

IN RE: PETITION FOR ZONING VARIANCE
 W/S OAK ROAD, 140' S and
 OPPOSITE MAPLE AVENUE
 (4102-A OAK ROAD)
 13th Election District
 1st Councilmanic District
 Clendo Pennington, et ux
 Petitioners

BEFORE THE
 DEPUTY ZONING COMMISSIONER
 OF BALTIMORE COUNTY
 Case No. 92-167-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The petitioners herein request a variance from Section 1801.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building and window to tract boundary setback of 15 feet each in lieu of the required 30 feet for a building and 45 feet for a window for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioners, by Clendo Pennington, appeared and testified. Also appearing on behalf of the Petition was Dianna Hoffman, Petitioners' daughter, and Paul Ewell, Registered Land Surveyor. There were no Protestants.

Testimony indicated that the subject property, proposed to be known as 4102-A Oak Road, is part of the property known as 4102 Oak Road which consists of 1.5905 acres zoned D.R. 5.5 and is improved with a single family dwelling. Petitioners are desirous of subdividing their property as depicted on Petitioner's Exhibit 1. Mr. Ewell testified on behalf of Petitioners that the relief requested is necessary due to the narrow width of the property. Testimony further indicated that all other setback and building requirements can be met by the proposed development and that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the petitioner and his property. *Melam v. Wilby*, 270 Md. 208 (1971). To prove practical difficulty for an area variance, the petitioner must meet the following:

- 1) whether strict compliance with requirements 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 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 Deputy Zoning Commissioner for Baltimore County this 24th day of November, 1991 that the Petition for Zoning Variance from Section 1801.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building and window to tract boundary setback of 15 feet each in lieu of the required 30 feet for a building and 45 feet for a window for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 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) The relief granted herein is limited to proposed Lots 2 and 3 of 1102 Oak Road, also known as 4102-A and 1102-B Oak Road.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROCO
 Deputy Zoning Commissioner
 for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
 Date 11/27/91
 By [Signature]

111 West Chesapeake Avenue
 Towson, MD 21286

887-3353

November 27, 1991

Mr. Clendo Pennington
 4102 Oak Road
 Baltimore, Maryland 21227

RE: PETITION FOR ZONING VARIANCE
 W/S OAK ROAD, 140' S and opposite Maple Avenue
 (4102-A OAK ROAD)
 13th Election District - 1st Councilmanic District
 Clendo Pennington, et ux - Petitioners
 Case No. 92-167-A

Dear Mr. Pennington:

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,

[Signature]
 TIMOTHY M. KOTROCO
 Deputy Zoning Commissioner
 for Baltimore County

TMK:bjs

cc: People's Counsel

file

ORDER RECEIVED FOR FILING
 Date 11/27/91
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 11/27/91
 By [Signature]

Petition for Variance

to the Zoning Commissioner of Baltimore County 92-167-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 1801.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building and window to tract boundary setback of 15 feet each in lieu of the required 30 feet for a building and 45 feet for a window for a proposed dwelling in accordance with Petitioner's Exhibit 1.

INDS TO THE VARIANCE: THE OWNER OF THE PROPERTY IT WOULD BE IMPOSSIBLE TO SUBDIVIDE INTO 2 OR MORE LOTS WITHOUT THE VARIANCE. THE PROPERTY WOULD BE UNABLE TO BE SUBDIVIDED SINCE THE FIRST ZONING TOTAL SEPT 14, 1991 TIME AND EXPENSE HAS BEEN GREAT DUE TO ADDITIONAL COUNTY NEEDS. C.E.G. FLOOD STUDY, SOLD RUN TO RD, ADDITION DRAWINGS AND THIS VARIANCE.

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.

Contract Purchaser/Lessee:
 Signature: _____
 Address: _____
 City and State: _____

Legal Owner(s):
 Signature: CLENDO PENNINGTON
 Address: 4102 OAK ROAD, BALTO. CO., MD. 21227
 City and State: BALTO. CO., MD. 21227

Attorney for Petitioner:
 Signature: _____
 Address: _____
 City and State: _____

I 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.
 Signature: CLENDO PENNINGTON
 Signature: GEORGE PENNINGTON
 Signature: Michael Pennington

ORDER RECEIVED FOR FILING
 Date 11/27/91
 By [Signature]

Zoning Description

92-167-A
 Beginning at a point on the west side of
 Oak Rd., 140.03 South and opposite Maple Ave.
 Thence running N 48° 17' 50" E 264.68 ft., thence
 N 41° 42' 10" E 77.41 ft., thence S 48° 17' 50" W
 100 ft., thence N 41° 42' 10" E 65.7 ft., thence
 N 48° 17' 50" E 140.20 ft. to the point
 of beginning. Also known as No. 4102-A (Lot #2)
 Family's English Condominium
 in the subdivision of Lot #2
 of Pennington Property and located in the
 13th Election District.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 13th
 Date of Posting: 11/28/91

Posted for: [Signature]
 Petitioner: Clendo and Dianna Pennington
 Location of property: W/S Oak Road, 140' S and opposite Maple Avenue
 Address: 4102-A Oak Road, Baltimore, MD 21227
 Location of Sign: In front of 4102-A Oak Road

Remark: [Signature]
 Posted by: [Signature]
 Date of return: November 28, 1991
 Number of Signs: 1

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 100 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21286 as follows:
 Case Number: 92-167-A
 W/S Oak Road, 140' S and opposite Maple Avenue (Lot #2) 4102-A Oak Avenue 13th Election District
 Petitioner: Clendo and Dianna Pennington
 Hearing Date: Tuesday, Nov. 19, 1991 at 9:00 a.m.
 Variance: to permit a building to tract boundary setback of 15 feet and a window to tract boundary setback of 45 feet in lieu of the required building (30 feet) and window (45 feet) for Lot No. 2
 LAWRENCE E. SCHMIDT, Zoning Commissioner of Baltimore County
 A-10-333 October 31

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the ARBUTUS TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/31/91.

ARBUTUS TIMES
 Publisher: [Signature]

560.32

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 100 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21286 as follows:
 Case Number: 92-167-A
 W/S Oak Road, 140' S and opposite Maple Avenue (Lot #2) 4102-A Oak Avenue 13th Election District
 Petitioner: Clendo and Dianna Pennington
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 Variance: to permit a building to tract boundary setback of 15 feet and a window to tract boundary setback of 45 feet in lieu of the required building (30 feet) and window (45 feet) for Lot No. 2
 LAWRENCE E. SCHMIDT, Zoning Commissioner of Baltimore County
 A-10-333 October 31

CERTIFICATE OF PUBLICATION

TOWSON, MD. 10/31/91

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 10/31/91.

THE JEFFERSONIAN,
 Publisher: [Signature]

560.32

Baltimore County Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21286

Date: _____

Account: R 001 6150
 Number: _____

Please Make Checks Payable To: Baltimore County \$35.00
 BA C010444M10-08-91

Baltimore County Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21286

Date: _____

Account: R 001 6150
 Number: _____

Please Make Checks Payable To: Baltimore County



COPY

887-4353

111 West Chesapeake Avenue
Towson, MD 21286

DATE: 11/4/91

Clendo and Mildred Pennington
4102 Oak Road
Baltimore, Maryland 21227

RE: Case Number: 92-167-A
4102 Oak Road, 140' S and opposite Maple Avenue
Lot #2 (#4102-A Oak Road)
13th Election District - 1st Councilmanic
Petitioner(s): Clendo and Mildred Pennington
HEARING: TUESDAY, NOVEMBER 19, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 85.32 is due for advertising and posting of the above captioned property.

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

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21286. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Lawrence E. Schmidt
Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND



COPY

887-4353

111 West Chesapeake Avenue
Towson, MD 21286

NOV 22, 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 116 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21286 as follows:

Case Number: 92-167-A
4102 Oak Road, 140' S and opposite Maple Avenue
Lot #2 (#4102-A Oak Road)
13th Election District - 1st Councilmanic
Petitioner(s): Clendo and Mildred Pennington
HEARING: TUESDAY, NOVEMBER 19, 1991 at 9:00 a.m.

Variance to permit a building to tract boundary setback of 15 feet and a window to tract boundary setback of 15 feet in lieu of the required building (30 feet) and window (35 feet) for Lot No. 2.

Lawrence E. Schmidt
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

RE: Clendo Pennington, et ux



887-4353

111 West Chesapeake Avenue
Towson, MD 21201

November 4, 1991

Mr. & Mrs. Clendo Pennington
4102 Oak Road
Baltimore, MD 21227

RE: Item No. 174, Case No. 92-167-A
Petitioner: Clendo Pennington, et ux
Petition for Variance

Dear Mr. & Mrs. Pennington:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,

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

JED:jw

Enclosures



887-4353

111 West Chesapeake Avenue
Towson, MD 21201

Your petition has been received and accepted for filing this 8th day of October, 1991.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

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

Petitioner: Clendo Pennington, et ux
Petitioner's Attorney:



(801) 887-1500

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

NOVEMBER 24, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21201

RE: Property Owner: CLEDO PENNINGTON
Location: #4102-A OAK ROAD
Item No.: 174 Zoning Agency: COMPRE 22, 1991

Comments:
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.

REVIEWED BY: *W.F. Brudahn* Chief of Fire Prevention Bureau
Approved: *W.F. Brudahn* Chief of Fire Prevention Bureau
Special Inspection Division

JF/REE

October 23, 1991

TO: Arnold Jablon, Director
Zoning Administration and Development Management
FROM: DIVISION OF GROUND WATER MANAGEMENT
SUBJECT: Zoning Item #174, Zoning Advisory Committee Meeting of October 22, 1991, Clendo Pennington, et ux, W/S Oak Road, 140' S and opposite Maple Avenue, Lot 2, (#4102-A Oak Road), D-13, Public Water and Sewer

COMMENTS ARE AS FOLLOWS:

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:mp
174_ZNG/GWRMP

RECEIVED
OCT 25 1991
ZONING OFFICE

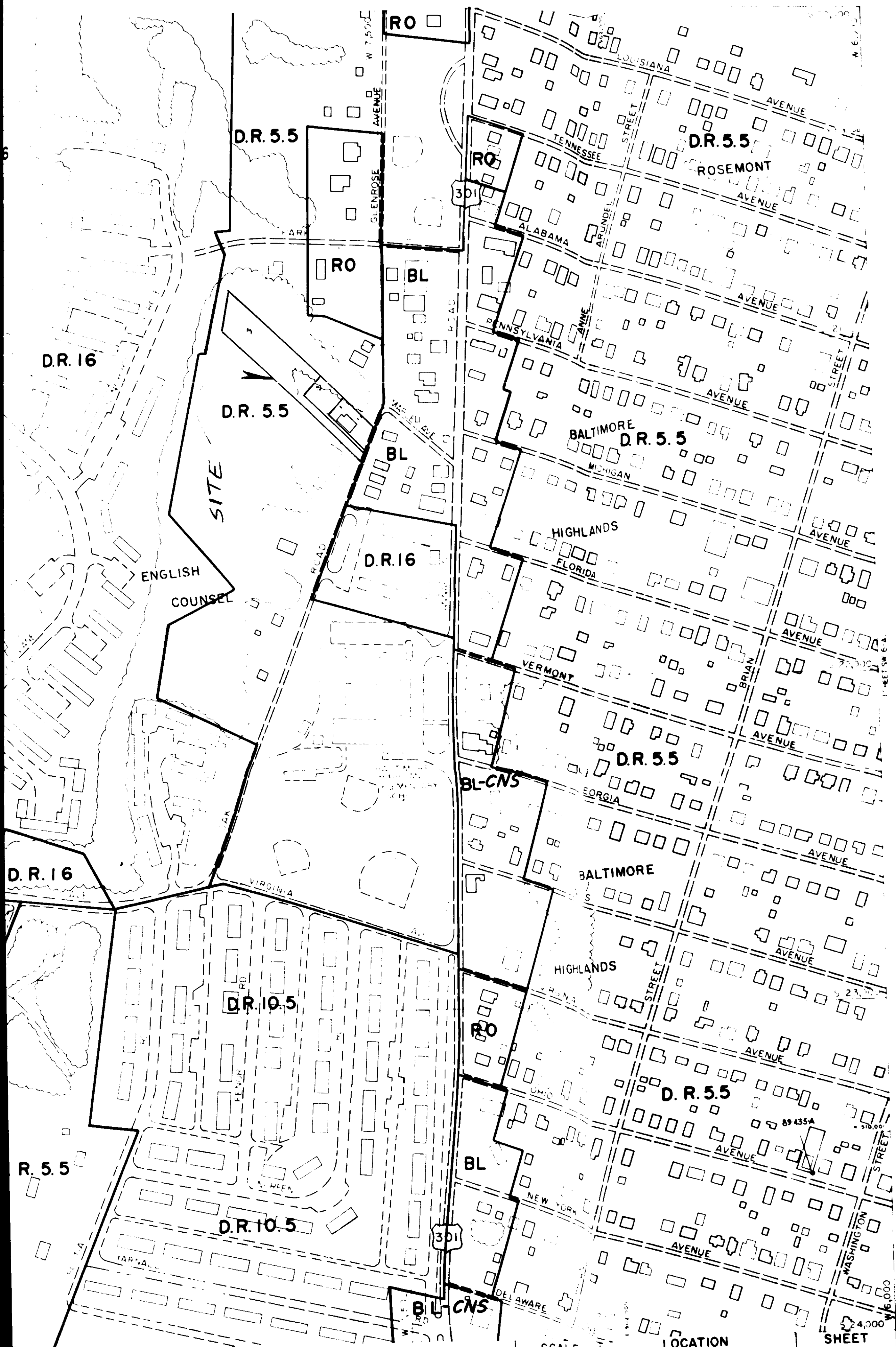
TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: November 8, 1991
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Pennington Property, Item No. 174 and 175

In reference to the Applicant's request, 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/rdn

ITMS174.5/TXTROZ



**BALTIMORE COUNTY
PLANNING AND ZONING
MAP**

SCALE 1" = 200'	LOCATION MONUMENTAL BALTIMORE HIGHLANDS	S.W. 6-B
DATE OF PHOTOGRAPHY JANUARY 1986		



**BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP**

SCALE 1" = 200' ±	LOCATION MONUMENTAL BALTIMORE HIGHLANDS	SHEET S.W. 6-B
DATE OF PHOTOGRAPHY JANUARY 1986		