

IN RE: PETITION FOR VARIANCE
SE/S Railway Avenue at W/S
Snyder Avenue
(7011 Railway Avenue)
12th Election District
7th Councilmanic District
Emanouel Fourtinakis, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-322-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Emanouel and Barbara Fourtinakis. The Petitioners request relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 400.3 to permit an existing accessory building (detached garage used for residential garage purposes only) to remain with a height of 21 feet in lieu of the maximum permitted 15 feet; from Section 400.2 to permit said accessory structure with a centerline setback from an alley of 6.5 feet in lieu of the required 15 feet; from Section 400.1 to permit said accessory structure with a side yard setback of 1.0 feet in lieu of the minimum required 2.5 feet and to be located outside the third of the lot farthest removed from any street; and from Section 400.1 to permit an existing accessory structure (shed) with a side yard setback of 0.5 feet in lieu of the minimum required 2.5 feet, all as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitioners were Emanouel and Barbara Fourtinakis, property owners. There were no Protestants at the hearing.

Testimony indicated that the subject property, known as 7011 Railway Avenue, consists of 6,875 sq.ft. zoned D.R. 5.5 and is improved with a single family dwelling, detached garage and shed. Said property is

located at the corner of Railway Avenue and Snyder Avenue in the Fairlawn subdivision of Dundalk. The Petitioners filed the instant Petition as a result of a zoning violation notice they received as to the use of the property for a commercial business operation and to legalize existing conditions on the property.

The Petitioners testified that they purchased the subject property in 1983 and resided thereon for approximately 7 years. Mr. Fourtinakis testified that at one time, he operated his painting business from the subject site. However, upon receipt of a zoning violation notice from the Zoning Enforcement Division of the Zoning Administration and Development Management (ZADM) office, the Petitioners relocated their business. The Petitioners have leased the property to tenants for the past 3 years and have ceased using the property for any business related activities. The Petitioners are now desirous of offering the property for sale but have been informed that the existing garage and shed on the property do not meet current height and area setback requirements. The Petitioners testified that the subject improvements have existed on the property in the locations shown on Petitioner's Exhibit 1 since the 1940s.

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

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Date 4/18/93
By [Signature]

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, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

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 4th day of June, 1993 that the Petition for Variance requesting relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 400.3 to permit an existing accessory building (detached garage used for residential garage purposes only) to remain with a height of 21 feet in lieu of the maximum permitted 15 feet;

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Date 4/18/93
By [Signature]

from Section 400.2 to permit said accessory structure with a centerline setback from an alley of 6.5 feet in lieu of the required 15 feet; from Section 400.1 to permit said accessory structure with a side yard setback of 1.0 feet in lieu of the minimum required 2.5 feet and to be located outside the third of the lot farthest removed from any street; and from Section 400.1 to permit an existing accessory structure (shed) with a side yard setback of 0.5 feet in lieu of the minimum required 2.5 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject 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.
- 2) The Petitioners shall not allow or cause any commercial activity to take place on the subject property. Said property shall at all times be used for residential purposes.
- 3) The Petitioners shall not allow or cause the accessory garage to be converted to a second dwelling unit and/or apartments. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.
- 4) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order in the event it becomes necessary to do so as a result of a complaint.
- 5) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

ORDER RECEIVED FOR FILING
Date 4/18/93
By [Signature]

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-4386

June 4, 1993

Mr. & Mrs. Emanouel Fourtinakis
9317 Waltham Woods Road
Baltimore, Maryland 21234

RE: PETITION FOR VARIANCE
SE/S Railway Avenue at W/S Snyder Avenue
(7011 Railway Avenue)
12th Election District - 7th Councilmanic District
Emanouel Fourtinakis, et ux - Petitioners
Case No. 93-322-A

Dear Mr. & Mrs. Fourtinakis:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for 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 the Zoning Administration and Development Management office at 887-3391.

Very truly yours,
[Signature]

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

cc: Mr. Nicholas B. Commodari
3410 Woodstock Avenue, Baltimore, Md. 21213

Mr. James G. Wagner, c/o Texaco Refining & Marketing, Inc.
3800 Pickett Road, Fairfax, Virginia 22031

People's Counsel

Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 7011 RAILWAY AVENUE
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.3 TO PERMIT AN ACCESSORY BUILDING (DETACHED DETACHED GARAGE) WITH A HEIGHT OF 21 FEET IN LIEU OF THE REQUIRED MAXIMUM 15 FEET, (400.2) TO PERMIT AN ACCESSORY STRUCTURE WITH SETBACK OF 6.5 FEET FROM ALLEY CENTERLINE IN LIEU OF THE REQUIRED 15 FEET, (400.1) TO PERMIT ACCESSORY STRUCTURE WITH SIDEYARD SETBACK OF 1.0 FEET IN LIEU OF THE REQUIRED 2.5 FEET AND TO BE LOCATED OUTSIDE THE THIRD OF THE LOT FARTHEST REMOVED FROM ANY STREET, (400.1) TO PERMIT ACCESSORY STRUCTURE WITH A SETBACK OF 0.5 FEET IN LIEU OF THE REQUIRED 2.5 FEET, of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty.)

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.

Contact Purchaser/Lessor:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City

State

Zipcode

When an accessory structure and other, under the purview of public, that have the legal character of the property which is the subject of this petition.

Legal Owner(s):

Emanouel Fourtinakis

(Type or Print Name)

[Signature]

BARBARA FOURTINAKIS

(Type or Print Name)

[Signature]

9317 Waltham Woods Rd. 410 887-6102

BALTO. MD 21234

City, Address and phone number of legal owner, contact purchaser or representative to be contacted.

TIM GREENMAN, JEFFERSON & JEFFERSON

5502 SPRINGWOOD AVE. 443-9430

21207

CITY, ADDRESS AND PHONE NUMBER OF LEGAL OWNER, CONTACT PURCHASER OR REPRESENTATIVE TO BE CONTACTED.

ESTIMATED LENGTH OF HEARING: 1 HR.

By following date: Next Year Meeting

ALL OTHER

RECEIVED BY: [Signature] DATE: 3/22/93

ORDER RECEIVED FOR FILING
Date 4/18/93
By [Signature]

93-322-A ZONING DESCRIPTION FOR 93-322-A

7011 RAILWAY AVENUE
12TH ELECTION DISTRICT 7TH ELECTION DISTRICT COUNCIL

Beginning at a point at the intersection of the southeast side of Railway Avenue which is 50 feet wide and the southwest side of Snyder Avenue which is 50 feet wide. Being Lots #1 and #2, Block N, in the subdivision of "Fairlawn" as recorded in Baltimore County Plat Book #6, Folio #100, containing 6875 square feet or 0.1578 Acres, more or less.

93-322-A

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 12th Date of Posting: 4/18/93
Posted for: Variance
Petitioner: Emanouel & Barbara Fourtinakis
Location of property: 7011 Railway Ave. at W/S Snyder Ave.
Location of Sign: Posting in lower two (2) of Railway & Snyder, on property of Petitioner.
Remarks: [Signature]
Posted by: [Signature] Date of return: 4/18/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 4/8, 1993

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 4/8, 1993

THE JEFFERSONIAN,

S. Zebe Orlow

Publisher

Advertisement 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 4/8, 1993.

93-322-A
receipt

Date

111 West Chesapeake Avenue
Towson, MD 21284

111 West Chesapeake Avenue
Towson, MD 21284

111 West Chesapeake Avenue
Towson, MD 21284

111 West Chesapeake Avenue
Towson, MD 21284

Please Make Checks Payable To: Baltimore County

Cashier Validation

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

No. 188438

DATE 4/28/93 ACCOUNT R 001-6150

AMOUNT \$ 35-

RECEIVED FROM FORTINAKIS

FOR Posting 93-322-A

350.00

VALIDATION OR SIGNATURE OF CASHIER



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 19, 1993

Emanouel and Barbara Fourtinakis
9317 Waltham Woods Road
Baltimore, Maryland 21234

RE: PAYMENT OF POSTING AND ADVERTISING FEES
Case Number: 93-322-A
7011 Railway Avenue

Dear Petitioners:

Be advised that a new policy has been established to effectuate the billing and payment for property posting and legal advertising fees. As in the past, this office will ensure that the legal requirements for posting and advertising are satisfied; the policy change will effect to whom and when these fees are paid.

The above-referenced petition was filed as the new policy was being formulated, and now falls under same. Consequently, one or more of the following applies:

(x) Posting charges in the amount of \$ 35 are now due. Your check in this amount should be made payable to "Baltimore County, Maryland" and immediately mailed to this office.

(x) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

() If you are represented by an attorney, this bill may be forwarded your attorney, who in turn, will either re-route it to you for payment or make payment to the newspaper and later add these charges to his/her accounting for services rendered.

Please be further advised that non-payment of fees will stay the issuance of the Zoning Commissioner's Order.

If you have any questions concerning this letter, you may contact Owen Stephens at 887-3391.

Arnold Jablon
DIRECTOR



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TO: POTENTIAL PUBLISHING COMPANY

Re CASE NUMBER: 93-322-A (Item 323)
7011 Railway Avenue
SE/S Railway Avenue at W/S Snyder Avenue
12th Election District - 7th Councilmanic
Petitioner(s): Emanouel Fourtinakis and Barbara Fourtinakis
HEARING: TUESDAY, MAY 4, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Please forward billing to:

Emanouel and Barbara Fourtinakis
9317 Waltham Woods Road
Baltimore, Maryland 21234

Phone: (410) 668-6112



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

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, 111 West Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-322-A (Item 323)
7011 Railway Avenue
SE/S Railway Avenue at W/S Snyder Avenue
12th Election District - 7th Councilmanic
Petitioner(s): Emanouel Fourtinakis and Barbara Fourtinakis
HEARING: TUESDAY, MAY 4, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit an accessory building (existing detached garage) to remain for residential garage purposes only with a height of 22 feet in lieu of the required maximum 15 feet; to permit accessory structure with setback of 6.5 feet from alley centerline in lieu of the required 15 feet; to permit accessory structure with side yard setback of 1 foot in lieu of the required 2.5 feet and to be located the third of the lot farthest removed from any street; and to permit accessory structure (shed) with a side yard of .5 feet in lieu of the required 2.5 feet.

Arnold Jablon
DIRECTOR

Copy prepared and sent to: Emanouel Fourtinakis

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.



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111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 23, 1993

Mr. and Mrs. Emanouel Fourtinakis
9317 Waltham Woods Road
Baltimore, MD 21234

RE: Case No. 93-322-A, Item No. 323
Petitioner: Emanouel Fourtinakis, et ux
Petition for Variance

Dear Mr. and Mrs. Fourtinakis:

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 indicate the appropriateness of the zoning action requested, but 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 March 22, 1993, and a hearing was 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 preliminary review by Zoning personnel.

4-1-93

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 9323 (JLL)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Telecommunications for Impaired Hearing or Speech
303-7586 Baltimore Metro - 645-6465 D.C. Metro - 1-800-485-5982 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21202-0717



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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: April 6, 1993

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

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item No. 306, 323, 326, and 328.

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 887-3480.

Prepared by: Jeffrey W. Long

Division Chief: Cheryl K. Kenna

PK/JL:lw

306.ZAC/ZAC1

Zoning
Enforcement
Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3353

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Carl W. Richards
Zoning Coordinator

March 22, 1993

FROM: James H. Thompson -LJW
Zoning Enforcement Coordinator

RE: Item No. 323
Petitioner: LEN FORTINAKIS

VIOLATION CASE # C-93-1622

LOCATION OF VIOLATION 7011 RAILWAY AVENUE

DEFENDANT EMANOUL & BARBARA FORTINAKIS

ADDRESS SAME AS ABOVE

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME ADDRESS MAIL
DON MASON STOP 2201 BALTIMORE COUNTY COUNSEL

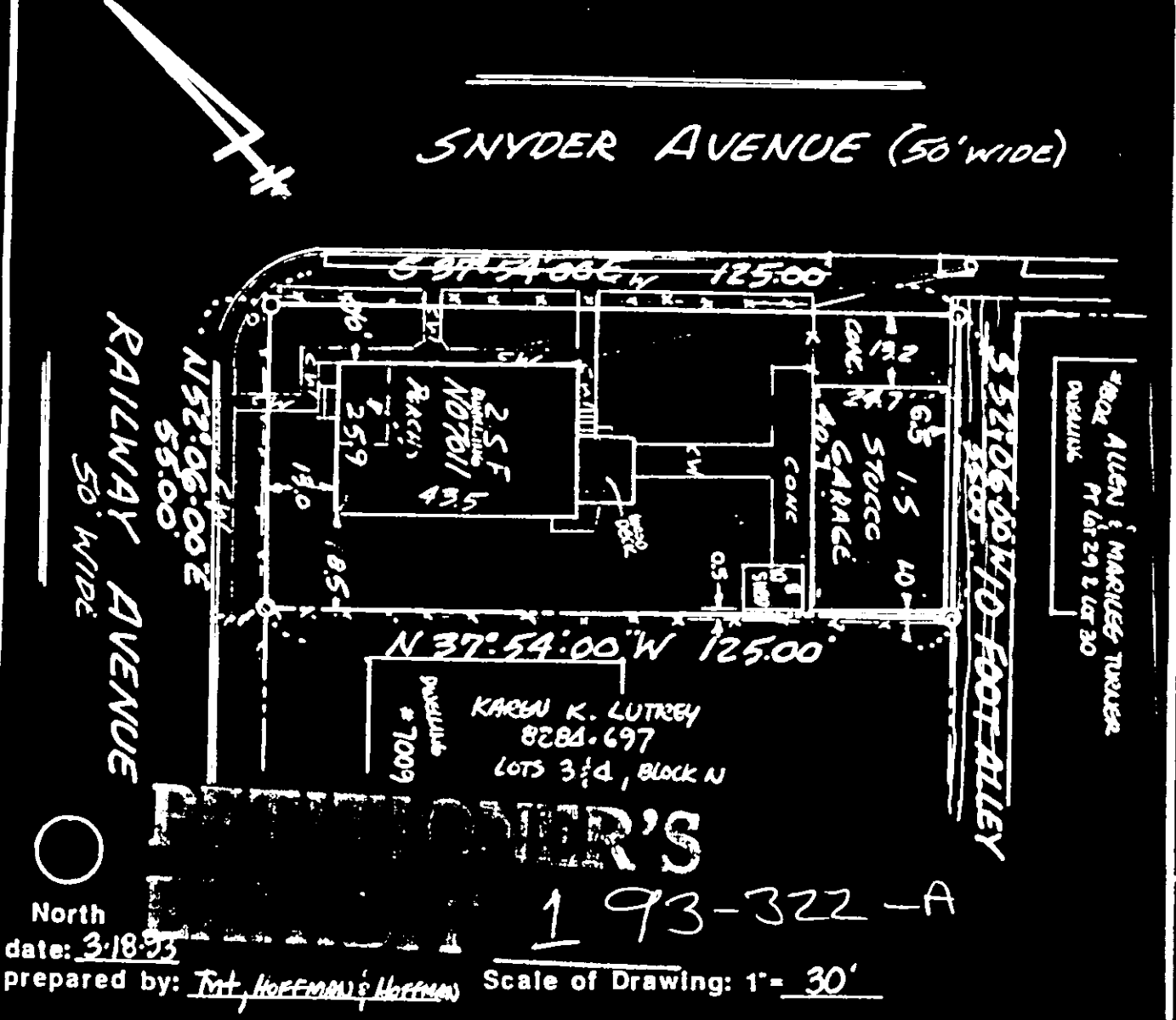
After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
SARAH FORTINAKIS	9317 WALKER Wd. Rd. # 21230
EMANUEL FORTINAKIS	9317 WALKER Wd. Rd. # 21234

Plat to accompany Petition for Zoning Variance Special Hearing

PROPERTY ADDRESS: 7011 RAILWAY AVENUE, BALTIMORE, MD. See pages 2 & 8 of the CHECKLIST for additional required information.
 Subdivision name: FAIRLANE
 Plat book: G-1, Folio 100, Map 1A2
 OWNER: EMANUEL & BARRARA FORTINAKIS



LOCATION INFORMATION
 Election District: 12
 Councilmanic District: 7
 1"-200' scale map: SE 2E
 Zoning: D.R. 5 Residential
 Lot size: 1.58 A. 875 square feet
 Sewer: Water:
 Chesapeake Bay Critical Area:
 Prior Zoning Hearings: NONE
 Zoning Office USE ONLY!
 reviewed by: ITEM #: CASE#: 323

North date: 3/18/83
 prepared by: Tom Hoesenly/Hessman
 Scale of Drawing: 1" = 30'
 193-322-A

MRS. EMANUEL FORTINAKIS
 7011 RAILWAY AVENUE
 BALTIMORE, MD 21222

March 1st, 1993

Baltimore County Government
 Office of Zoning Administration
 and Development Management
 111 West Chesapeake Avenue
 Towson, Md 21284

Attention: Mr. Leonard Wasilewski
 Zoning Inspector

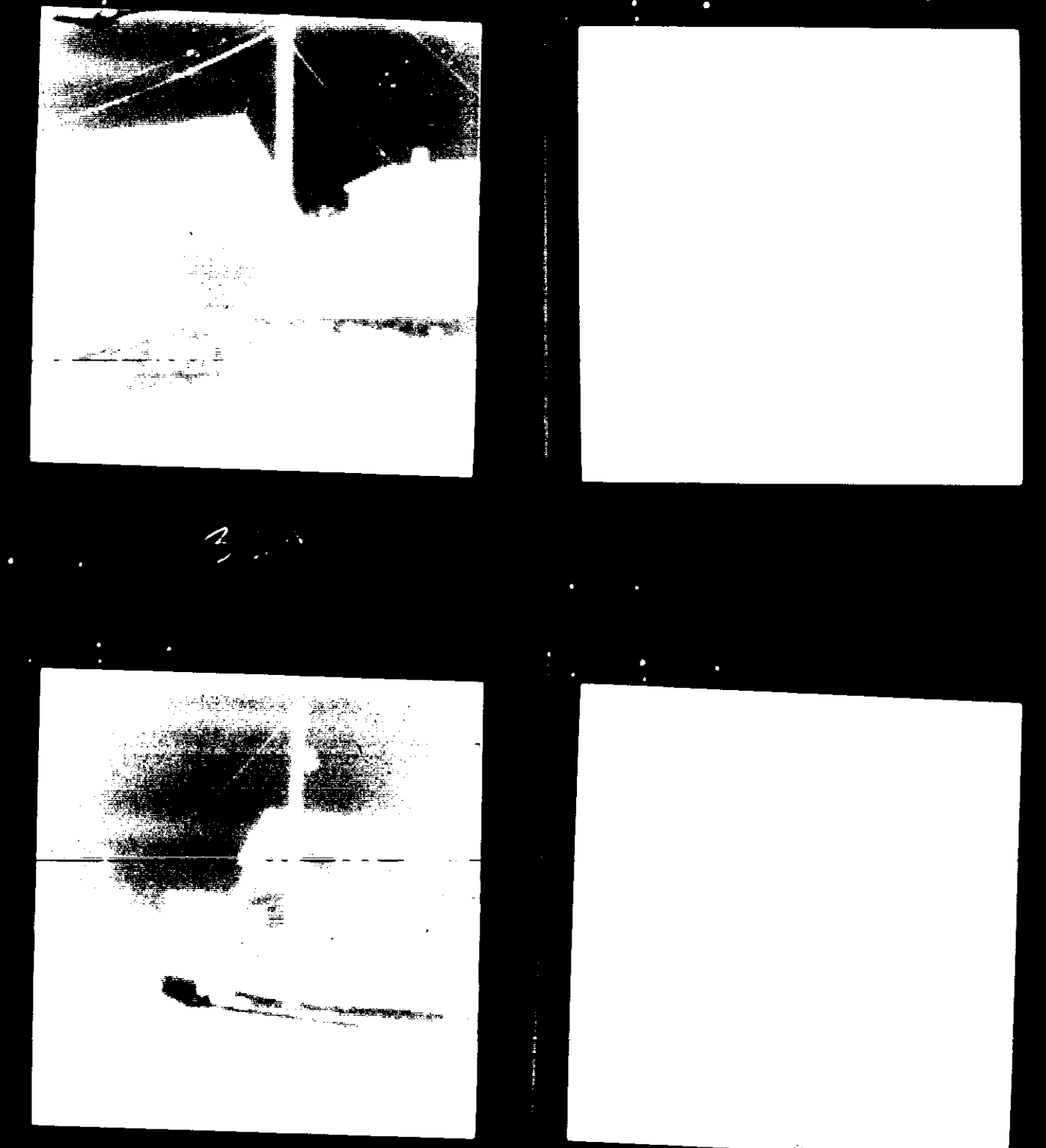
Dear Mr. Wasilewski,

This is to confirm that the garage at the above mentioned address was always at this height and no addition has been made since it was originally built. This is how it was when we bought it in 1983, and we have been told that the garage/structure has been there since the 1940's. Below see the signatures of a few of our neighbors verifying this fact.

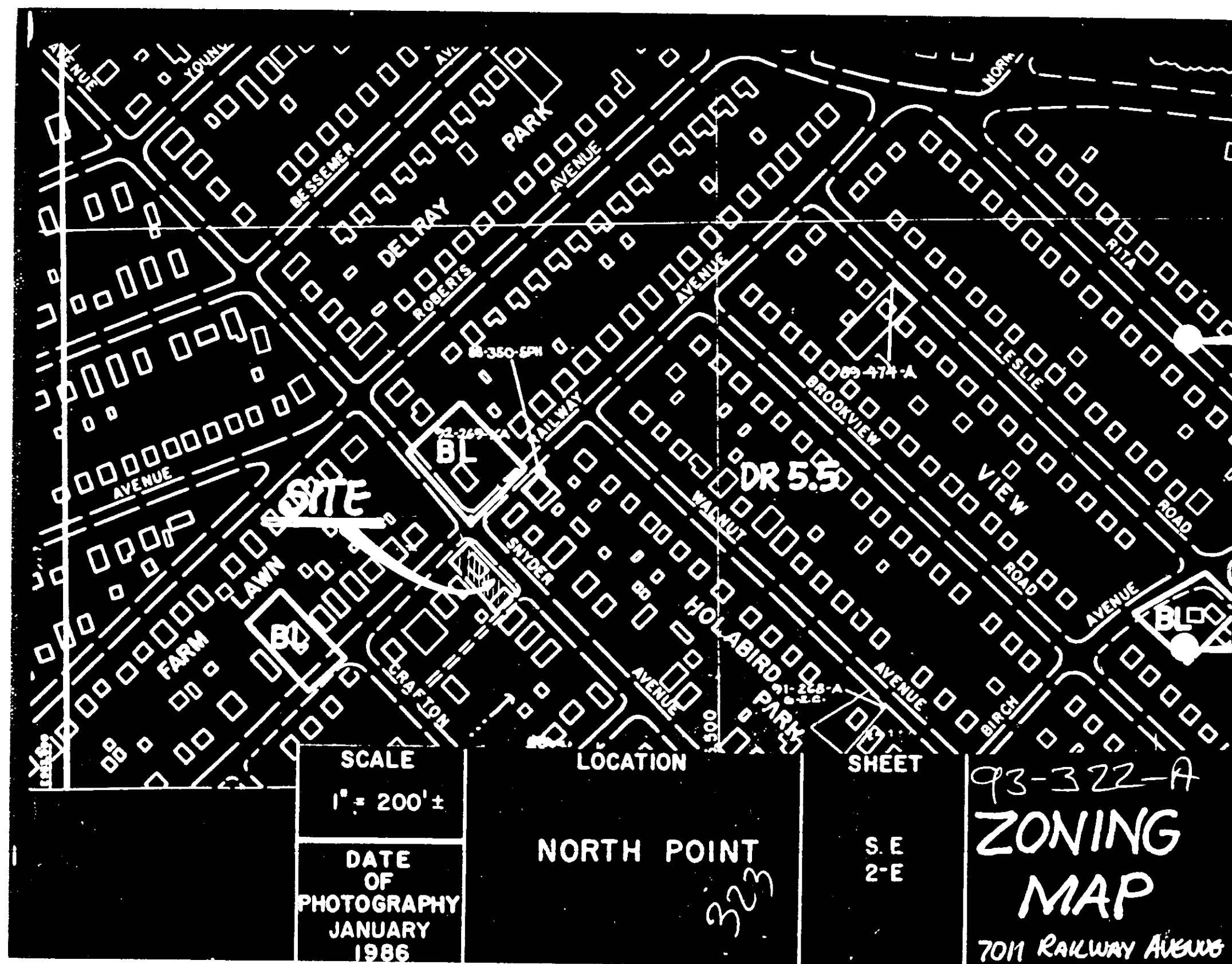
Thanking you

Mrs. Victoria Sabina
 Mary Kozba 1805 Crofton Ave.
 Joseph & Kozba 1805 Crofton Ave.
 Chester Zubyszka

PETITIONER'S
 EXHIBIT 2



PETITIONER'S
 EXHIBIT 3



SCALE: 1" = 200' ±
 DATE OF PHOTOGRAPHY: JANUARY 1986
 LOCATION: NORTH POINT
 SHEET: S.E. 2-E
 93-322-A
 ZONING MAP
 7011 RAILWAY AVENUE



SCALE: 1" = 200' ±
 DATE OF PHOTOGRAPHY: JANUARY 1986
 LOCATION: NORTH POINT
 SHEET: S.E. 2-E
 93-322-A
 AERIAL PHOTO
 SCALE: 1" = 200'
 7011 RAILWAY AVENUE