

IN THE MATTER OF
THE APPLICATION OF
STEPHEN R. MALLOY
FOR VARIANCES ON PROPERTY
LOCATED ON THE SOUTHEAST
CORNER OF EASTERN AVENUE
AND 47TH STREET
(7103 EASTERN AVENUE)
12TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 94-76-A

OPINION

This matter comes to the Board on appeal from a decision of the Zoning Commissioner dated October 7, 1993, denying the requested variances to permit a commercial vehicle in excess of 10,000 pounds to be parked on a residential lot, and to permit a garage height of 20 feet in lieu of 15 feet. The Appellant was not represented by counsel. The Protestants were represented by Carole Demilio, People's Counsel for Baltimore County.

According to testimony and evidence presented in the case, the Appellant, Stephen R. Malloy, is a self-employed hauler who has lived at the subject property for two years. The property, which consists of a detached home on .22 acres of land, is located in the residential subdivision of Graceland and is zoned DR 5.5. The Appellant owns a dump truck that is 24 feet long and 10 feet high; it weighs 21,000 pounds unloaded and 42,000 pounds loaded. He hauls for Genstar and other contractors, generally leaving home early in the morning and returning early in the evening. On occasion he plows for the State Highway Administration, in which case he might work some nights and weekends. He usually parks the truck in his driveway, but sometimes parks it in the street.

The Appellant testified that he asked for the variance to allow him to park the truck on his property because he has no place else to park it. He testified that he didn't even want a garage, but he asked for the height variance to build one because neighbors have complained that the truck was an eyesore.

Mr. Malloy testified that he must plug in the truck and run it for 15 minutes to start it in cold weather, and then he is gone all day, while other trucks run up and down Eastern Avenue all day long. He submitted as evidence photos of numerous businesses in the neighborhood (Appellant's Exhibits 3-A through 3-K).

Case No. 94-76-A Stephen R. Malloy

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Under cross-examination he conceded that although his property fronts on Eastern Avenue, he must use an access road to get to his property, and he admitted to using roads in the area other than Eastern Avenue. He further testified that he has washed the truck on the subject property on occasion, but stopped doing so when a neighbor complained.

Roxanne Mitchell, who lives at the same address, testified that Mr. Malloy usually arrives home from work after the neighborhood children are home from school, and therefore his truck does not pose a danger in that respect. She testified that he has no other employees and that she never drives the dump truck.

The first witness for the Protestants was Richard Sause, who lives at 538 South 48th Street, a block from the subject property. Mr. Sause, a licensed residential and commercial appraiser, was accepted as an expert witness in real estate appraisal. Mr. Sause testified that the presence of the dump truck had a negative impact on the appearance and property values of the neighborhood.

Nancy Novak testified on behalf of the Graceland Park Improvement Association, of which she is president, stating that the neighborhood is an old, fairly stable residential area consisting primarily of single-family dwellings. She testified that access to the residential area streets is denied to trucks over three-quarters of a ton, and that in her opinion, the safety of the residents is compromised by the dump truck, which must make a sharp left-hand turn to get onto the access road from Eastern Avenue. She further testified that the neighborhood businesses referred to by the Appellant are grandfathered in and that the improvement association has fought long and hard to deny any additional variances. She objected to the construction of a 20-foot-high garage, saying that a garage that large would look like another home.

Maxine Geize, who has lived at 7111 Eastern Avenue for 47 years, testified that on one occasion, when the Appellant was changing a tire on the truck, the tire blew up, making a tremendous noise. She testified that when she was in the house next door to the subject property, the house vibrated when the truck was running its engine. She further testified that if a 20-foot-high garage were built on the Appellant's property, it would take away her view of the harbor.

Joseph Lamb, who resides three houses from the subject property, testified that his and his wife's sleep are interrupted by the noise of the truck.

Case No. 94-76-A Stephen R. Malloy

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The Appellant seeks relief from Section 431 of the Baltimore County Zoning Regulations (B.C.Z.R.), which prohibits parking of commercial vehicles exceeding 10,000 pounds in vehicle weight on residential property, and from Section 400.2 of the B.C.Z.R., which limits garages on residential properties to a height of 15 feet.

Section 307.1 of the B.C.Z.R. states that a variance may be granted only in cases where special circumstances exist that are peculiar to the land or structure that is the subject of the variance request and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship; further, such a variance may be granted only if in strict harmony with the spirit and intent of the subject regulations and only if it does not do injury to the public health, safety and general welfare.

The Appellant stressed as a practical difficulty that he had been unable to find any other place to store his truck, which he needs to make a living. However, he presented no evidence to show that any special circumstances or conditions exist that are peculiar to the land or structure of the subject property and that would justify the granting of the requested variances.

Further, the Board finds that the requested variances would violate the spirit and intent of the cited regulations, which are aimed at preserving the character and quality of residential neighborhoods. The Board also finds that granting the variances would compromise the safety of the neighborhood, because the daily operation of the dump truck from the subject property poses a potential safety hazard to residents.

Regarding the request to build a garage 20 feet high in lieu of 15 feet, Section 101 of the B.C.Z.R. defines an accessory structure as one relating to the principal use of the property. The Board finds that a garage built of a size to store a commercial truck is not a proper accessory use for a residence.

For all these reasons, the Board will deny the Appellant's Petition for Variance.

ORDER

IT IS THEREFORE this 14th day of March, 1994, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance to permit a commercial vehicle in excess of 10,000 pounds to be parked on a residential lot be and is hereby DENIED; and it is further

Case No. 94-76-A Stephen R. Malloy

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ORDERED that the Petition for Variance to permit a garage height of 20 feet in lieu of the required fifteen feet be and is hereby DENIED; and it is further

ORDERED that the Petitioner shall cease and desist the parking/storage of his truck and any vehicle in excess of 10,000 pounds on the subject property within 30 days from the date of this Opinion.

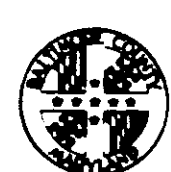
Any petition for judicial review from this decision must be made in accordance with Rules 7-201 through 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

Michael R. Sauer

S. Diane Levero



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 14, 1994

Mr. Stephen R. Malloy
7103 Eastern Avenue
Baltimore, MD 21224

RE: Case No. 94-76-A
Stephen R. Malloy -Petitioner

Dear Mr. Malloy:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Charlotte S. Rodcliffe for
Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Mr. William R. Thomas
Mrs. Maxine Geize
Mr. Joseph Lamb
Ms. Nancy L. Novak
Mr. Richard J. Sause
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Rotzco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
SEC Intersection Eastern Ave. * ZONING COMMISSIONER
and Forty-Seventh Street *
7103 Eastern Avenue * OF BALTIMORE COUNTY
12th Election District *
7th Councilmanic District * Case No. 94-76-A
Stephen R. Malloy
Petitioner * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property located at 7103 Eastern Avenue in the Graceland subdivision of Baltimore County. The Petitioner seeks relief from Section 431 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a commercial vehicle in excess of 10,000 pounds to be parked on a residential lot, and from Section 400.2 to permit a garage height of 20 ft. in lieu of the required 15 ft. The subject property and relief requested is more particularly shown on Petitioner's Exhibit No. 1, the site plan to accompany the Petition for Variance.

Appearing at the public hearing held for this case was the property owner, Stephen R. Malloy and Roxanne Mitchell, who also resides at the subject property. The Petitioner was not represented by counsel. Appearing as Protestants in the matter were numerous residents of the surrounding locale. They were represented by Norman Lauenstein, Esquire. Moreover, three of the neighbors who object to the variances testified and spoke for all of the Protestants present. They were William R. Thomas, who resides immediately next door, Maxine Geize, and Joseph Lamb.

Mr. Malloy testified that he has owned the subject property for approximately 16 months. Currently, the lot is improved with a two story

concrete block dwelling which features porches on both the front and rear sides. Also, a concrete driveway provides vehicular access to the property. The lot is 75 ft. wide and approximately 130 ft. deep. The site is .22 acres in area and is zoned D.R. 5.5. It is located within the residential subdivision known as Graceland. Although commercial uses abut the nearby Eastern Boulevard, the subject lot is located on Eastern Avenue, which is entirely residential in character.

Mr. Malloy also testified that he is employed as an independent hauler. He leases his services to Genstar and similar companies. He owns a large dump truck which is shown in numerous photos which were submitted. The dump truck, itself, weighs 21,500 pounds and when fully loaded weighs 42,000 pounds. Mr. Malloy indicated that he has been engaged as an independent hauler for many years and does not maintain a place of business. That is, the business is operated from his home. Thus, the truck is parked on the property when not in service. Particularly, he testified that he leaves his house around 5:45 A.M. and returns at approximately 4:00 P.M. Thus the truck is stored on the property during the evening hours. He also testified that the truck is powered by a diesel engine and must be warmed up for approximately 15 minutes before it can be driven.

Within the Petition for Variance, Mr. Malloy requests permission to continue storing the truck on the property. Moreover, he proposes to construct a garage approximately 28 ft. by 35 ft. to the rear of the lot. This garage will be 20 ft. in height to accommodate the truck. Mr. Malloy indicated that the garage is necessary to shelter the truck particularly during cold weather. That is, because the truck is diesel powered, the engine must be kept warm in winter.

Mr. William Thomas testified in opposition to the Petition. He noted that the Petitioner's proposed garage and driveway are located on that portion of the subject property immediately next to his house. He noted that the area is strictly residential in character and objects to this commercial use on the neighboring property. He also noted that the truck engine is loud and causes vibrations throughout his house. He also noted that Mr. Malloy does light maintenance on the truck on the site. This was corroborated by the Petitioner. Mr. Thomas' objections largely center around the disruptions of the residential character of the neighborhood, as well as the inherent smells and sounds caused by the truck.

Mr. Thomas' testimony was echoed by Maxine Geize, who lives down the street. She is also a long term resident of this neighborhood and has lived in the vicinity for 46 years. She, likewise, objects to the commercial use of the property.

Testimony was also received from Joseph Lamb. Although Mr. Lamb has not lived in the neighborhood as long as some of the other Protestants, he also objects to the Petition. Although he does not dispute Mr. Malloy's right to earn a living, he believes that the parking/storage of the truck on the property is inappropriate. He noted that he has invested substantial sums of money in his property and fears that property values will be compromised if the variances were granted.

Section 431 of the B.C.Z.R. prohibits parking of commercial vehicles exceeding 10,000 pounds in vehicle weight on any residential lot. Section 400.2 of the B.C.Z.R. limits garages on residential properties to a height of 15 ft. The Petitioner seeks variances from both of these sections. In order for the variances to be granted, the Petitioner must meet the burdens contain in Section 307 of the B.C.Z.R. This section requires that

ORDER RECEIVED FOR FILING

Date 3/14/94
By [Signature]

ORDER RECEIVED FOR FILING

Date 3/14/94
By [Signature]

ORDER RECEIVED FOR FILING

Date 3/14/94
By [Signature]

In adjudging the merits of the proposed request, I am persuaded that the variances should not be granted. I concur with Mr. Lamb's assessment that the Petitioner is entitled to earn a living. However, that right is not at issue here. What is at issue is whether the storage of the truck on the subject property should be permitted pursuant to the requirements of Section 307 as set forth above. In this case, it is clear that a granting of the variance is not appropriate. Specifically, the relief requested cannot be fashioned in a manner so as to protect the public health, safety and general welfare of this community. I am in agreement with the Protestants that the residential character of this neighborhood would be compromised if the variances were to be granted. Moreover, storing of the truck in the proposed garage is not the answer. The effects of the truck would still be present and the residential character of the neighborhood compromised. Additionally, operation of the truck from this site everyday may present a traffic hazard and dangerous conditions to the residents and small children. Clearly, the Petitioner has not met his burden. For all of those reasons, I am persuaded that the Petition for Variance should be denied.

IT IS FURTHER ORDERED that the Petitioner shall cease and desist the parking/storage of his truck and any vehicle in excess of 10,000 pounds on the subject property within 30 days from the date hereof.

ORDER RECEIVED FOR FILING
Date 10/2/93
By M. Spade

LES/00000


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

(410) 887-4386

October 6, 1999

RE: Case No. 94-76-A
Petition for Variance
Property: 7103 Eastern Avenue

Dear Mr. Malloy:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 867-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmm
att.
cc: Norman Lauenstein, Esquire
cc: Mr. William R. Thomas
cc: Mrs. Maxine Geize
cc: Mr. Joseph Lamb
cc: Ms. Nancy L. Novak

94-76-A

District 12th
Posted for: Perrineau
Positioner: S. Perkins R. M. Wiley
Location of property: 710 S. Eastern Ave. W. 9th floor Felt + Perry-Sum IV
Location of Signs: Facing East S. West - on property bet. W. & S.
Remarks:
Posted by: M. H. B.
Number of Signs: 4
Date of Posting: 8/11/63
Date of return: 8/12/63

94-76-H

District. 127th Date of Posting. 10/5/93
 Posted for: 1112 Paul
 Petitioner: Shirley R. Mullis
 Location of property: 1283 Eastern Ave, Saffers, Eastern Dist.
Forty-seventh St.
 Location of Signs: Facing road on property, none appeared
 Remarks: _____
 Posted by: M. J. Brady Date of return: 10/5/93
 Number of Signs: 1

TOWSON, MD., Sept. 2, 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 Sept. 2, 1993.

THE JEFFERSONIAN,
P. Henricksen
LEGAL AD. - TOWSON

94-76-A

District: 1226 Re 12/12/93
 Posted for: Appel
 Postmaster: Stephen R. Melby
 Location of property: 2162 Eastern Ave.
 Location of signs: _____
 Remarks: Signs removed - R.A.M.T.O. 4
 Posted by: [Signature] Date of return: 12/14/93
 Number of signs: _____

for the property located at _____

[illegible]

Continued From Inside Cover

Type of Photo Name: _____

Signature: _____

Address: _____

City: _____ State: _____ Zip: _____

Address for Photo Mail: _____

Type of Photo Name: _____

Signature: _____

Address: _____

City: _____ State: _____ Zip: _____

Estimated Length of the Arms _____

For the following dates _____

ALL _____ OTHER _____

WE REQUEST BY _____ DATE 6-19-73

Don't Turn Back!

No. 7353

[illegible]

No. 7352

DATE 10/26/73 ACCOUNT NO. 800-1615
AMOUNT \$175.00
RECEIVED FROM CASH ON HAND
FOR AIRMAIL VARIANCE - 10/16/73

CASHIER OR SIGNATURE OF CARRIER
(If cash received from customer)

NOV 1973

94-76-A

District: 1226 Re 12/12/93
 Posted for: Appel
 Postmaster: Stephen R. Melby
 Location of property: 2162 Eastern Ave.
 Location of signs: _____
 Remarks: Signs removed - R.A.M.T.O. 4
 Posted by: [Signature] Date of return: 12/14/93
 Number of signs: _____

ITEM 92

74-7627

recd

Account B-0014100

Number JLM

Date 7/28/93

STEVE MALLOY - 7103 EASTERN AVE.

VARIANCE (010) _____ 50.

POSTING (080) _____ 35.

85.

105.00

Please Make Checks Payable To: Baltimore County

TO: POTOMAC PUBLISHING COMPANY
September 2, 1993 Issue - Jeffersonian
Please forward billing to:
Stephen R. Malloy
7103 Eastern Avenue
Baltimore, Maryland 21224
410-285-4746

COPY

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

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-76-A (Item 72)
7103 Eastern Avenue
SEC Intersection Eastern Avenue and Forty-Seventh Street
12th Election District - 7th Councilmanic
Petitioner(s): Stephen R. Malloy
HEARING: TUESDAY, OCTOBER 5, 1993 at 11:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit a commercial vehicle in excess of 10,000 pounds on a residential lot; and to permit a garage height of 20 feet in lieu of the required 15 feet.

CHARLOTTE E. SCHULTZ
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 867-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 27, 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

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-76-A (Item 72)
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HEARING: TUESDAY, OCTOBER 5, 1993 at 11:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit a commercial vehicle in excess of 10,000 pounds on a residential lot; and to permit a garage height of 20 feet in lieu of the required 15 feet.

Carl Jablon

Arnold Jablon
Director

cc: Stephen Malloy/7103 Eastern Avenue/21224
Norman Lauenstein/809 Eastern Boulevard/21224
William & Dorothy Thomas/7105 Eastern Avenue/21224
Chester & Marine Geize/7111 Eastern Avenue/21224
Joseph Lamb, Sr./7109 Eastern Avenue/21224
Russell T. Meyers/500 S. 48th St./21224

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 867-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 27, 1993

Mr. Stephen R. Malloy
7103 Eastern Avenue
Baltimore, Maryland 21224

RE: Case No. 94-76-A, Item No. 72
Petitioner: Stephen R. Malloy
Petition for Variance

Dear Mr. Malloy:

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 August 16, 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.



Maryland Department of Transportation
State Highway Administration

G. James Lighthizer
Secretary
MD SHA
Baltimore

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. 94-76-A

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,

John Contestabile
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5662 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: August 30, 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. 62, 71, 72, 73, 74, 76, 77, 78, 81, 82, 84, 86, 87 and 88.

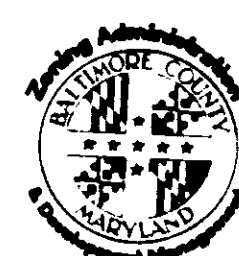
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 867-3480.

Prepared by: *Jeffrey Long*

Division Chief: *Pat Keller*

PK/JL:lw

ZAC, 62/PZONE/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

August 16, 1993

FROM: James H. Thompson -LJW
Zoning Enforcement Coordinator

RE: Item No. 72
Petitioner: STEVEN R. MALLOY

VIOLATION CASE # C-93-2479

LOCATION OF VIOLATION 7103 EASTERN AVENUE, 21224

DEFENDANT STEVEN R. MALLOY

ADDRESS 7103 EASTERN AVENUE, 21224

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

NORMAN LAUENSTEIN
809 EASTERN BLVD., 21221
WILLIAM & DOROTHY THOMAS
7105 EASTERN AVENUE, 21224
CHESTER & MARINE GEIZE
7111 EASTERN AVENUE, 21224
JOSEPH LAMB SR.
7109 EASTERN AVENUE, 21224

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.

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 & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring 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 assessed 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.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Carl Jablon
ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 72

Petitioner: *Stephen R. Malloy*

Location: 7103 EASTERN AVE.

PLEASE FORWARD ADVERTISING BILL TO:

NAME: *Stephen R. Malloy*

ADDRESS: 7103 EASTERN AVE.

PHONE NUMBER: 410-285-4746

AJ:ggg

(Revised 04/09/93)

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 28, 1993

Mr. William R. Thomas
7105 Eastern Avenue
Baltimore, MD 21224

Mrs. Maxine Geize
7111 Eastern Avenue
Baltimore, MD 21224

Mr. Joseph Lamb
7109 Eastern Avenue
Baltimore, MD 21224

Ms. Nancy L. Nowak
541 46th Street
Baltimore, MD 21224

RE: Petition for Variance
SEC Intersection Eastern Avenue
and Forty-Seventh Street
(7103 Eastern Avenue)
12th Election District
7th Councilmanic District
Stephen R. Malloy-Petitioner
Case No. 94-76-A

Dear Mr. Thomas, Mrs. Geize, Mr. Lamb and Ms. Nowak:

Please be advised that an appeal of the above referenced case was filed in this office on October 28, 1993 by Stephen R. Malloy. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 867-1991.

Sincerely,

Carl Jablon
ARNOLD JABLON
Director

AJ:jaw

c: People's Counsel

Printed on Recycled Paper

APPEAL

Petition for Variance
8800 Intersection Eastern Avenue
and Forty-Seventh Street
(7103 Eastern Avenue)
12th Election District - 7th Councilmanic District
Stephen R. Malloy-PETITIONER
Case No. 94-76-A

Petition(s) for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestants' Stand-in Sheets

Petitioner's Exhibits: 1 - Plat to accompany Zoning Variance

2 - Two Photographs

3 - Neighbors Petition of Approval

Protestant's Exhibits: 1 - Nine Photographs

Zoning Commissioner's Order dated October 7, 1993 (Denied)

Notice of Appeal received on October 28, 1993 from Mr. Stephen Malloy

cc: T. Wray McCurdy, Esquire, Sutton, McCurdy and Stone, 101 Eastern Blvd., Baltimore, MD 21201

Mr. William R. Thomas, 7103 Eastern Avenue, Baltimore, MD 21224

Mrs. Maxine Geize, 7111 Eastern Avenue, Baltimore, MD 21224

Mr. Joseph Lamb, 7103 Eastern Avenue, Baltimore, MD 21224

Ms. Nancy L. Novak, 847 12th Street, Baltimore, MD 21224

People's Counsel of Baltimore County
Rm. 401, County Office Bldg., Towson, Md. 21204

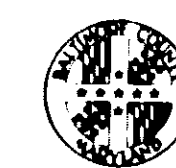
Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

12/14/93 - Notice of Assignment for hearing scheduled for Thursday, February 10, 1994 at 10:00 a.m. sent to following:

T. Wray McCurdy, Esquire
Mr. Stephen R. Malloy
Norman Lauenstein, Esquire
Mr. William R. Thomas
Mrs. Maxine Geize
Mr. Joseph Lamb
Ms. Nancy L. Novak
Mr. Richard J. Sause
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

12/20/93 - Mr. and Mrs. Lauenstein from Norman W. Lauenstein, Esquire - no longer represents protestants in this matter; withdrawn from file.

12/20/93 - Hearing concluded before Board; deliberated at conclusion of hearing.
P. variance requested; 30 days from date of written order to remove truck; written opinion and order to be issued.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

December 14, 1993

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 94-76-A

STEPHEN R. MALLOY /PETITIONER
SEC intersection Eastern Avenue and Forty-Seventh Street (7103 Eastern Avenue)
12th Election District
7th Councilmanic District

VAR -To permit a commercial vehicle in excess of 10,000 lbs. to be parked on a residential lot; to permit garage height of 20' in lieu of required 15'.

10/07/93 - Z.C.'s Order in which Petition for Variances is DENIED.

ASSIGNED FOR: THURSDAY, FEBRUARY 10, 1994 at 10:00 a.m.

cc: T. Wray McCurdy, Esquire Counsel for Appellant /Petitioner
Mr. Stephen R. Malloy Appellant /Petitioner

Norman Lauenstein, Esquire Counsel for Protestants on p. 11
Mr. William R. Thomas Protestants on p. 11
Mrs. Maxine Geize Protestants on p. 11
Mr. Joseph Lamb Protestants on p. 11

Ms. Nancy L. Novak
Mr. Richard J. Sause

People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: STEPHEN R. MALLOY
Case No. 94-76-A
DATE: February 10, 1994 /At conclusion of hearing
BOARD /PANEL: William T. Hackett, Chairman (WTH)
Michael B. Sauer (MBS)
S. Diane Levero (SDL)
SECRETARY: Kathleen C. Weidenhammer
Administrative Assistant

Those present included Stephen R. Malloy, Petitioner, and Carole S. Demilio, Deputy People's Counsel for Baltimore County.

PURPOSE --to deliberate issues and matter of petition for zoning variances presented to the Board; testimony and evidence taken this date. Opinion and Order to be issued by Board setting forth written findings of fact.

Opening statement by Chairman Hackett included recitation of case number, name and subject of petition filed.

MBS: Has listened to and reviewed evidence and testimony; Petitioner seeking right to park 20,000+ lbs dump truck at his residence which is a residential lot; BCZR quite clear; regulation speak for itself; vehicle over 10,000 lbs cannot be stored on residential lot; reviewed testimony and photographs relative to size and weight of truck; undisputed facts that property is zoned residential; and that immediate area and locale involved is residential in nature; reviewed circumstances under which variance can be granted; finds as a matter of fact that the truck is a commercial vehicle; lot is residential; regulations say this cannot be done; no practical difficulty or unreasonable hardship, other than economic; for convenience of Petitioner; and that's not the test; detriment to the local community; reviewed argument by Deputy People's Counsel regarding height variance for garage; agrees with that argument; use is not in harmony with the principal residential use of property.

Petition for Variances should be denied.

SDL: Agrees with MBS; Petitioner did not prove practical difficulty or unreasonable hardship to justify variance; reviewed testimony of witnesses re detriment (noise, appearance, etc.);

Deliberation /STEPHEN R. MALLOY /94-76-A

accessory use very clearly does not conform with principal residential use of house; agrees with MBS as to regulations and that Petition should be denied.

WTH: Concurred with both Board members; believes that Petitioner has impressed the Board with the fact that he is struggling, but location is bad; BCZR 431.1 flatly does not permit this; will have to locate storage area for truck; based upon testimony and evidence, variances would deny requested variances.

WTH, in closing remarks, indicated that it was the final decision of the Board that the requested variances be denied; written Opinion and Order to be issued, citing facts upon which the decision was made; appeal period to run from date of that written Opinion and Order and not from today's date.

Respectfully submitted,

Kathleen C. Weidenhammer
Administrative Assistant

IN RE: PETITION FOR ZONING VARIANCE
SEC Intersection Eastern Ave.
and Forty-Seventh Street
7103 Eastern Avenue
12th Election District
7th Councilmanic District
Stephen R. Malloy
Petitioner
* * * * *
* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 27 day of January, 1994, a copy of the foregoing Entry of Appearance was mailed to Stephen R. Malloy, 7103 Eastern Avenue, Baltimore, Maryland 21224, Petitioner.

Peter Max Zimmerman
People's Counsel for Baltimore County

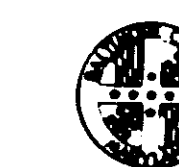
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management
DATE: May 25, 1994
FROM: Charlotte E. Radcliffe
County Board of Appeals
SUBJECT: Closed File: Case No. 94-76-A
STEPHEN R. MALLOY -Petitioner
District 12c7

As no further appeals have been taken regarding the subject case, we are closing the file and returning same to you herewith.

Attachment



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 25, 1994

T. Wray McCurdy, Esquire
SUTTON, MCCURDY AND STONE
101 Eastern Boulevard
Baltimore, MD 21221

RE: Case No. 94-76-A
STEPHEN R. MALLOY

Dear Mr. McCurdy:

As no further appeals have been taken regarding the subject matter, we have closed the file and returned same to the Office of Zoning Administration and Development Management, along with any exhibits entered in this matter. The Zoning Office maintains the permanent file.

Anyone interested in either the file or the exhibits is advised to contact the Zoning Director's office at 887-3153 immediately upon receipt of this letter. By copy of this letter, all parties of record that may have an interest in this file have been notified.

Sincerely,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

cc: Stephen R. Malloy
William R. Thomas
Maxine Geize
Joseph Lamb
Nancy L. Novak
Richard J. Sause
People's Counsel for Baltimore County

Feb 1, 1994

Dear Mr. William Hackett
In reference to the
Case No. 94-76-A
I am against giving him a
permit for this commercial
vehicle in a residential
area. Eastern Ave and 47th St.

COUNTY BOARD OF APPEALS
94 FEB -4 PM 2:12

Mr & Mrs Charles Muslene
542 S. 47th St.
Baltimore, Md. 21224

Feb 2, 1994

Dear Mr. Hackett,
I am against having
commercial vehicle and
garage built on a residential
lot. I am against giving him a
permit for this commercial
vehicle in a residential
area. Eastern Ave and 47th St.
Case No. 94-76-A -

COUNTY BOARD OF APPEALS
94 FEB -7 PM 1:55

Thank you
Mrs. Antonia Viley
566 S. 47th Street
Baltimore, Md. 21224

Feb 2, 1994

Dear Mr. Hackett
I am against a permit
for a commercial vehicle in
excess of 10,000 lbs. to be
parked on a residential lot.
to permit garage height of 20'
in lieu of required 15'.
I am against having this
built at 7101 Eastern Ave
S 47th St. Baltimore Md 21224
This is in reference to
Case # 94-76-A -

COUNTY BOARD OF APPEALS
94 FEB -7 PM 1:30

Mr & Mrs Victor Kozminski
532 S. 47th St.
Baltimore, Md. 21224

Feb 2, 1994

Dear Mr. Hackett
I am against case
94-76-A

COUNTY BOARD OF APPEALS
94 FEB -4 PM 2:12

Mr & Mrs Ernest Kapp

Feb 3 1994

Dear Sir,
I am Maria Kapp and live
at 7111 Eastern Ave. My husband
and I have lived here for about
41 years. I am writing you in
reference to Steve Malloy who just
bought the house on the other
corner 7103 Eastern Ave. when he
moved in he moved a 20,000
dump truck with him. This is
a residential area. We took him
to court once and we won, now
he is appealing it. He wants to change
the zoning and build a huge
garage to keep the truck in.
The driveway is a mess full of
oil and grease. He works on the
truck there, he wastes his time
it out at night & the debris goes

County Board of Appeals

Dear Sir,
I am writing about
Case No. 94-76-A
I am against having a
commercial vehicle in
excess of 10,000 lbs. parked
on a residential lot.
to permit garage height
of 20' in lieu of 15'.
Yours Truly,
Frank J. Smith
Margaret Smith

94 FEB 11 8-233 16

10/5/93

To Whom It May Concern:
As a Home Owner in the
Residential section of 47th St. I
am greatly opposed to Case
94-76-A regarding the
garage and 47th St. facing
Eastern Ave.

Due to poor health I am unable
to attend this meeting.

Mr. Pauline Kline
512 S. 47th St.
21224
(410) 282-6314

OCT 28, 1993

Dear Arnold Jablon,
I would like to appeal
case no. 94-76-A petition for
variance the property at
7103 Eastern Ave.

Stephen R. Malloy
7103 Eastern Ave
Baltimore, MD 21224
Phone # 285-4746

10/28/93
ZONING OFFICE

Attorney: Wray McCurdy
Sutton, McCurdy and Stone
101 EASTERN BLVD
BALTIMORE MD 21221
(410) 686-2200

RECEIVED
COUNTY BOARD OF APPEALS
93 NOV 12 PM 2:28

Richard J. Sause
538 S. 48th St.
Baltimore, Md. 21224
Home - 282-0798

Dear Sir:
Please enter my name as an interested party
in Zoning Hearing 94-76A. As I understand
the issue, Mr. Steven Malloy is petitioning
for a variance to park his commercial
dump truck at his residence on Eastern Avenue.

As a resident of the area and a licensed
real estate appraiser, I am against permitting
such a variance. Truck parking is undesirable in
any residential neighborhood. Please continue to
protect the appearance and property value of
the homes in my area. Please notify me of
any upcoming hearings on this matter.

Sincerely,
Richard J. Sause

County Board of Appeals
401 Broadway Ave.
Baltimore, Md. 21202

Bill Williams

Dear Mr. Hackett

I am writing you in reference to the
petition for variance to park a commercial
truck at 7103 Eastern Ave. I am a resident of
the area and I am greatly opposed to this
variance. The area is a residential neighborhood
and I am concerned that this variance will
set a precedent for other residents to
petition for similar variances. I am writing
you to express my opposition to this variance
and to request that you deny the petition.

We consider this to be a residential type
area and we are not in favor of the
zoning commission giving the variance to
park a commercial truck at 7103 Eastern Ave.
We are writing you to request that you
deny the petition for variance and to
keep the area as a residential neighborhood.

Yours Truly,
Richard J. Sause

PROTESTANT(S) SIGN-IN SHEET

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

ADDRESS
7103 EASTERN AVE
7103 EASTERN AVE

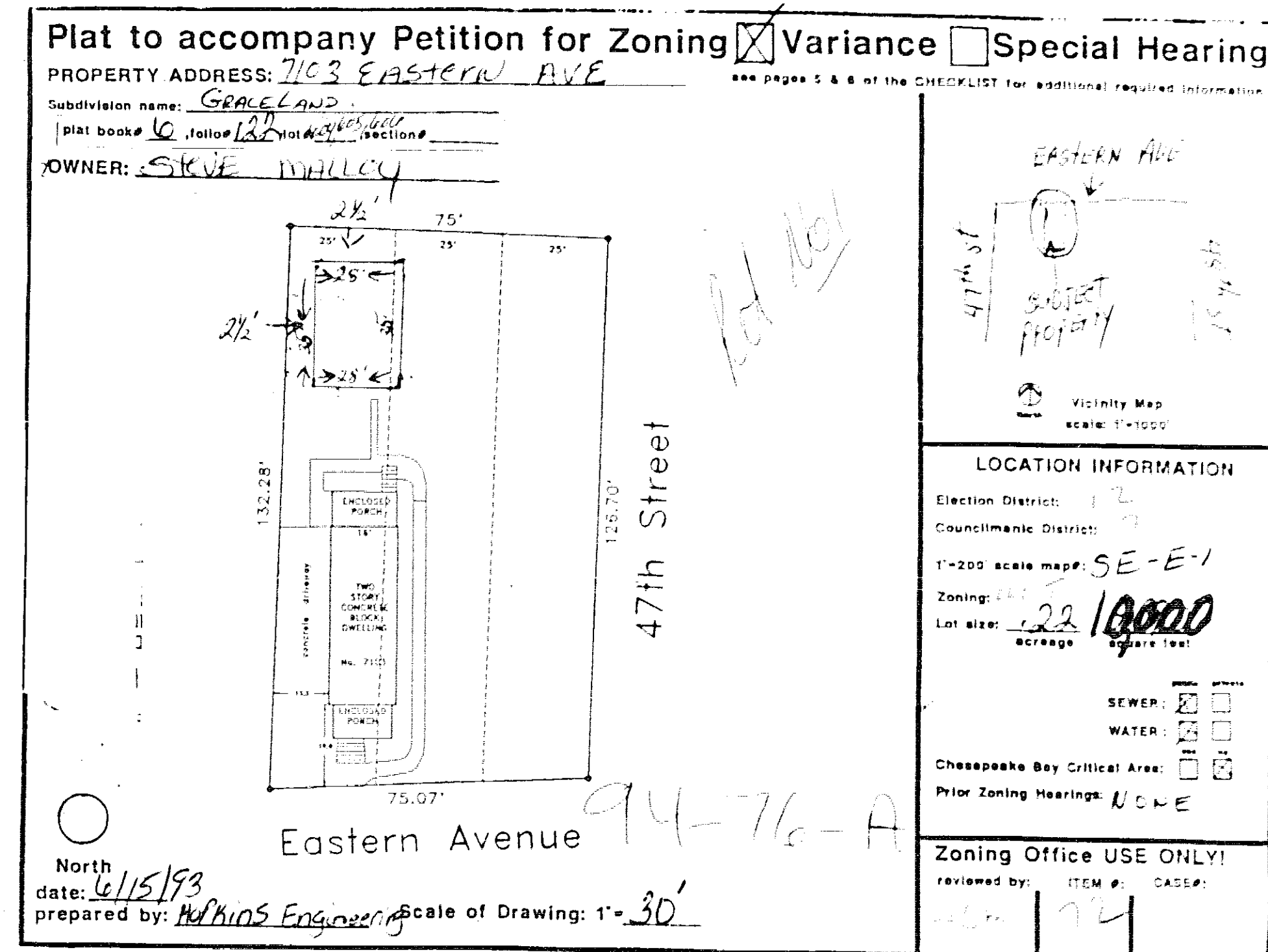


Table 1. *Continued*

People's Counsel
Ex. 1

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a
duly elected member of the (Board of Directors) (~~Zoning Committee~~)
of the GRACELAND PARK IMPROVEMENT Association.

ATTEST:

GRACELAND PARK IMPROVEMENT Association

Cecilia Tyber
Secretary
CECELIA TYBER

President SANCY L. NOVAK

DATE: FEBRUARY 7, 1994

We the neighbors of Stephen McCarty, who resides at 1103 Eastern, are aware of a commercial vehicle staying on a non commercial lot as long as he is willing to build a garage to store it in.

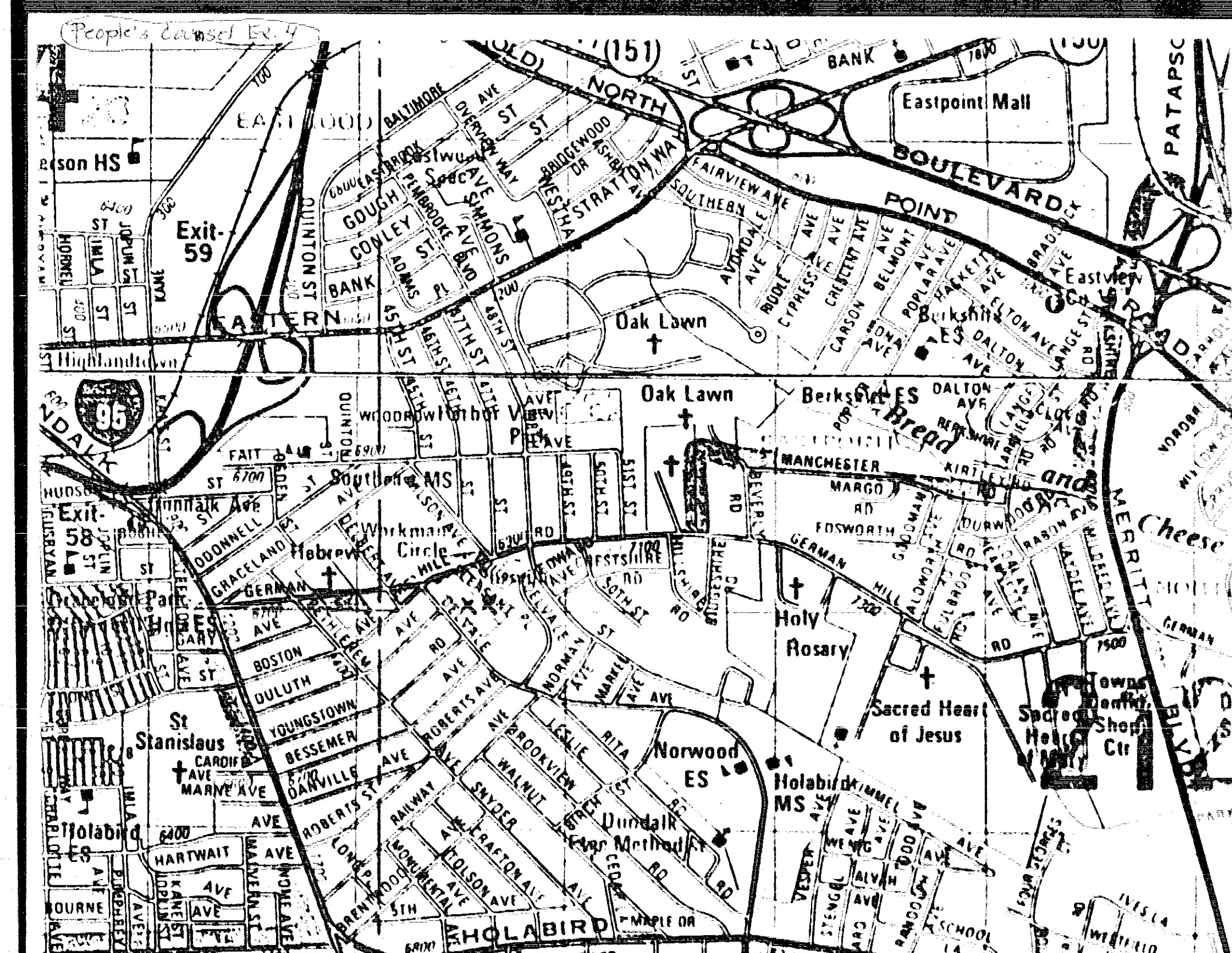
Name	Address
Kathleen Schuchla	7109 Eastern Ave.
Thomas E Waggoner	7404 Fair Ave.
- Owen G. Webb	7627 Woodmont Avenue
Arnet J. Tomlinson	7825 Oakman Ave.
Mary Webb/Hank	639 Wilson Ave.
Jimmey Dobyns/Hank	3829 Gay Dr.
Kenrick Kunkler	501 77th St.
Harrison D. Naylor	503 77th St.
Bill Hester	16 Bursay St.
Zolt Kreschawitz	7214 Birchwood Cir.
Felix Naughton	724 2nd Ave S.W.
Max & Mrs. K. Lenka	7271 Ardmore Rd.
Mr. & Mrs. J. Lenka	7271 Ardmore Rd.
Frank K. Lenka	7271 Ardmore Rd.
Curtis Holliman	806 Kensington Rd.
Carrie Jay	115 Mayhew Lane

Ref 3A

We the neighbors of Stephen
Mellor who resides at
7103 Easton are opposed
to a Commercial Vehicle parking
on a non commercial lot
as long as he is willing
to build a garage to store
it in.

Name	Address
Melissa Grelone	2015 Jarmine Rd. Pawa, MD 21222
Edna Cabel	3 Boring Ct
Kim Gurek	7028 Eastern
Tammy Cuda	7030 Eastern Ave.

Part 3B

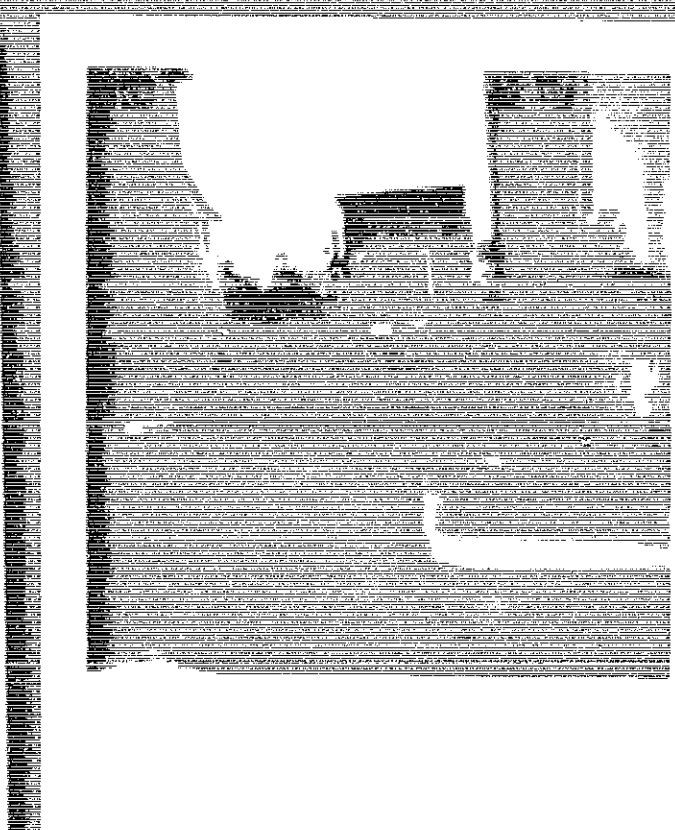
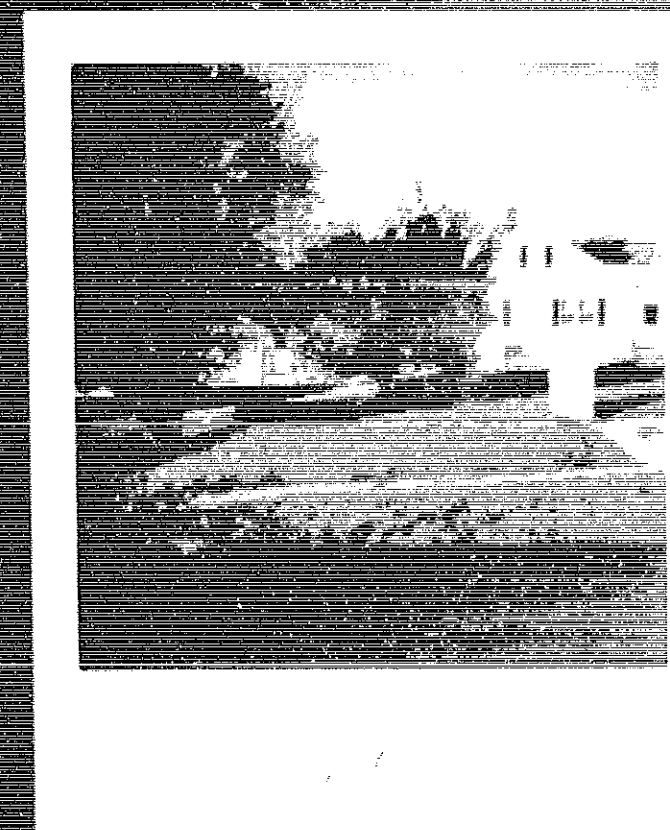


Check if you wish to testify.	Name/Address Phone No.	Community Group You Represent(?) Basis of Your Concerns
✓	Mary Ann Hays 382-1320	
✓	Rick Sauer 382-0740	Property Value
✓	Nancy Vidler 382-1100	Property Value, Taxation
	Charles B. Green	Property Value, Taxation
	James S. Miller	
	John S. Green 382-1100	
	James H. Green 382-1100	
	John S. Green 382-1100	
	Robert S. McCallister	Property
	William S. Smith 382-1100	Property Value
✓	Joseph Smith 382-1100	
	William S. Smith 382-1100	Property Value
	Robert H. Smith 382-1100	Property Value, Taxation
	John S. Smith 382-1100	Property Value, Taxation
	James S. Smith 382-1100	Property Value
	John S. Smith 382-1100	
	James S. Smith 382-1100	

Mary (Kathie) Schuster
2-9-94

Rev. Mr. Cushman

Peurtochen. Photographs

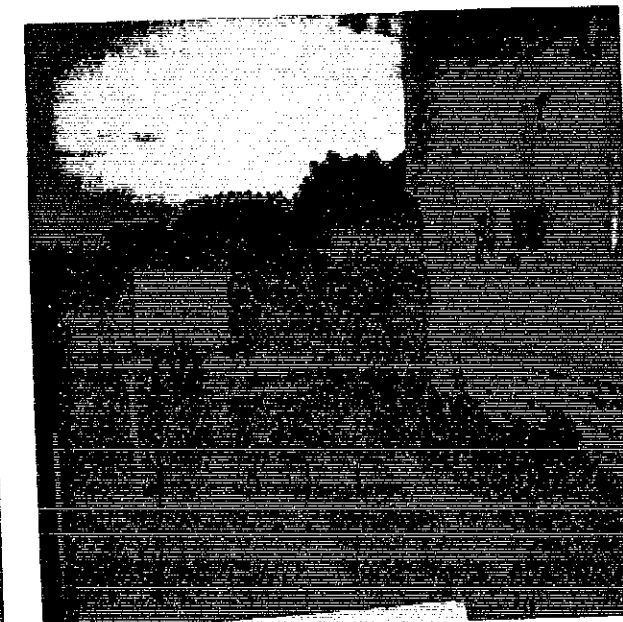


 Baltimore County Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

PROTESTANT Photographs



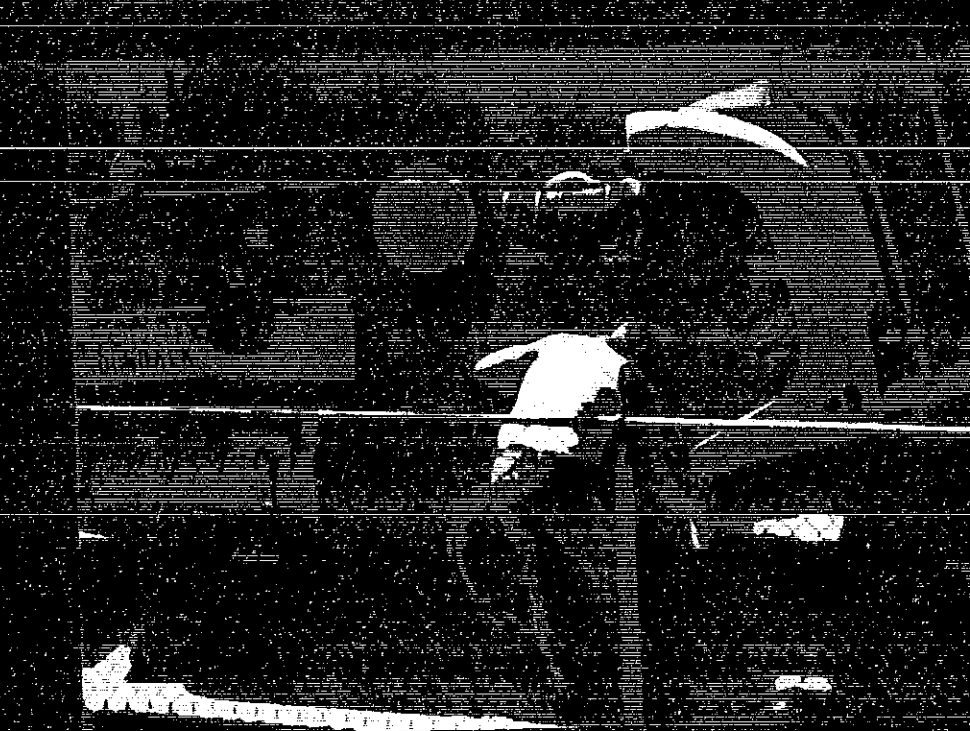
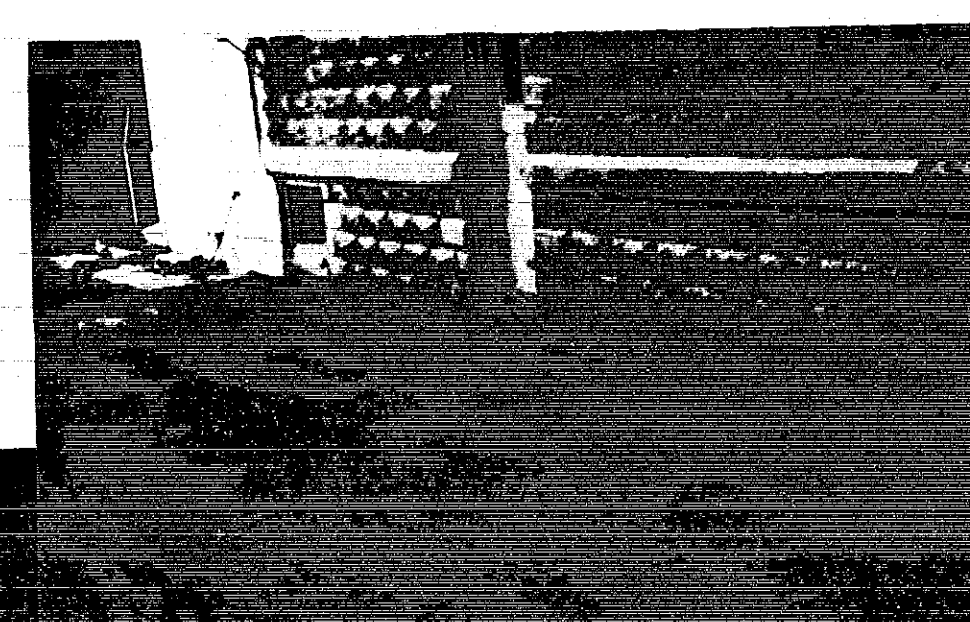
May 8, 42
Wm. R. Thomas
7107 EASTERN AVE



8-5-93

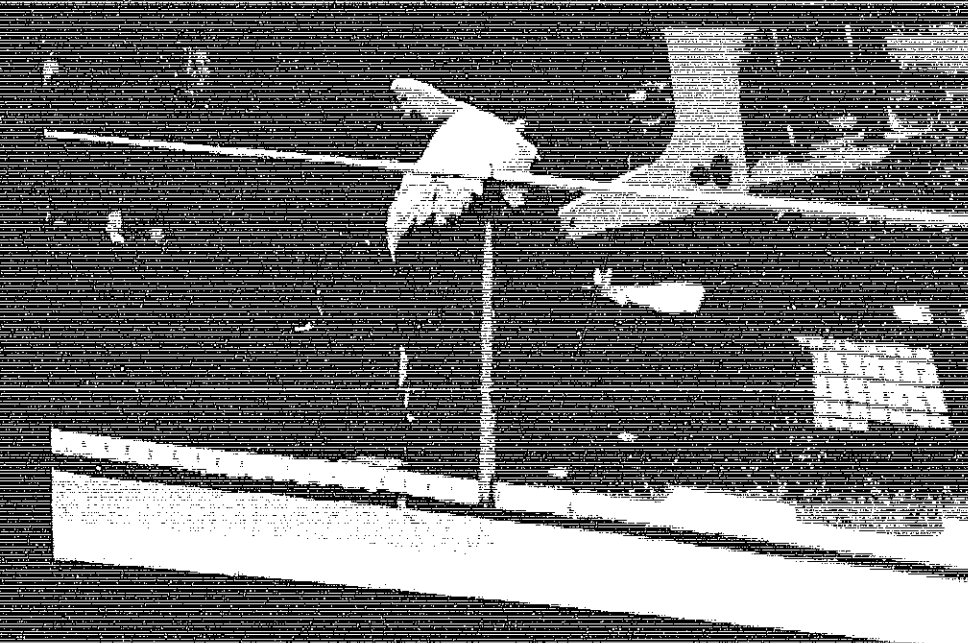
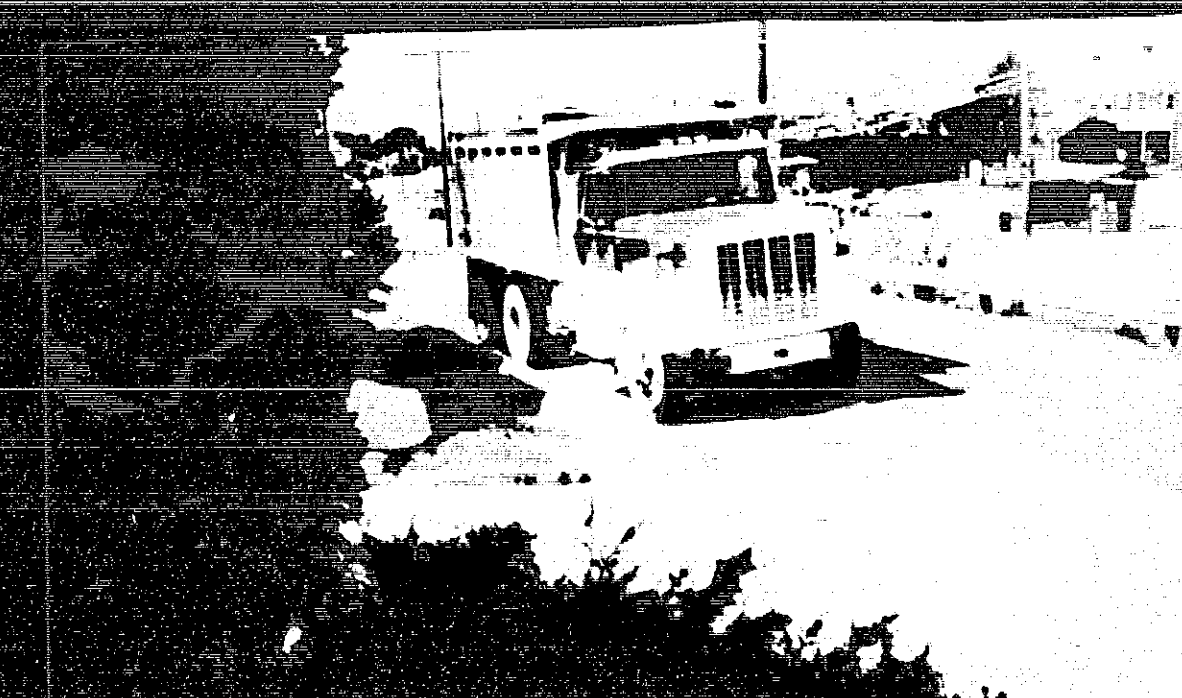


Sat
9/7/93



Baltimore County Zoning Commission
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, Maryland 21204

Photos
94-76A





3A
DRIVEWAY AND ACCESS ROAD

CASE NO. 94-76-A

STEPHEN R. MALLOY / PETITIONER
SEC Intersection Eastern Avenue and Forty-Seventh Street (7103 Eastern Avenue)
12th Election District
7th Councilmanic District

VAR -To permit a commercial vehicle in excess of 10,000 lbs. to be parked on a residential lot; to permit garage height of 20' in lieu of required 15'.

10/07/93 -Z.C.'s Order in which Petition for Variances is DENIED.

ASSIGNED FOR: THURSDAY, FEBRUARY 10, 1994 at 10:00 a.m.



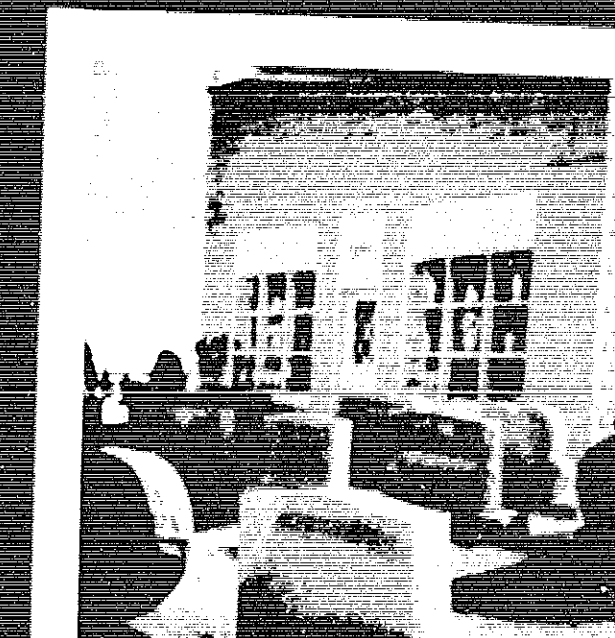
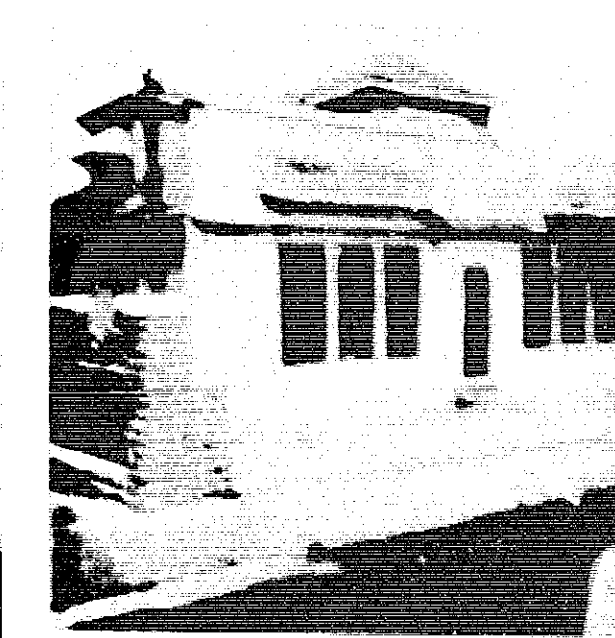
7B
FILE CLOSED
5-25-94

EXHIBITS
FOUND IN
BOA CLOSET

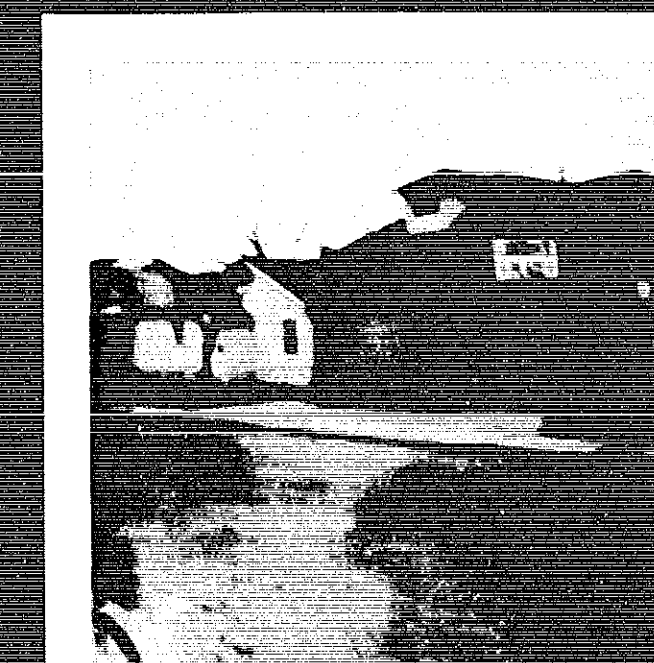


3E
Access & 47th
Side of driveway

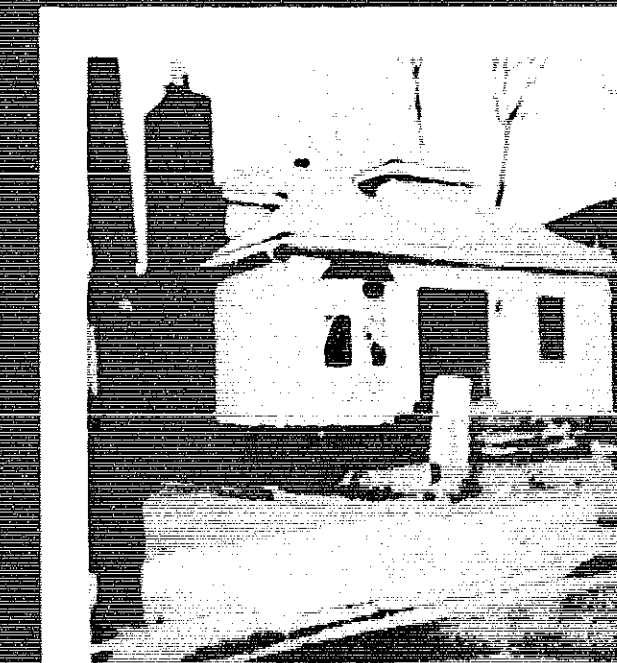
Petitioners 3(A)-3(C)
Photos
94-76-A
CBA exhibits



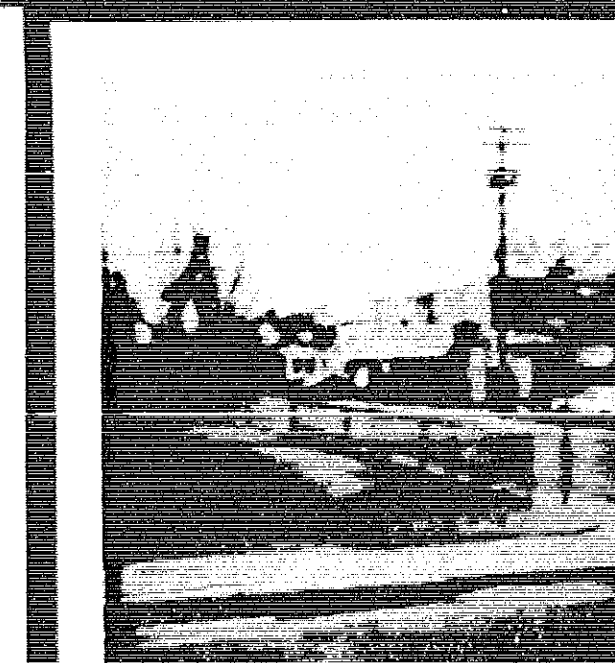
43 1/2 ST Pet Ex 35



45 1/2 ST Pet Ex 35



47th Pet Ex 35



49th Pet Ex 35

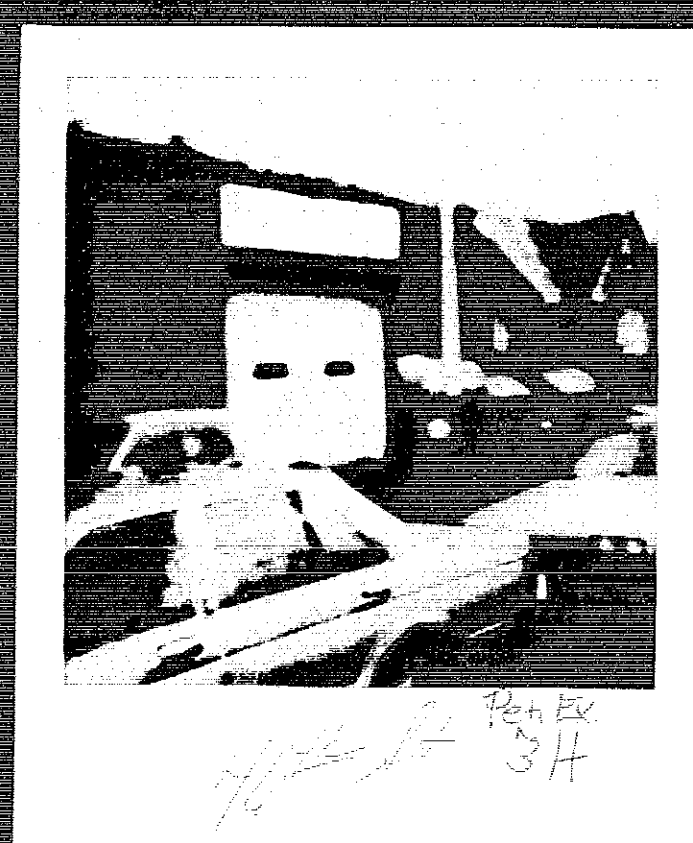


3C
Access Road

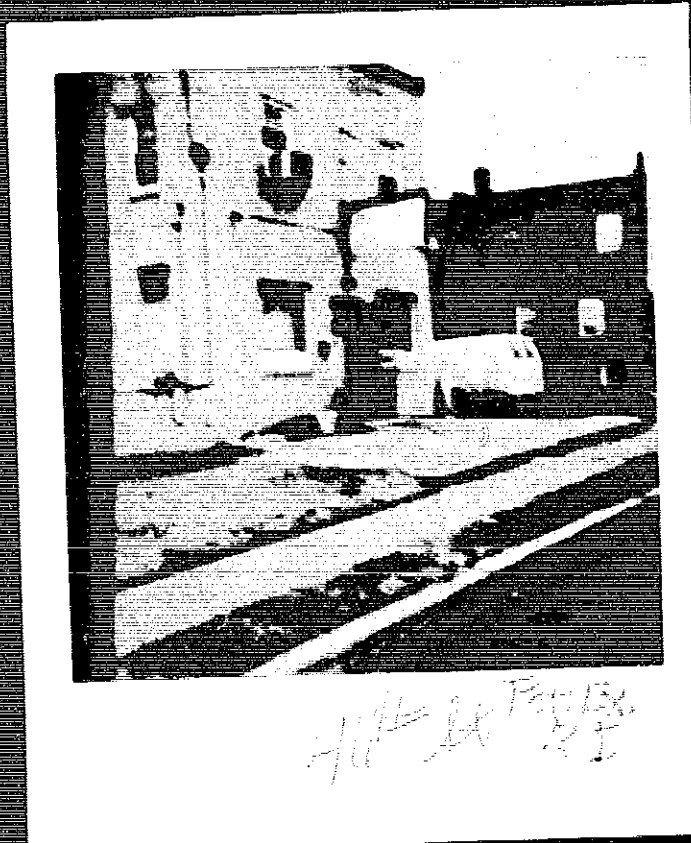


3D

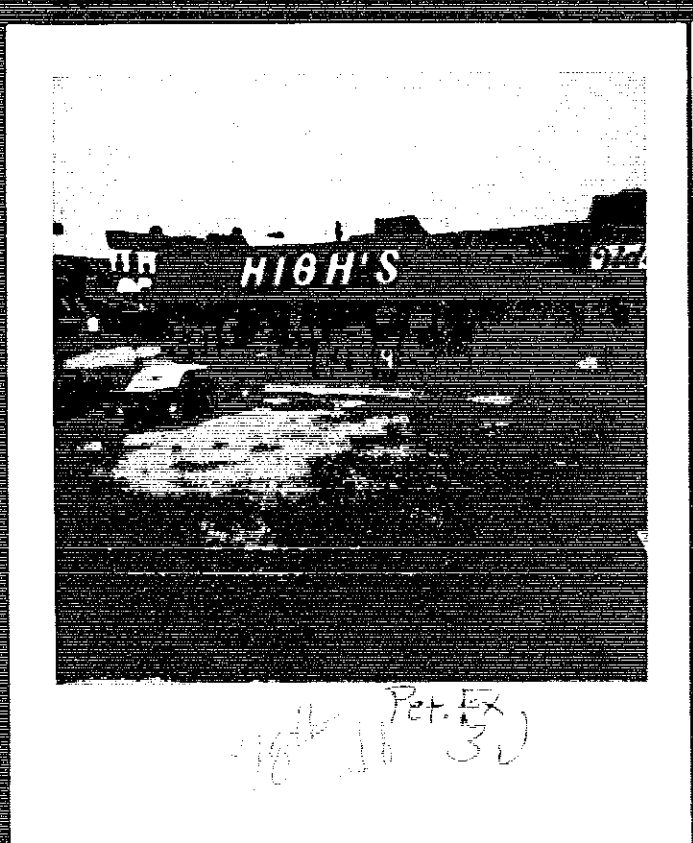
People's Counsel #3 94-76-A Malloy



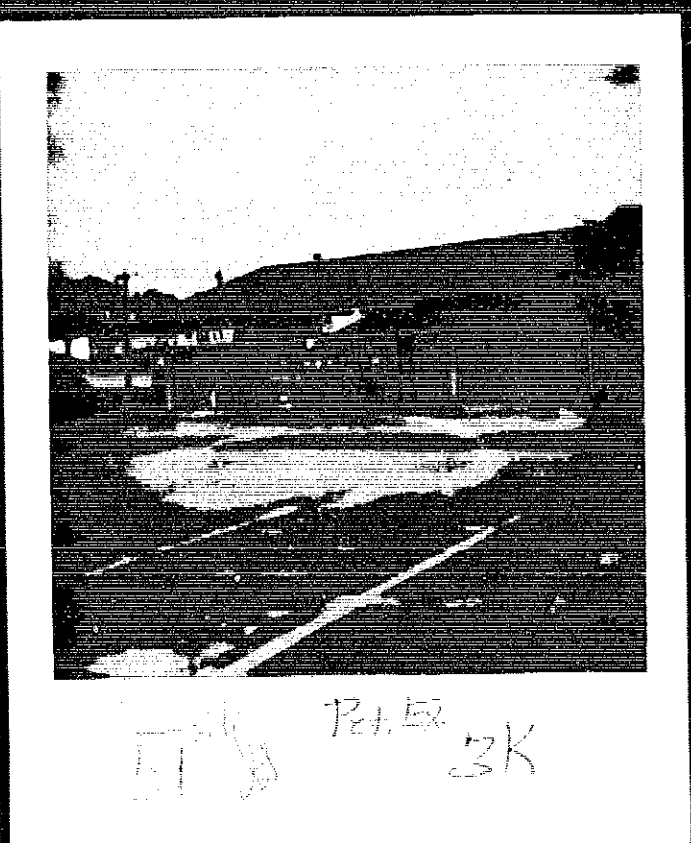
Pet Ex 34



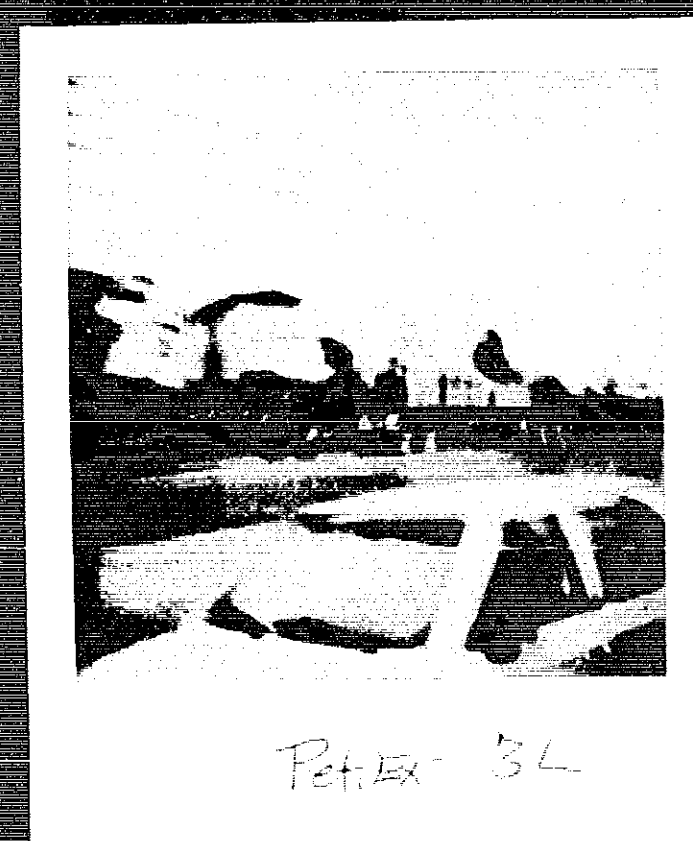
Pet Ex 35



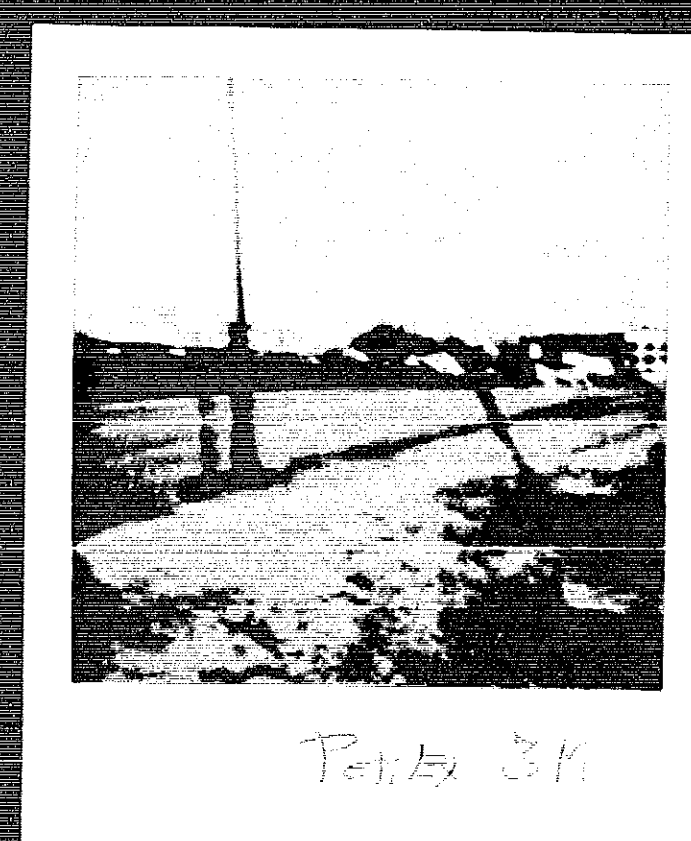
Pet Ex 36



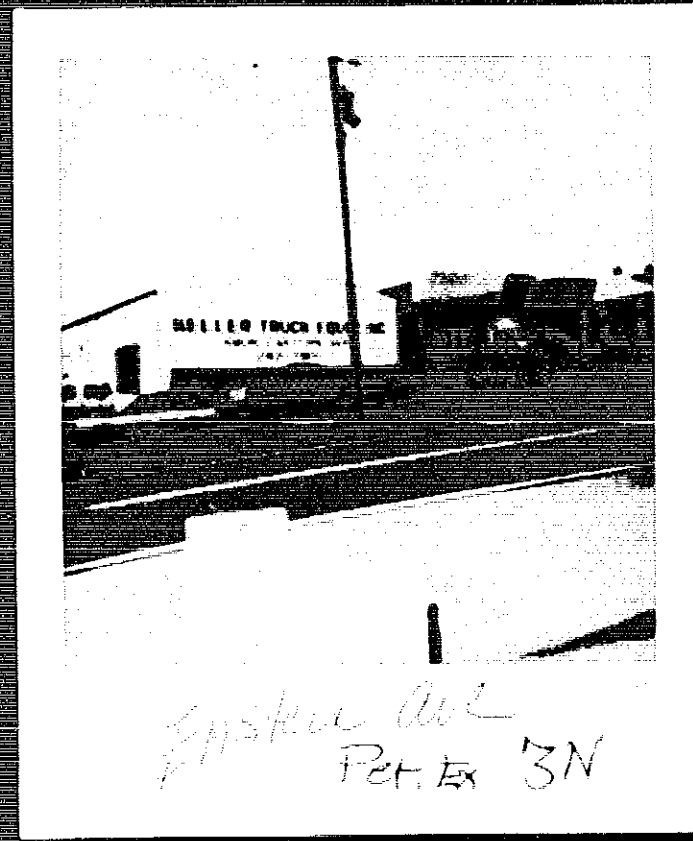
Pet Ex 3K



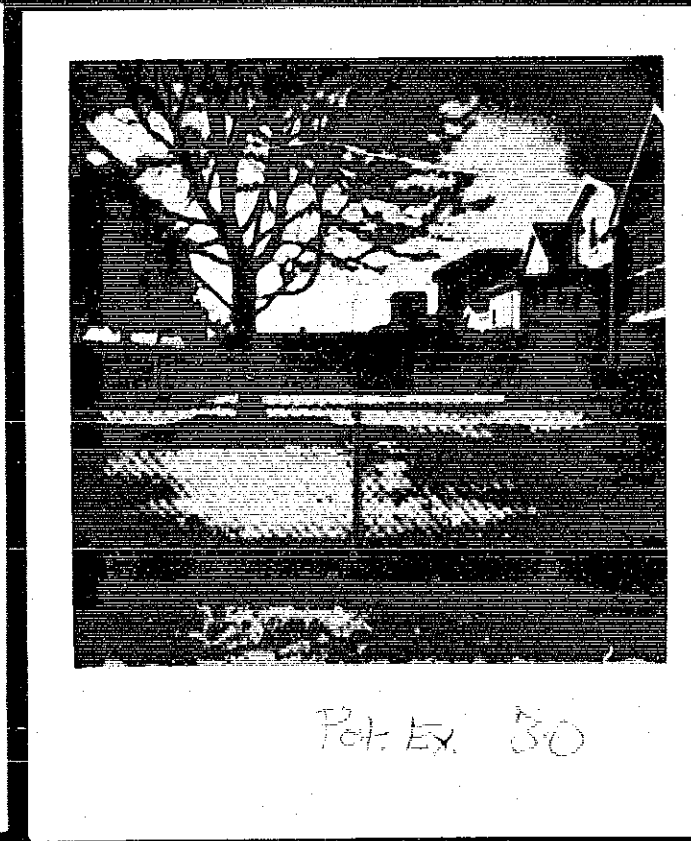
Pet Ex 3L



Pet Ex 3M



Pet Ex 3N



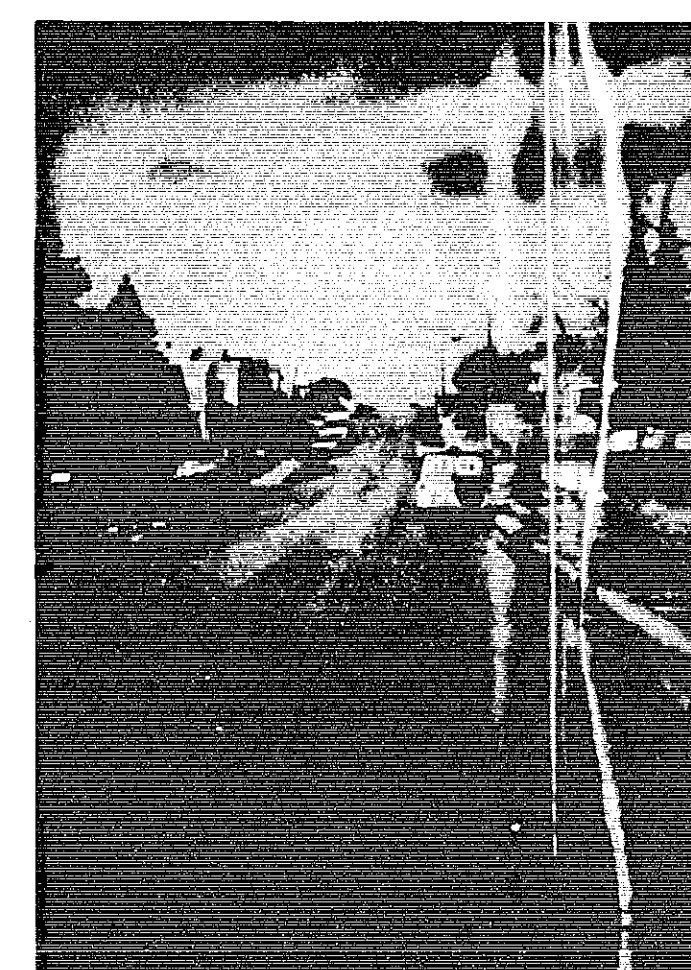
Pet Ex 3O



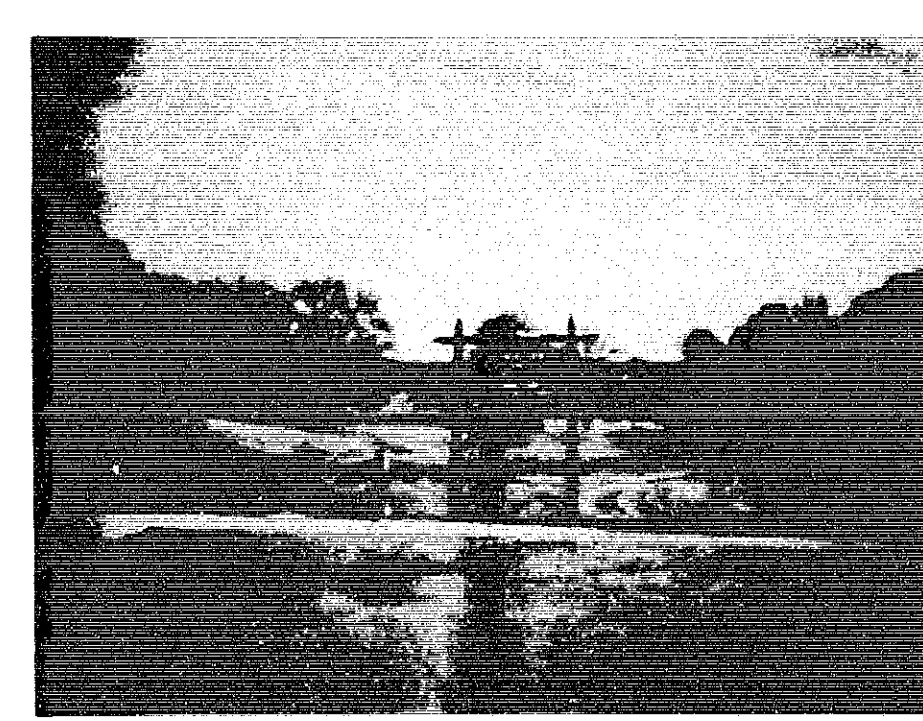
2A 41/49 ST



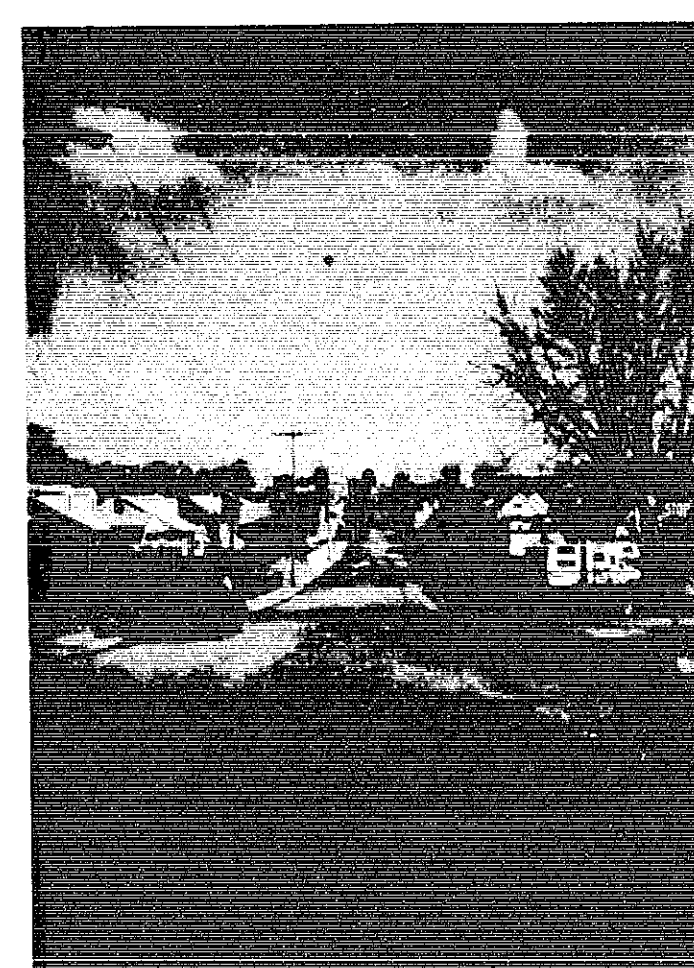
2B 47th



2C



2D
Harbor View Park
48th St



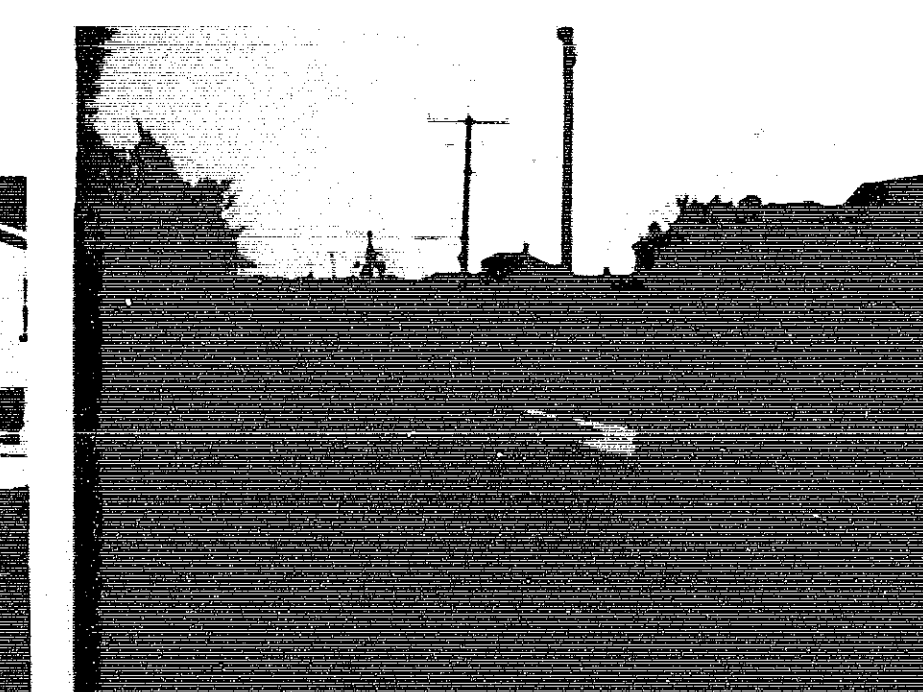
2E FAIR AVE



2F 46th ST
DAY CARE CENTER



2G 47th Street



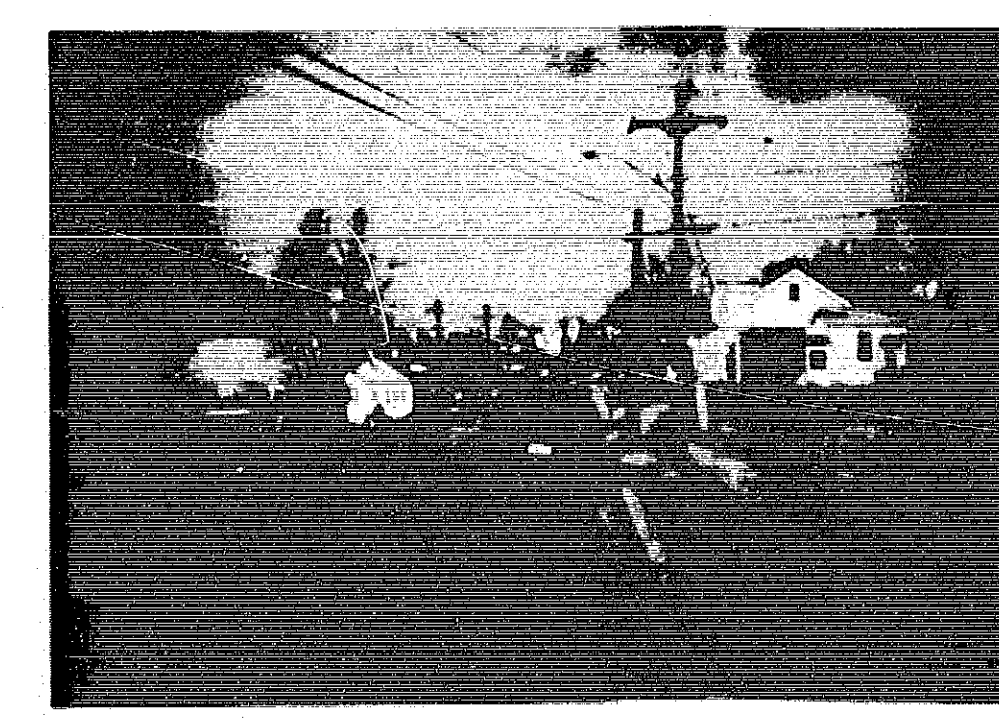
2H 48th ST



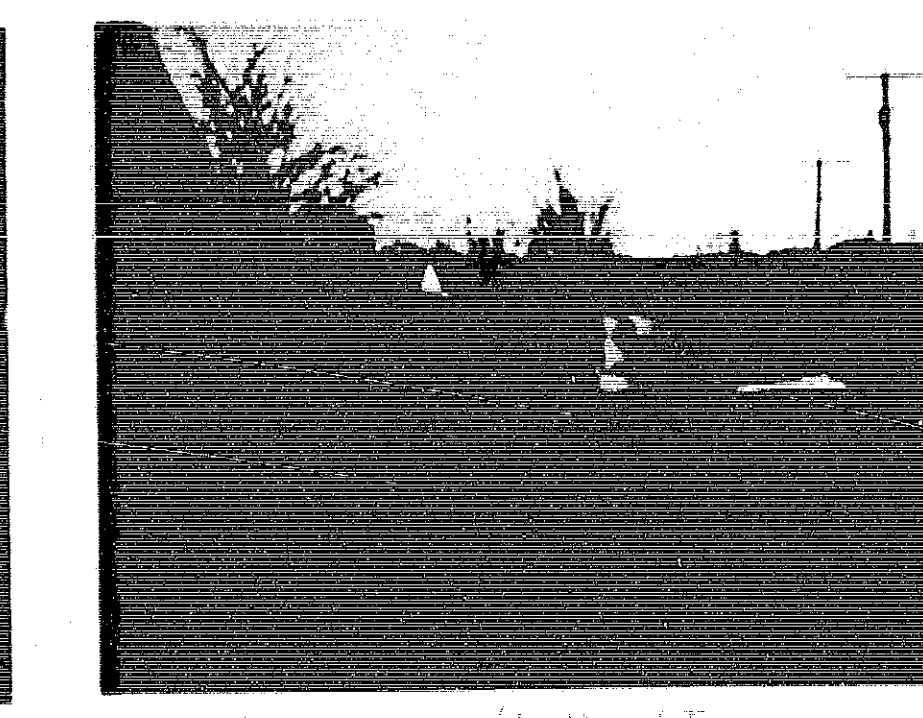
2I 49th St



2J FAIR AVE - Southeast corner



2K 47th



2L 46th ST

People's Counsel #2 - 94-76-A Malloy



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

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

Pl. Ex. 1

SCALE 1" = 200'	LOCATION	SHEET
DATE OF PHOTOGRAPHY JANUARY 1986	EASTPOINT	S. E. 1-E