning Commissioner. The Deputy Zoning Commissioner hereby strikes the previous Findings of Fact and Conclusions of Law and Order in its entirety and issues the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the continuation of existing uses on proposed Lot 1 as a continuation of the lawful uses permitted prior to the effective date of the Baltimore County Zoning Regulations (B.C.Z.R.) in 1945. Petitioners also request that approval be granted to continue to use the subject property as a farm/farmette until such time as Petitioners no longer own

ORDER RECEIVED FOR FILING
Date 10/16/91
By [Signature]

contiguous lots totalling at least three acres. In addition, Petitioners request a variance from Section 1A04.3.B.3 of the B.C.Z.R. to permit a building setback of 40 feet from the centerline of Greenspring Avenue in lieu of the required 75 feet for existing improvements, all as more particularly described on Petitioner's Exhibit 1.

The Petitioners, by Howard Miller, appeared, testified and were represented by Robert W. Cannon, Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 11614 Greenspring Avenue, consists of 19.2 acres more or less zoned R.C. 5 and is improved with a single family dwelling, a barn with living quarters, and other accessory outbuildings. Petitioners are desirous of subdividing the property for development into 11 lots, keeping as principal structures, the original single family dwelling and barn with living quarters on proposed Lot 1, containing 1.93 acres, as depicted on Petitioner's Exhibit 1. Testimony indicated Petitioners purchased the property in 1961 from J. Walter Belgiano who had used the property for farming and as his personal residence from the time of his ownership in 1945 until its purchase by Petitioners. In support of their testimony, Petitioners submitted the signed affidavit of Mr. Belgiano, marked Petitioner's Exhibit 2. Petitioners testified that the subject property has been used continuously and without interruption as a farm and residence since at least 1945 and as such, should be granted a nonconforming

ORDER RECEIVED FOR FILING
Date 10/16/91
By [Signature]

use. To obtain approval to continue to use the subject property as a farm/farmette, Petitioners agreed to retain some of the land adjoining proposed Lot 1 to meet the minimum requirements for such use. Testimony indicated the variances requested are for existing improvements and will not result in any detriment to surrounding uses.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

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 non-conforming 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 non-conforming. See *McKeny v. Baltimore County*, Md., 32 Md. App. 257, 385 A.2d. 96 (1978).

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming

ORDER RECEIVED FOR FILING
Date 10/16/91
By [Signature]

use, the Zoning Commissioner should consider the following factors:

- (a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;
- (b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;
- (c) Does the current use have a substantially different effect upon the neighborhood;
- (d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

McKeny v. Baltimore County, Md., Supra.

Petitioners have requested a nonconforming use of the subject property, pursuant to Section 104.1 of the B.C.Z.R., following the subdivision of same into building lots. In the opinion of this Deputy Zoning Commissioner, the proposed subdivision and development into 11 residential building lots constitutes a change in the use of the subject property except that it does not constitute a change in the use of proposed Lot 1, on which Petitioners have requested approval to continue to use the principal structures for a single family dwelling and a barn with living quarters. Therefore, due to the continuous use of proposed Lot 1 since prior to January 2, 1945, Petitioner's request to continue to use the principal structures on proposed Lot 1 for a single family dwelling and a barn with living quarters should be granted.

ORDER RECEIVED FOR FILING
Date 10/16/91
By [Signature]

Petitioners have also requested permission to continue to use proposed Lot 1 as a farm/farmette. This request should be granted contingent upon the Petitioners retaining no less than three acres of contiguous land.

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).

It is clear from the testimony that if the variances are 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

ORDER RECEIVED FOR FILING
Date 10/16/91
By [Signature]

the reasons given above, the relief requested in the Petition for Special Hearing and the Petition for Zoning Variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 16th day of October, 1991 that the Petition for Special Hearing to approve the continuation of existing uses of the principal structures as a single-family dwelling, a barn with living quarters and other accessory outbuildings on proposed Lot 1 as a continuation of the lawful uses permitted prior to the effective date of the Baltimore County Zoning Regulations (B.C.Z.R.) in 1945, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing that approval be granted to continue to use proposed Lot 1 of the subject property as a farm/farmette until such time as Petitioners no longer own contiguous lots totalling at least three acres, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 1A04.3.B.3 of the B.C.Z.R. to permit a building setback of 40 feet from the centerline of Greenspring Avenue in lieu of the required 75 feet for existing improvements, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 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 RECEIVED FOR FILING
Date 10/16/91
By [Signature]

Order is reversed, the relief granted herein shall be rescinded and Petitioners would be required to file a new Petition.

2) The relief granted herein to permit the continuation of the farm/farmette use for proposed Lot 1 is contingent upon Petitioners retaining no less than three acres of contiguous land to continue to support its use as a farm/farmette. In the event Petitioners should sell, lease or transfer any property adjoining Lot 1 which in effect reduces the total acreage designated as a farm/farmette to below three acres, the relief granted for the continuation of the farm/farmette use on Lot 1 shall terminate.

3) Within thirty (30) days of the date of this Order, Petitioners shall cause a copy of this Order to be recorded among the Land Records of Baltimore County. A copy of the recorded Order shall be submitted to the Zoning Commissioner's Office for review and inclusion in the case file prior to the issuance of any permits.

4) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

5) The Petitioners have thirty (30) days from the date of this Order to take an appeal of this Decision. In the event the Petitioners do not appeal this Decision, then by virtue of no appeal being taken, the Petitioners hereby consent and agree to be bound by the restrictions stated above.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 10/16/91
By [Signature]



111 West Chesapeake Avenue
Towson, MD 21284

October 16, 1991

887-3353

Robert W. Cannon, Esquire
Weinberg and Green
100 S. Charles Street, 14th Floor
Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
W/S Greenspring Avenue, 300' N of Kelley Avenue
(11614 Greenspring Avenue)
3rd Election District - 3rd Councilmanic District
Howard Miller, et al - Petitioners
Case No. 91-519-SPHA

Dear Mr. Cannon:

Enclosed please find a copy of the Amended Opinion and Order in the above-captioned matter.

In the event any party finds the amendments made thereto 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,

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

file

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - W/S of Greenspring Avenue, 300' N of Kelley Avenue (11614 Greenspring Avenue) 3rd Election District 3rd Councilmanic District

BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

Case No. 91-519-SPHA

Howard Miller, et al
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the continuation of existing uses on proposed Lot 1 as a continuation of the lawful uses permitted prior to the effective date of the Baltimore County Zoning Regulations (B.C.Z.R.) in 1945, or, in the alternative, that approval be granted to continue to use the subject property as a farm/farmette until such time as Petitioners no longer own contiguous lots totalling at least three acres. Petitioners also request a variance from Section 1A04.3.B.3 of the B.C.Z.R. to permit a building setback of 40 feet from the centerline of Greenspring Avenue in lieu of the required 75 feet for existing improvements, all as more particularly described on Petitioner's Exhibit 1.

The Petitioners, by Howard Miller, appeared, testified and were represented by Robert W. Cannon, Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 11614 Greenspring Avenue, consists of 19.2 acres more or less zoned R.C. 5 and is improved with a single family dwelling, a barn with tenants' quarters, and other accessory outbuildings. Petitioners are desirous of subdividing the property for development into 11 lots, keeping the original single family dwelling and barn with tenants' quarters on proposed Lot 1, containing 1.93 acres, as depicted on Petitioner's Exhibit 1. Testimony indicat-

ORDER RECEIVED FOR FILING
Date 10/1/91
By [Signature]

ed Petitioners purchased the property in 1961 from J. Walter Bolgiano who had used the property for farming and as his personal residence from the time of his ownership in 1945 until its purchase by Petitioners. In support of their testimony, Petitioners submitted the signed affidavit of Mr. Bolgiano, marked Petitioner's Exhibit 2. Petitioners testified that the subject property has been used continuously and without interruption as a farm and residence since at least 1945 and as such, should be granted a nonconforming use. Petitioners agreed, in the alternative, to retain some of the land adjoining proposed Lot 1 in the event the continued use of proposed Lot 1 as a farm/farmette is granted in order to meet the minimum requirements for such use. Testimony indicated the variances requested are for existing improvements and will not result in any detriment to surrounding uses.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

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 non-conforming 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 non-conforming. See *McKewy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978)*.

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use

ORDER RECEIVED FOR FILING
Date 10/1/91
By [Signature]

represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

McKewy v. Baltimore County, Md., Supra.

Petitioners have requested a nonconforming use of the subject property, pursuant to Section 104.1 of the B.C.Z.R., following the subdivision of same into building lots, or in the alternative, permission to continue to use proposed Lot 1 of the subject property as a farm/farmette so long as they retain no less than three contiguous acres of land after subdivision. In the opinion of this Deputy Zoning Commissioner, the proposed subdivision and development into 11 residential building lots constitutes a change in the use of the subject property, thereby terminating its nonconforming use as a farm/farmette. However, Petitioners' request to continue to use proposed Lot 1 as a farm/farmette and residence should be granted contingent upon the Petitioners retaining no less than three acres of contiguous land.

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

ORDER RECEIVED FOR FILING
Date 10/1/91
By [Signature]

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).

It is clear from the testimony that if the variances are 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 alternative relief requested in the Petition for Special Hearing and the Petition for Zoning Variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 1st day of October, 1991 that the Petition for Special Hearing to approve the continuation of existing uses on proposed Lot 1 as a continuation of the lawful uses permitted prior to the effective date of the Baltimore County Zoning Regulations (B.C.Z.R.) in 1945, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing that approval be granted to continue to use proposed Lot 1 of the subject prop-

ORDER RECEIVED FOR FILING
Date 10/1/91
By [Signature]

erty as a farm/farmette until such time as Petitioners no longer own contiguous lots totalling at least three acres, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 1A04.3.B.3 of the B.C.Z.R. to permit a building setback of 40 feet from the centerline of Greenspring Avenue in lieu of the required 75 feet for existing improvements, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 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 and Petitioners would be required to file a new Petition.
- 2) The relief granted herein for proposed Lot 1 is contingent upon Petitioners retaining no less than three acres of contiguous land to continue to support its use as a farm/farmette. In the event Petitioners should sell, lease or transfer any property adjoining Lot 1 which in effect reduces the total acreage designated as a farm/farmette to below three acres, the relief granted to Lot 1 shall terminate.
- 3) Within thirty (30) days of the date of this Order, Petitioners shall cause a copy of this Order to be recorded among the Land Records of Baltimore County. A copy of the recorded Order shall be submitted to the Zoning Commissioner's Office for review and inclusion in the case file prior to the issuance of any permits.
- 4) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.
- 5) The Petitioners have thirty (30) days from the date of this Order to take an appeal of this Decision. In the event the Petitioners do not appeal this Decision, then by virtue of no appeal being taken, the Petitioners hereby consent and agree to be bound by the restrictions stated above.

ORDER RECEIVED FOR FILING
Date 10/1/91
By [Signature]

TMK:bjs

Timothy M. Kofroco
TIMOTHY M. KOFROCO
Deputy Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

October 1, 1991

Robert W. Cannon, Esquire
Weinberg & Green
100 S. Charles Street, 14th Floor
Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
W/S Greenspring Avenue, 300' N of Kelly Avenue
(11614 Greenspring Avenue)
3rd Election District - 3rd Councilmanic District
Howard B. Miller, et al - Petitioners
Case No. 91-519-SPHA

Dear Mr. Cannon:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing, as modified, and the Petition for Zoning Variance have 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,

Timothy M. Kofroco

TIMOTHY M. KOFROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

File

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-519-SPHA

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 Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the continuation of the existing uses on the 1.93 acre parcel of land which is intended to become Lot 1 in the proposed subdivision shown on the plat as a continuation of the lawful uses permitted prior to the adoption of the first zoning regulations for Baltimore County which took effect on January 2, 1945, and in the alternative, also pursuant to said zoning regulations, (continued on attachment.)

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

I, or we, agree to pay expenses of the above Special Hearing 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.

Legal Owner(s):

HOWLIN PROPERTIES II, INC.

(Type or Print Name)
By: *Howard B. Miller*
Signature
Signature Howard B. Miller, President
116 Weinberg and Green
100 South Charles Street

Baltimore, Maryland 21201
City and State

Attorney for Petitioner:

Robert W. Cannon, Esquire
(Type or Print Name)
Robert W. Cannon
Signature
100 S. Charles Street, 14th Floor
Address
Baltimore, Maryland 21201
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Robert W. Cannon
Name
100 South Charles Street
Baltimore, Maryland 21201 (301) 332-8816
Address Phone No.

Attorney's Telephone No. (301) 332-8816

Legal Owner(s):

Howard B. Miller

(Type or Print Name)
Howard B. Miller
Signature
Signature

Linda C. Miller
(Type or Print Name)
Linda C. Miller
Signature

c/o Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street 332-8816
Address Phone No.
Baltimore, Maryland 21201
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Robert W. Cannon
Name
100 South Charles Street
Baltimore, Maryland 21201 (301) 332-8816
Address Phone No.

MAP FILE	D-2
D.D.	3
7-21-92	
6	

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, 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 _____ day of _____, 19____, at _____ o'clock _____ M.

Filed 10/1/91 10:30 AM
ANY TIME OR DATE
13 MR 4006

J. Robert Finica
Zoning Commissioner of Baltimore County.

B.C.O.-No. 1

(over)

ORDER RECEIVED FOR FILING
Date 10/1/91
By [Signature]

0801:06/18/91
85108:99768

Attachment for Petition for Special Hearing

Submitted on Behalf of
Howard B. Miller and Linda C. Miller

514

The use of the property prior to the enactment of zoning regulations in 1945 was a lawful use. The use of the property after the adoption of the 1948 regulations was also a lawful use. At that time, the property was zoned "A" residence zone (Cottage). This zone permitted uses of property for one or more of the specified uses. Specified uses included both dwelling, single family and farming and buildings incidental thereto. The 1948 regulations were in effect until 1955. The existing uses have been in continual use since prior to 1955 as the uncontroverted evidence existing as a part of Baltimore County Zoning Case No. 75-20-A and prior to the 1945 zoning regulations as will be outlined in the hearing which is the subject matter of this petition.

Petitioners also request that approval be granted to permit this existing use to continue on a smaller parcel of land than existed when the use commenced.

Petitioners plan to continue to own a number of the lots to be created as shown on the attached plat and request approval to continue to use those lots owned by them as a farm/farmette under the Baltimore County Zoning Regulations until such time as they no longer own contiguous lots totalling at least three acres.

The relief requested is consistent with Provision A-17-D in the Zoning Policy Manual which contemplates the continuation of existing uses on a smaller scale as a result of farms or parcels of land meeting that definition being reduced in size.

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-519-SPHA

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 1A04.3 B 3 to permit a building setback of forty (40) feet from the center line of Greenspring Avenue resulting from the widening that will take place with the development shown on the attached plat in lieu of the required seventy-five (75) feet from the center line resulting in a variance of thirty-five (35) feet.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Owner(s):
HOWLIN PROPERTIES II, INC.
Type or Print Name
Signature: *Howard B. Miller*
By: *Howard B. Miller*
Signature: *Howard B. Miller*
c/o Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
City and State

Attorney for Petitioner:
Robert W. Cannon, Esquire
Type or Print Name
Signature: *Robert W. Cannon*
100 South Charles Street, 14th Floor
Baltimore, Maryland 21202
City and State
Attorney's Telephone No.: 332-8816

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, 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 held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock _____ M.

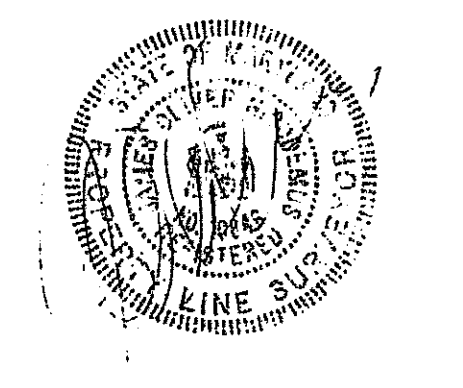
J. Robert Haines
Zoning Commissioner of Baltimore County.
(over) **ORDER RECEIVED FOR FILING**
Date: *8/3*
By: _____

DESCRIPTION TO ACCOMPANY SPECIAL HEARING REQUEST
MILLER PROPERTY 91-519-SPHA

Beginning from the same at a point in the center of Greenspring Avenue, 300 feet more or less North from the centerline of Kelley Avenue; thence, leaving the centerline of Greenspring Avenue, South 64' 58" West 1325 feet to a point; thence, North 43' 50" West 101.2 feet to a point; thence, North 03' 47" East 899.01 feet to a point; thence, North 64' 47" East 451.02' to a point; thence, South 25' 13' East 369.78 feet to a point; thence, North 66' 23' East 431.39 feet to intersect the centerline of Greenspring Avenue; thence, binding upon the centerline of Greenspring Avenue the three (3) following courses and distances:

1. South 31' 30" East 319.21 feet to a point;
2. South 36' East 82.5 feet to a point;
3. South 24' 34" East 95.8 feet to the point of beginning.

Containing 19.2 acres of land, more or less.
This description is taken from and is intended to comply with a "Plat to Accompany Special Hearing Request" for the Miller Property prepared by D.S. Thaler & Associates, Inc. dated May 17, 1991.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY 91-519-SPHA
Towson, Maryland

District: *3rd* Date of Posting: *8-20-91*
Posted for: *Howard B. Miller et ux & Howlin Properties II, Inc.*
Location of property: *W/S of Greenspring Avenue, 300' N of Kelley Avenue*
Location of Signs: *West side of Greenspring Avenue approx 300' N of Kelley Avenue*
Remarks: *See above*
Number of Signs: *2*

CERTIFICATE OF PUBLICATION

TOWSON, MD., *8/8*, 19*91*
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 *8/8*, 19*91*.
THE JEFFERSONIAN,
S. Lake Upton
Publisher

\$ 53.94
50.00
103.94
30.00
133.94

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
DATE: *9-3-91*
Howard and Linda Miller
and
Howlin Properties II, Inc.
c/o Robert W. Cannon, Esq.
Weinberg & Green, P.A.
100 South Charles Street
Baltimore, Maryland 21201
RE:
Case Number: 91-519-SPHA
W/S Greenspring Avenue, 300' N of Kelly Avenue
11614 Greenspring Avenue
3rd Election District - 3rd Councilmanic
Petitioner(s): Howard B. Miller, et ux and Howlin Properties, II, Inc.
HEARING: FRIDAY, SEPTEMBER 13, 1991 at 2:00 p.m.
Dear Petitioner(s):
Please be advised that \$ *139.94* 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 CHECK 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.
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
JULY 12, 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: 91-519-SPHA
W/S Greenspring Avenue, 300' N of Kelly Avenue
11614 Greenspring Avenue
3rd Election District - 3rd Councilmanic
Petitioner(s): Howard B. Miller, et ux and Howlin Properties, II, Inc.
HEARING: FRIDAY, SEPTEMBER 13, 1991 at 2:00 p.m.
Special Hearing to approve the continuation of the existing uses on the 1.93 acre parcel of land which is intended to become Lot #1 in the proposed subdivision as a continuation of the lawful uses permitted prior to the adoption of the first zoning regulations for Baltimore County which took effect on January 2, 1945 and in the alternative, approval granted to permit this existing use to continue on a smaller parcel of land than existing when the use commenced.
Variance to permit a building setback of 40 feet from the centerline of Greenspring Avenue for the existing improvements on future Lot #1 resulting from widening that will take place with the development in lieu of the required 75 feet from the centerline resulting in a variance of 35 feet.
J. Robert Haines
Zoning Commissioner of Baltimore County
cc: Howard and Linda Miller
Robert Cannon, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
August 12, 1991
Robert W. Cannon, Esquire
100 S. Charles Street, 14th Floor
Baltimore, MD 21201
RE: Item No. 514, Case No. 91-519-SPHA
Petitioner: Howard B. Miller, et ux
Petition for Special Hearing
Dear Mr. Cannon:
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 MINIARSKI, 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. Howard B. Miller
Howlin Properties II, Inc.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: August 19, 1991
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Howard B. Miller, Item No. 514
In reference to the applicant's request, staff offers the following comments.
This office supports the requested variance of front yard setback and the request to continue the legal nonconforming use of the apartment.
This office does not believe it is necessary or appropriate to determine the use as a farmette or as a limited acreage flower farm. A farm is a use by right in the RC 5 if it exceeds 3 acres and, as such, should not be required to go through a zoning hearing.
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/pat
ITEM514/ZACL
Rec'd 8/20/91

DIAMONDS WANTED
Wanted for cash...
Equitable Jewelry & Loan
6524 Liberty Rd., 944-6595
PERSONALS
WELLNESS WORKOUT AT BCGH
An eight-week, 16-session Wellness Workout Program...
ABSOLUTE LOWEST PRICE IN DUMBARTON
Call 486-1638 or Pat Spigel • 526-7576

Baltimore County
Zoning Commissioner's
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
Account: R-001-4150
Number
91-519-SPHA
Receipt

Your petition has been received and accepted for filing this
16th day of July, 1991.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:

James E. Cannon
James E. Cannon
Zoning Plans Advisory Committee

Petitioner: Howard B. Miller, et ux
Petitioner's Attorney: Robert W. Cannon

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

July 3, 1991

TO: Zoning Commissioner
Office of Planning and Zoning
FROM: DIVISION OF GROUND WATER MANAGEMENT
SUBJECT: Zoning Item #514, Zoning Advisory Committee Meeting of
July 9, 1991, Howard B. Miller & Howling Properties II, Inc.,
W/S Greenspring Avenue, 300' N of Kelley Avenue (#11614
Greenspring Avenue), D-3, Private Water and Sewer

COMMENTS ARE AS FOLLOWS:

If submission of plans to the County Review Group is required, a
Hydrogeological Study and an Environmental Effects Report must be
submitted. For more information contact the Division of Environmental
Impact Review at 887-3980.

In order to subdivide this property, the owner or developer will be
required to comply with the subdivision regulations of the State of Maryland
and Baltimore County. If there are any questions regarding the subdivision
process, please contact the Land Development Section at 887-2762.

SSF:mpd
514ZNG/GWRMK

Robert W. Cannon
ROBERT W. CANNON

JULY 26, 1991

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

RE: Property Owner: HOWARD B. MILLER AND HOWLING PROPERTIES II, INC.

Location: #11614 GREENSPRING AVENUE
Item No.: 514 Zoning Agenda: July 9, 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.

#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: *Carl J. Kelly* 7/26/91 Noted and Approved
Sighting Group Fire Prevention Bureau

JK/REK

Rec'd jw
7/26/91

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 6, 1991
Zoning Administration and Development Management
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting
for July 9, 1991

The Developers Engineering Division has reviewed
the subject zoning items and we have no comments for
Items 504, 506, 507, 508, 511, 512 and 513.

For Items 489, 509 and 514, the previous
County Review Group Meeting Comments are still applicable.

For Item 174, a County Review Group Meeting is required.
In addition, the following highway comments are provided:

Hammonds Ferry Road is an existing road, which shall
ultimately be improved as a 40-foot street cross-section on a
50-foot right-of-way.

The Developer's responsibilities along the existing
frontage of this site shall be as follows:

- The submission of detailed construction drawings to
extend a minimum distance of 200 feet beyond
the limits of the site, or as may be required to
establish line and grade.
- The submission of full cross-section as deemed
necessary for design and/or construction purposes.
The sections are to be taken at 25 foot intervals
and are to be shown on standard cross-section paper
at 1"=5' horizontal to 1"=5' vertical scale.
- The preparation of the right-of-way plat for
and the dedication of any widening and slope
cessments at no cost to the County.
- The preparation of the right-of-way plats for
any offsite road rights of way required to make
the necessary improvements. Baltimore County will
attempt to acquire the right-of-way at the
Developer's expense.

Zoning Advisory Committee Meeting for
July 9, 1991
Page 2

- The grading of the widening and the existing road
to the established grade. Where adjacent
properties are adversely affected by the improve-
ments, the Developer shall be financially responsi-
ble for the necessary repairs to these properties.
- The relocation of any utilities or poles as
required by the road improvements.
- The construction of combination curb and gutter
in its ultimate location and a maximum of 28.5 feet
of paving adjacent thereto along the frontage of
the property. The paving thickness shall conform
with Baltimore County Standards.

Entrances shall be a minimum of 24 feet and a maximum of
35 feet wide. Depressed curb is to be used with no curb
returns to the property line.

For Item 300, a County Review Group Meeting is required.
In addition, the following highway comments are provided:

Sudbrook Lane is an existing road, which shall ultimate-
ly be improved as a 40-foot street cross-section on a 60-foot
right-of-way.

The Developer's responsibilities along the existing
frontage of this site shall be as follows:

- The submission of detailed construction drawings
to extend a minimum distance of 200 feet beyond
the limits of the site, or as may be required to
establish line and grade.
- The submission of full cross-section as deemed
necessary for design and/or construction purposes.
The sections are to be taken at 25-foot intervals
and are to be shown on standard cross-section paper
at 1"=5' horizontal to 1"=5' vertical scale.
- The preparation of the right-of-way plat for
and the dedication of any widening and slope
cessments at no cost to the County.

Zoning Advisory Committee Meeting for
July 9, 1991
Page 3

- The preparation of the right-of-way plats for
any offsite road rights-of-way required to make
the necessary improvements. Baltimore County will
attempt to acquire the right-of-way at the
Developer's expense.
- The grading of the widening and the existing road
to the established grade. Where adjacent
properties are adversely affected by the improve-
ments, the Developer shall be financially responsi-
ble for the necessary repairs to these properties.
- The relocation of any utilities or poles as
required by the road improvements.
- The construction of combination curb and gutter
in its ultimate location and a maximum of 28.5 feet
of paving adjacent thereto along the frontage of
the property. The paving thickness shall conform
with Baltimore County Standards.

The entrance locations are subject to approval
by the Bureau of Traffic Engineering.

Entrances shall be a minimum of 24 feet and a maximum
of 35 feet wide. Depressed curb is to be used with no
curb returns to the property line.

Robert W. Cannon
ROBERT W. CANNON, P.E., Chief
Developers Engineering Division

RWB:s

41-519-SFHA 9-13-91

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: August 28, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famli

SUBJECT: Z. A. C. Comments

Z. A. C. MEETING DATE: July 9, 1991

ITEM NUMBER: 514

Please see the CRG comments for this site.

Rahee J. Famli
Rahee J. Famli
Traffic Engineer II

RJF:bza

Rec'd 9/3/91
jw

Hampton House Apartments
204 East Joppa Road, Apt. 1007
Towson, Maryland 21204

June 22, 1991

Re: 11614 Greenspring Avenue, Baltimore, Maryland 21093

To Whom it May Concern:

The undersigned is the former owner of property currently
having the above address which consists of a farm of about
seventeen (17) acres located on the west side of Greenspring
Avenue between Kelly Avenue and Broadway Road. While I was the
owner of this property, during 1945 I constructed a three (3) car
garage on the premises which included an apartment on the second
floor above the three-bay, brick garage. The apartment was
occupied shortly after its completion in 1945 and continually
during the time I owned the property. During that same time, I
resided in the home at the front of the property which resulted
from conversion of an old school that had served the community for
many, many years.

The purpose of this letter is to provide factual
information concerning the use of the property in 1945 during my
ownership.

Very truly yours,

J. Walton Bolger
J. Walton Bolger

STATE OF MARYLAND
BALTIMORE COUNTY

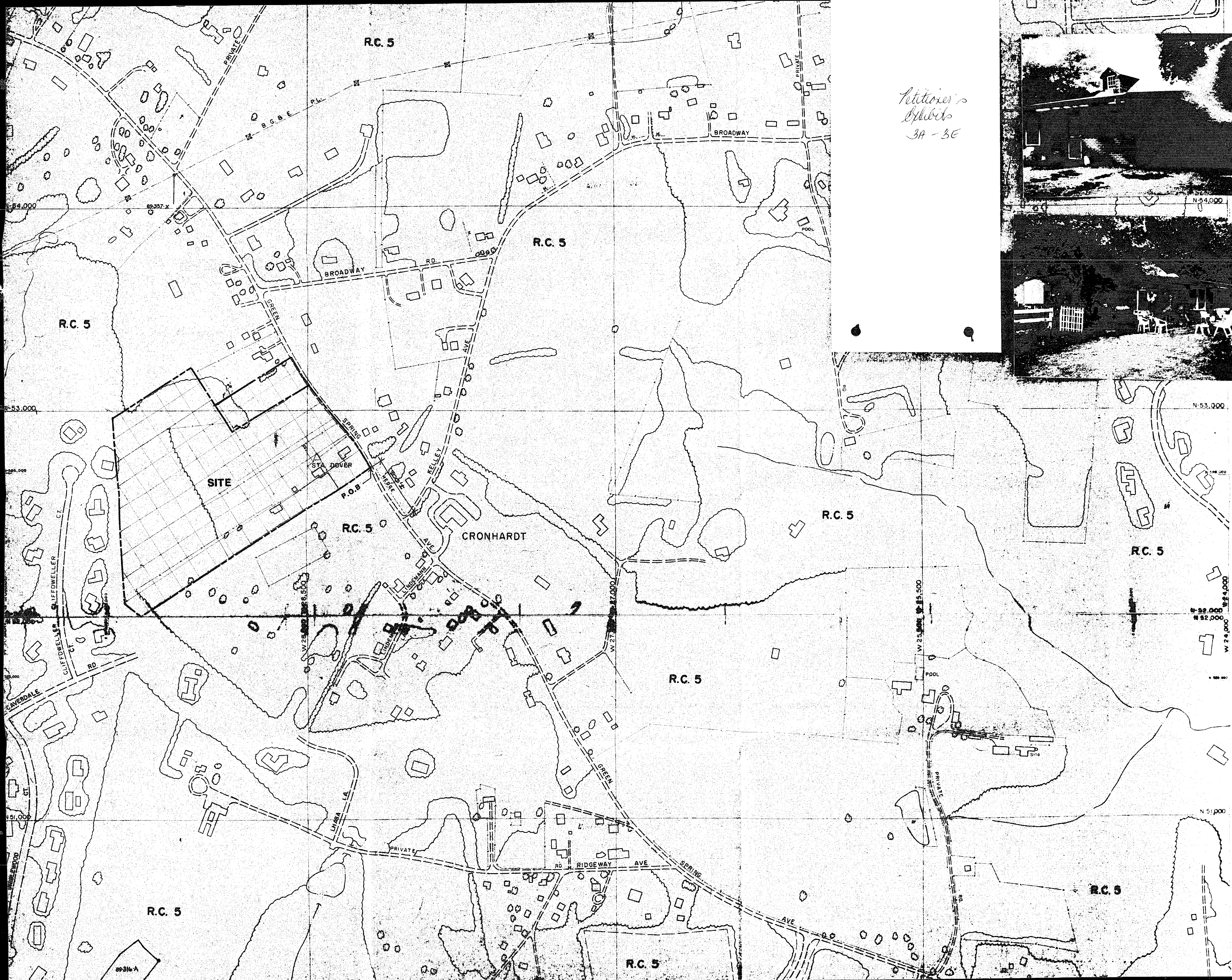
Subscribed and sworn to before me, a Notary Public of the
State of Maryland this 22nd day of June, 1991.

Shirley L. Hoyle
Shirley L. Hoyle
Notary Public

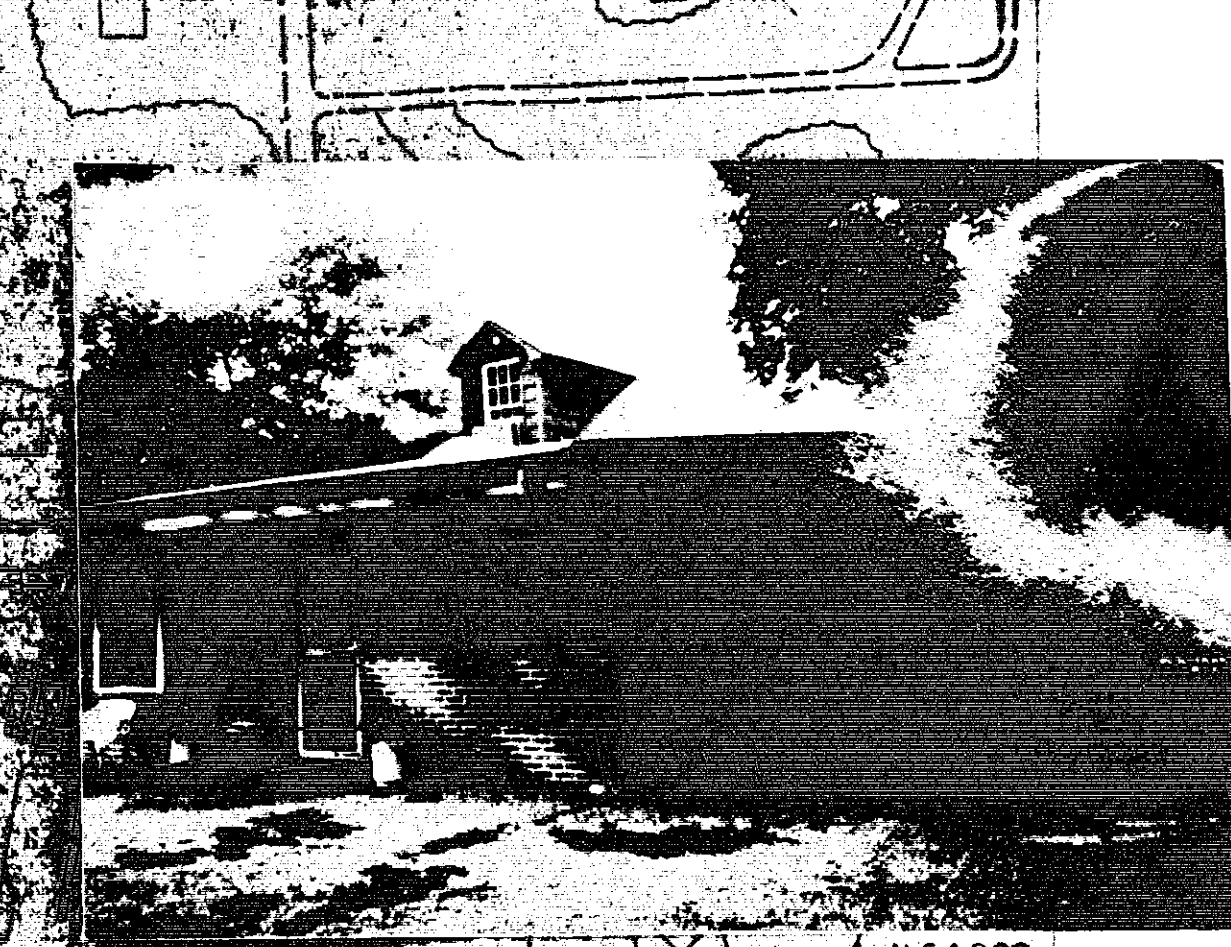
My commission expires: 5/15/93

0007/0081/cjh

PETITIONER'S
EXHIBIT 2



*Historic photos
3A-3E*



**MILLER PROPERTY / GREENSPRING AVE.
EXHIBIT TO ACCOMPANY
SPECIAL HEARING REQUEST**

200 SCALE ZONING MAPS 13-E, 14-E

D.S. THALER & ASSOCIATES, INC.
CIVIL ENGINEERS, LANDSCAPE ARCHITECTS,
SURVEYORS, LAND PLANNERS
1115 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21207
(301) 944-ENGR (301) 944-3647

SCALE: 1"=200' DATE: MAY 17, 1991
REV: 12/26/93 *REVISED*
PART OF 5/19/93 LTR SUBMITTAL
CASE# 91-519-SPHA

WEINBERG & GREEN LLC
ATTORNEYS AT LAW
91-519-SPHA
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
410/332 8600

ROBERT W. CANNON
410/332 8616
FACSIMILE 410/332 8817
rwcannon@wglaw.com

July 13, 1998

Mr. John L. Lewis
Planner II, Zoning Review
Department of Permits & Development Management
Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: **Howard B. Miller**

Dear John:

In accordance with your request, enclosed you will find a copy of my earlier letter with your speed note response and the two requested redlined copies of the plat.

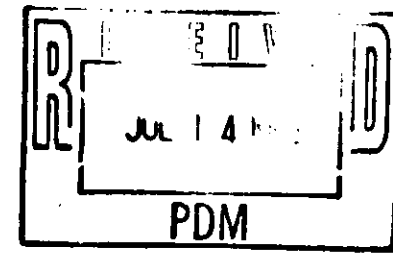
Please let me know if there is anything else that you need.

Sincerely yours,

Robert W. Cannon
Robert W. Cannon

206069.DS13.405_2/0083/pag
Enclosures

cc: Howard B. Miller, Esquire



FILE NUMBER
9A

WEINBERG & GREEN LLC
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
410/332 8600

ROBERT W. CANNON
410/332 8616
FACSIMILE 410/332 8817
rwcannon@wglaw.com

June 19, 1998

VIA HAND DELIVERY

Honorable Arnold Jablon
Director of Department of Permits &
Development Management
Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: **Clarification of Amended Opinion and Order**
Case No. 91-519-SPHA

Dear Mr. Jablon:

On behalf of our client, Howard B. Miller, we enclose a copy of the Amended Opinion and Order to Case No. 91-519-SPHA granted by Timothy M. Kotroco, Deputy Zoning Commissioner for Baltimore County.

Clarification is requested as to that portion of the Order appearing on page 6 of the enclosure: "... to permit a building setback of 40 feet from the centerline of Greenspring Avenue in lieu of the required 75 feet for existing improvements." Mr. Miller proposes to add a modest addition of approximately 600 square feet to his existing home (20 ft. x 30 ft.). This addition would be adjacent to his existing house and not encroach into the 40 foot setback area. See Exhibit A attached for the location of the 40 foot setback requirement and the location of the proposed addition to the existing house (the proposed addition is colored in red). As you can see from Exhibit A, the proposed addition will be set back far more than 40 feet from the centerline of Greenspring Avenue. We do not believe that Commissioner Kotroco, in his Amended Opinion and Order, intended to prohibit a modest addition that did not come close to approaching the 40 foot setback requirement.

In our view, it would be a shame to require Mr. Miller to seek a new variance that merely permits him to add an addition to that part of the house that is already far outside of the

WEINBERG & GREEN LLC

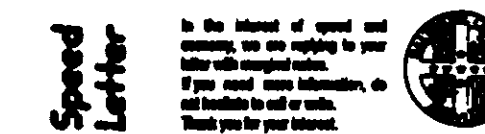
Honorable Arnold Jablon
June 19, 1998
Page 2

required 40 foot setback from the centerline of Greenspring Avenue, and it would consume additional time and resources for Baltimore County to respond to a formal variance request. Clearly, it is our suggestion that "existing improvements" should be clarified to mean "existing improvements and further improvements that are consistent with the existing improvements and do not violate the 40 foot setback from the centerline of Greenspring Avenue."

We would be pleased to discuss this matter with you in person or by telephone in order to answer any questions you might have and to further explain the intent of our client. Your cooperation in this matter will be greatly appreciated.

Sincerely yours,

Robert W. Cannon
Robert W. Cannon



3rd Election District
June 24, 1998

Dear Mr. Cannon:

Staff approves the 600-square foot dwelling addition as shown on the partial red-lined plan copy as being within the spirit and intent of the approved plan and order in case number 91-519-SPHA. Please submit 2 complete red-lined copies of the approved hearing plan with the changes shown and a copy of this letter for inclusion in the permanent zoning files.

Reference this decision on all future permit plans.

Very truly yours,
John L. Lewis
John L. Lewis
Planner II, Zoning Review

JLL:scj

cc: zoning case #91-519-SPHA

