

IN RE: PETITION FOR VARIANCE
N/S Jerome Jay Drive, 5107'
SE of Ivy Hill Road
(13019 Jerome Jay Drive)
8th Election District
3rd Councilmanic District
Chia-Chaing Wu, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-357-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, Chia-Chaing and Mei-Chin Wu. The Petitioners request relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 35 feet in lieu of the required 50 feet, and to amend the last amended Final Development Plan for Lot 10, Plat 2, Section 5 of Ivy Hill, to permit the principal building to be located outside the present building restriction line, all as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitioners were Randy Lavenstein, Petitioners' Contractor, and Roy Snyder, Registered Land Surveyor. Appearing in opposition to the Petitioners' request were Robert C. Crampton, Alan J. Gebhart, and Terri Lamendola.

Testimony indicated that the subject property, known as 13019 Jerome Jay Drive, or Lot 10 of Ivy Hill, consists of 1.0090 acres, more or less, zoned R.C. 5 and is presently unimproved. The Petitioners are desirous of developing the property with a single family dwelling in accordance with the site plan submitted into evidence as Petitioner's Exhibit 1. As shown on the site plan, the location of the proposed dwelling will result in it extending beyond the required building envelope. Testimony indicat-

ed that due to the location of the septic reserve area on the subject property, the proposed dwelling must be situated on the lot in such a manner that the attached garage extends beyond the building envelope restriction line.

Mr. Randy Lavenstein testified that the position shown on Petitioner's Exhibit 1 is the only feasible way to situate the proposed dwelling on the subject lot. He stated that the proposed dwelling is comparable to other dwellings in the community of Ivy Hill. It is to be noted that the proposed dwelling provides for 5,200 sq.ft. of living space and contains a three-car garage.

Robert Crampton appeared and testified in opposition to the Petitioners' request. Mr. Crampton testified that he is a professional engineer and was involved in the subdivision process for Ivy Hill. He testified that he and the developer are totally opposed to any variance being granted and that the Petitioners need only to reduce the size of the proposed dwelling in order to comply with the restricted building envelope. Mr. Crampton testified that there have been no other variances requested in this subdivision and that one of Ivy Hill's assets is that all of the homes maintain a certain distance from one another. In his opinion, the granting of the relief requested would disrupt the continuity of the layout of this development.

Ms. Terri Lamendola appeared and testified in opposition to the Petitioners' request. Ms. Lamendola resides on the adjoining property known as 13021 Jerome Jay Drive. Ms. Lamendola testified that she is very much opposed to the granting of any variance and is fearful that approval of the relief requested may set a precedent.

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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).

After due consideration of the testimony and evidence presented, I cannot justify a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the relief requested were denied. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. The Petitioners themselves did not appear to offer any testimony concerning the proposed dwelling or the need for a variance. I see no reason why the Petitioners could not simply redesign the proposed dwelling or reduce its size to conform to the building envelope. Therefore, the variance requested must be denied.

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

- 3 -

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of June, 1993 that the Petition for Variance requesting relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 35 feet in lieu of the required 50 feet, and to amend the last amended Final Development Plan for Lot 10, Plat 2, Section 5 of Ivy Hill, to permit the principal building to be located outside the present building restriction line, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

THK:bjs

ORDER RECEIVED FOR FILING
Date 6/14/93
By THK

- 4 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

June 14, 1993

(410) 887-4386

Mr. & Mrs. Chia-Chaing Wu
1114 Dulany Gate Circle
Cockeysville, Maryland 21030

RE: PETITION FOR VARIANCE
N/S Jerome Jay Drive, 5107' SE of Ivy Hill Drive
(13019 Jerome Jay Drive)
8th Election District - 3rd Councilmanic District
Chia-Chaing Wu, et ux - Petitioners
Case No. 93-357-A

Dear Mr. & Mrs. Wu:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been denied 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,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

THK:bjs

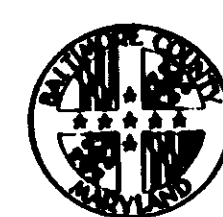
cc: Mr. Randy Lavenstein
2308 Crestnoll Road, Reisterstown, Md. 21136

Mr. Robert C. Crampton
205 E. Joppe Road, Towson, Md. 21204

Ms. Terri Lamendola
13021 Jerome Jay Drive, Cockeysville, Md. 21030

Mr. Alan J. Gebhart
599 Cranbrook Road, Cockeysville, Md. 21030

People's Counsel; File



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at #13019 Jerome Jay Drive
which is presently zoned RC-5

This Petition shall be filed with the Office of Zoning Administration & Development Management. 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 Baltimore County Zoning Regulations, 1A04.3.B.3 To allow a side yard setback of 35 feet in lieu of the required 50 feet, and to amend the last amended Final Development Plan for Lot 10 Plat 2 Section 5 "Ivy Hill" to permit the principal building to be outside the present building restriction line, of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

TO BE DETERMINED AT HEARING.

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, Owner:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Signature

Address

City State Zipcode

Why do I solemnly declare and affirm, under the penalties of perjury, that I am the legal owner(s) of the property which is the subject of this Petition.

(Legal Owner(s))

Chia-Chaing Wu

Mei-Chin Wu

1114 Dulany Gate Circle

Cockeysville, MD 21030

Chia-Chaing Wu

1114 Dulany Gate Circle

Cockeysville, MD 21030

Chia-Chaing Wu

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Cockeysville, MD 21030

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1114 Dulany Gate Circle

Cockeysville, MD 21030

Chia-Chaing Wu

1114 Dulany Gate Circle

Cockeysville, MD 21030

Chia-Chaing Wu

A. L. Snyder
Surveyor, Inc.
1911 Hanover Pike
Hampstead, Maryland 21074
(410) 239-7744

Description to Accompany Zoning Petition

#13019 Jerome Jay Drive

March 25, 1993

Beginning for the same on the north side of Jerome Jay Drive, 50 feet wide, 5107 feet southeast of the centerline of Ivy Hill Road and running,

- 1.) N 18° 08' 02" E 245.00 feet,
- 2.) N 71° 51' 58" W 172.45 feet,
- 3.) N 20° 56' 06" E 255.93 feet,
- 4.) S 58° 06' 16" E 174.97 feet,
- 5.) S 18° 08' 02" W 459.00 feet,
- 6.) N 71° 51' 58" W 10.00 feet to the place of beginning.

Containing 1.0090 Acres of land, more or less.

Being known as Lot 10, Plat 2 of Section 5, "Ivy Hill" recorded among the Land Records of Baltimore County, Maryland in Platbook S.M. 57 folio 5.

MEMBER: Md. Soc. of Surveyors • W. Va. Assoc. of Land Surveyors • A.C.S.M. •

CERTIFICATE OF POSTING

SENIOR DEPARTMENT OF BALTIMORE COUNTY
TOWSON, MARYLAND

93-357-A

District: 8th Date of Posting: 5/14/93
Posted for: Variance
Petitioner: Chia-Chaing Wu & Mei-Chin Wu
Location of property: (13019) Jerome Jay Drive, N/S, 5107 SE of Ivy Hill Rd.
Location of Sign: Facing roadways, on property of Petitioner
Remarks: _____
Posted by: THK Date of return: 5/17/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/29/93

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 4/29/93

THE JEFFERSONIAN,

S. Zeke Orlean
Publisher

receipt
93-357-A
4/15/93
Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
RES. VARIANCE FILING
CODE 010 \$50.00
600 35.00 SIGN POSTING(1)
85.00 TOTAL
NAME: WU
LOC. ADD: 13019 JEROME JAY DRIVE
OWNER'S ADD: 1114 DULANEY GATE CIRCLE
0340380140WICHRG \$85.00
88 C00917AH04-15-93
Please Make Checks Payable To: Baltimore County
Cashier Validation

367
Baltimore County Government
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353
ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS AND PROCEDURES
Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.
This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.
PAYMENT WILL BE MADE AS FOLLOWS:
1) Posting fees will be accessed and paid to this office at the time of filing.
2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.
For newspaper advertising:
Case No.: _____ Item No.: _____
Petitioner: CHIA-CHANG WU & MUI-CHIN WU
LOCATION: NORTH SIDE OF JEROME JAY DRIVE 5107' SOUTHWEST OF IVY HILL RD.
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Chia-Chang Wu
ADDRESS: 1114 Dulane Gate Circle
Cockeysville, MD 21030
PHONE NUMBER: 628-6845
AJ:ggg
(Revised 3/29/93)

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353
APRIL 23, 1993
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 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
CASE NUMBER: 93-357-A (Item 367)
13019 Jerome Jay Drive
W/S Jerome Jay Drive, 5107' SE of Ivy Hill Road
8th Election District - 3rd Councilmanic
Petitioner(s): Chia-Chang Wu and Mui-Chia Wu
HEARING: WEDNESDAY, MAY 26, 1993 at 2:00 p.m. in Rm. 106, Office Building.
Variance to allow a side yard setback of 35 feet in lieu of the required 50 feet and to amend the last amended Final Development Plan for Lot 10, Plat 2, Section 5 "Ivy Hill" to permit the principal building to be outside the present building restriction line.
cc: Chia-Chang Wu
A. L. Snyder
NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
Printed on Recycled Paper

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353
May 20, 1993
Mr. & Mrs. Chia-Chang Wu
1114 Dulane Gate Circle
Cockeysville, MD 21030
RE: Case No. 93-357-A, Item No. 367
Petitioner: Chia-Chang Wu, et ux
Petition for Variance
Dear Mr. & Mrs. Wu:
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 April 15, 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.

SHA Maryland Department of Transportation
State Highway Administration
O. James Lighthizer
Secretary
Hal Kassoff
Administrator
4-22-93
Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204
Re: Baltimore County
Item No. 367(JL)
Dear Ms. Kehring:
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 effected 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,
for Bob Small
John Contestabile, Chief
Engineering Access Permits
Division
My telephone number is _____
Teletypewriter for Impaired Hearing or Speech
383-7556 Baltimore Metro - 645-0463 D.C. Metro - 1-800-452-6283 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21205-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: May 4, 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 Nos. 359, 360, 367, 368, 370, 381 and 382.
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: Gary L. Plana
PK/JL:lw
360.ZAC/ZAC1

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Zoning Advisory Committee
Captain Jerry Pfeiffer
Fire Department
Date: April 29, 1993
FROM: _____
SUBJECT: Comments for 05/03/93 Meeting
Item 361 No Comments
Item 362 No Comments
Item 363 No Comments
Item 364 No Comments
Item 365 No Comments
Item 366 No Comments
Item 367 No Comments
Item 368 No Comments
Item 369 No Comments
Item 370 Fire Hydrants are required on site.
State law requires townhouses, where permit is issued after 07/01/92, to be sprinklered.
Item 371 No Comments
Item 372 No Comments
Item 373 Existing exits shall be maintained to a public way.
RECEIVED
APR 30 1993
ZADM
CPS-008

PLEASE PRINT CLEARLY
CITIZEN SIGN-IN SHEET
NAME ADDRESS
TERE LAMENDOLA 13021 Jerome Jay Dr. Cockeysville, MD
ROBERT C. CAMPBELL 205 E. 3rd St. Towson, MD 21204
ANNE J. BERNARD 599 Campbell Road Cockeysville, MD
PLEASE PRINT CLEARLY
PETITIONER(S) SIGN-IN SHEET
NAME ADDRESS
Randy Lavenstein 2308 Crestall Rd. Reston, VA 20186
ROCK SURGUT 1911 HANOVER PIKE HANOVER MD 21074
ROCK SURGUT SURGUT & ILL

Thurston R. Adams, Jr.
11527 Falls Road
Lutherville, Maryland 21093

Mr. Chris Crampton
Prefect Properties
1702 Baller Ave.
Lutherville, Md. 21093

**PROTESTANT
EXHIBIT NO. 1**

Re: Lot 10, Ivy Hill

Dear Mr. Crampton,

I wish to register my objection to the proposed variance for the home to be constructed on Lot 10, Ivy Hill. I see no reason why the house can not be turned to fit the appropriate 50' set-back.

Sincerely,

Thurston R. Adams, Jr.
13015 Jerome Jay Drive

**PROTESTANT
EXHIBIT NO. 2**

5-14-93

Re: Variance

13019 Jerome Jay Drive

Commissioner
Board of Zoning Appeals
County Office Building
Towson, Maryland
21204

Dear Mr. Commissioner:

Please accept this letter as our opposition to the Zoning Board granting a Variance to Lot Number 10, Plot 2 of Section 5 Ivy Hill (13019 Jerome Jay Dr.) Petition of Chia Chiang Wu & Mei Chin Wu, for a Petition to allow the House & Garage to violate the 50' Set Back.

We are opposed to granting the Variance, because there is plenty of room within the building envelope to accept the proposed dwelling.

The Restrictions dated 1-6-1988 made by The Declarant, Chamara Limited Partnership And Recorded among The Land Records of Baltimore County in Liber No 774 folio 342 Prohibits A Variance (F. 114) unless the Declarant

Alan J. Gebhart

599 Cranbrook Road ♦ Cockeysville, MD 21030 ♦ 410-668-3400

May 24, 1993

Commissioner of Zoning
Baltimore County Zoning Administration & Development
Baltimore County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

**PROTESTANT
EXHIBIT NO. 3**

Re: Case #93-357-A
Lot 10, Section 5, Ivy Hill at Hunt Valley

Gentlemen,

Ivy Hill was conceived and executed as a distinctive, very upscale community. Its location in the vicinity of Oregon Ridge, the wooded nature of most of the lots, particularly in Section 5, and the size and quality of the individual homes mark Ivy Hill as one of the most distinctive subdivisions in the metropolitan Baltimore area.

Distances between the residences are crucial to the maintenance of the overall appearance of the subdivision and to the privacy of the families residing there. Of course, a 50' setback line provides at least 100' between residences. As in all subdivisions, some lots have more constrained building envelopes than others, and each purchaser has an obligation to make themselves aware of the particulars and peculiarities of each lot. All other lot owners who have built to date in Ivy Hill have made it a point to conform to the building setback lines on their particular lot. In at least a few cases, this has required owners to make such modifications to their plans as necessary to conform to the zoning requirements. In addition, Ivy Hill has recorded Covenants and Restrictions which, among other things, particularly address the setback lines, architectural approval, and similar items. These Covenants and Restrictions state that the buildings will conform to zoning and to all existing setback lines.

Failure of Baltimore County to enforce the 50' setback lines will have a negative impact on the subdivision, one which will only grow in time. If this zoning variance is approved, it will create precedent for additional variances to be approved, thereby impacting severely and negatively on other homeowners who built their homes in conformity with the zoning requirements and the Covenants and Restrictions, or who purchased their homes in the belief that the zoning requirements and those of the Covenants and Restrictions were going to be upheld.

We urge you to deny this requested zoning variance and require the petitioners to construct their residence in accordance with the established setback lines as all others have done.

Respectfully submitted,

Alan J. Gebhart

REGISTERED MAIL - RETURN RECEIPT REQUESTED

May 10, 1993

**PROTESTANT
EXHIBIT NO. 4**

Baltimore County Zoning Board
County Office Building
401 Bosley Avenue
Towson, Maryland

Re: Case #93-357-A
Lot 10, Plot 2
Section 5 "Ivy Hill"

Ladies and Gentlemen:

In the matter of the above referenced proposed variance, please be advised that we strongly object to approval of this change.

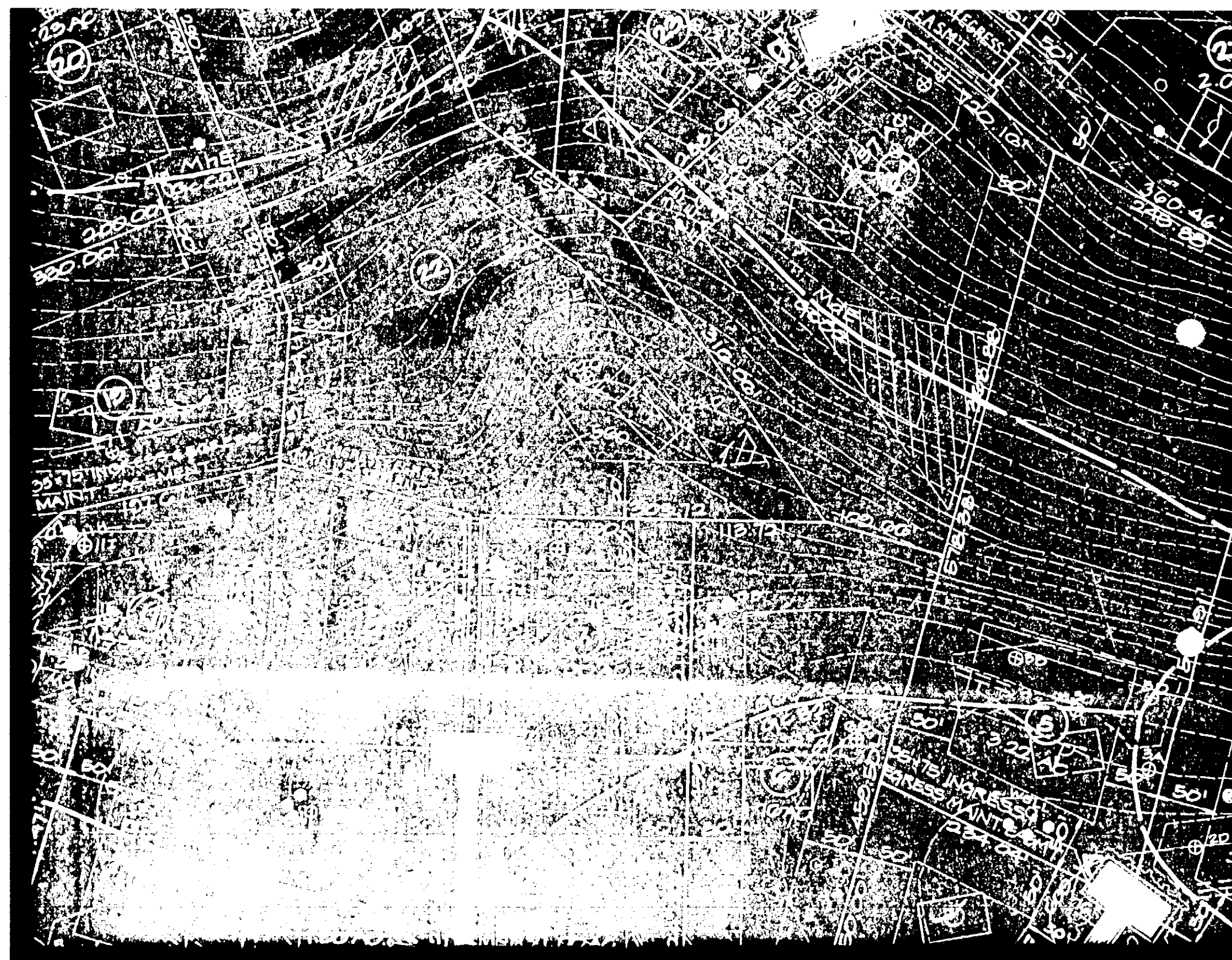
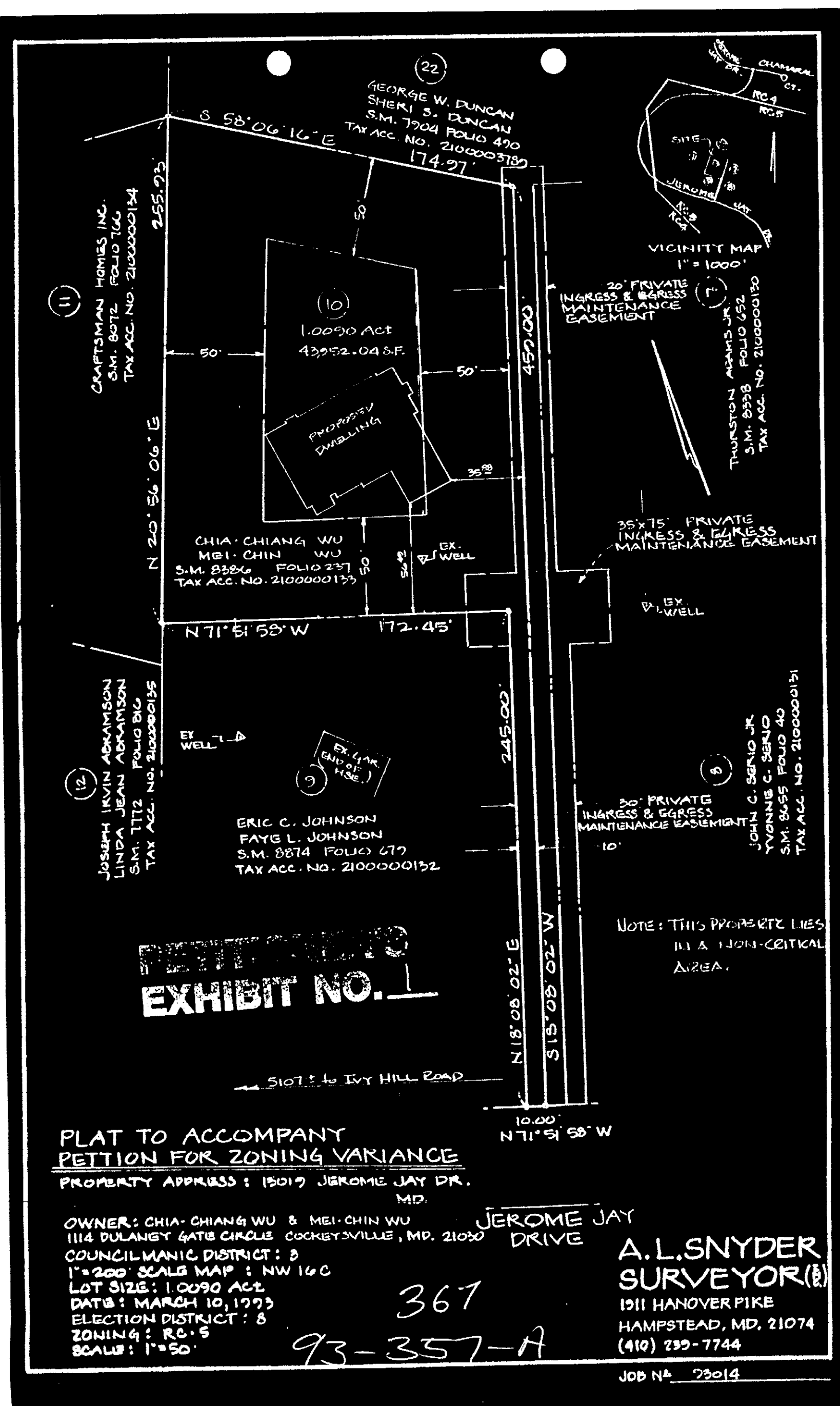
We occupy Lot 9 (13021 Jerome Jay Drive) with our residence thereon which is immediately adjacent to Lot 10, and the proposed change in setback allowance would severely infringe upon our privacy. We fully relied on the existing zoning laws when we purchased our home in "Ivy Hill" and this change would cause us irreparable harm, as well as being out of the development guidelines we have all had to adhere to. Setback regulations were designed specifically to allow for sufficient privacy of neighboring lots and residences, and we fully expect that any new development in "Ivy Hill" will comply to the full extent.

I would appreciate receiving a copy of the proposed changes on Lot 10 prior to the hearing date of May 26th, so that we may confer with our counsel.

Sincerely,

Robert J. Lamendola
Teresa Lamendola

CC: Rosemary Quinn, Esq.





93-357-A BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

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

SCALE	LOCATION	SHEET
1" = 200' ±	TEXAS	NW 16-C
DATE OF PHOTOGRAPHY JANUARY 1986		