IN THE MATTER OF THE APPLICATION OF <u>STEPHEN R. MALLOY</u> FOR VARIANCES ON PROPERTY LOCATED ON THE SOUTHEAST CORNER OF EASTERN AVENUE. AND 47TH STREET (7103 EASTERN AVENUE)

BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* * * * * * * * * *

12TH ELECTION DISTRICT * CASE NO. 94-76-A 7TH COUNCILMANIC DISTRICT

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 detatched 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

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-foothigh 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

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 justifyy 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 teet 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

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,

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. Kotroco W. Carl Richards, Jr. /ZADM Docket Clerk /ZADM Arnold Jablon, Director /ZADM

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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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. 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. larly during cold weather. That is, because the truck is diesel powered, the engine must be kept warm in Winter

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

ORDERED that the Petition for Variance to permit a garage height of 20 feet in heu 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

Michael B. Sauer

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 use on the neighboring property. He also noted that the truck loud and causes vibrations throughout his house. He also noted Mailoy 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 She is also a long term resident of this neighborhood and has lived in the vicinity for 46 years. She, likewise, objects to the commer-

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. order for the variances to be granted, the Petitioner must dens contain in Section 307 of the B.C.Z.R. This section requires that

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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 truffic hazard and dangerous conditions to the residents and small children. Clearly, the Petitioner has not met his burden. For all of these reasons, I am persuaded that the Petition for Variance should be dented.

ZONING DESCRIPTION FOR: 7103 EASTERN AVE.

BEGINING AT A POINT ON THE

INTERSECTION OF EASTERN AVENUE

THE SUBDIUSION KNOWN AS GRACELAND

LAND FORTY- SEVENTH STREET.

COUNTY PLAT 6, FOLIO 122.

A/K/A: 7103 EASTERN AUE.

SIDE OF EASTERN AVENUE, ON

BEING LOTS 604, 605 AND 606, OF

PARK, PLOT AS RECORDED IN BALTIMORE

S.E. CORNER FORMED BY THE

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.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore day of October, 1993 that a variance 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, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that a variance from Section 400.2 to permit a garage height of 20 ft. in lieu of the required 15 ft., be and is hereby

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.

> Zoning Commissioner for Baltimore County

2000000 DEPARTMENT OF BALTIMORE COUNTY 94-76- A

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Date of Posting 9/14/93
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Date of return: 9/17/93

CERTIFICATE OF PUBLICATION

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 ___successive weeks, the first publication appearing on sept. 2. 19 93.

> THE JEFFERSONIAN, LEGAL AD. - TOWSON

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

October 6, 1993

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

> 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 887-3391.

> Very truly yours, Lawrence E. Schmidt Zoning Commissioner

LES:mmn

cc: Norman Lauenstein, Esquire cc: Mr. William R. Thomas

cc: Mrs. Maxine Geize cc: Mr. Joseph Lamb

cc: Ms. Nancy L. Novak

Posted for:	Date of Posting 10/5/93
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for the property located at and the transfer of the second This Petition shall be filed with the Office of Zoning Administration & Development Management The undersigned legal owner(s) of the property situate in Battimore (10) into and which is described in the described in the described. hereto and made a part hereof, haretry petition for a Tarrance from Section 6 1/2 1/2 1/2 ort Continue contract beautiful and of the Zorling Regulations of Bailtime to County to the Zoning was of Bailtime to County to the County to the Zoning was of Bailtime to County to the County The track of the second of the second of the second Control of the Contro Dis North Kienting of the Ment of the Property is to be posted and advertised as prescribed by Zorang Regulations I or we agree to pay expenses of above Variance advertising posting at ... por fing of this pattern and figure to are to are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Yorking Leading Reference Livey ا به داد و مساعه دارد است و عمومونه بعد مستامه در ۱۳۳۱ می مواد مداد ۱۳۳۰ د. د معهای در استان در استان میشود و استان در در معدود در استان در استان در استان در استان می استان استان استان د Afternoy for Potitional Signature

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Petition for Variance

to the Zoning Commissioner of Baltimore County

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• 94-76-A

STYN DOWN - PEROSTON Mytholy

Appeal

Location of property: 7/03 Fostern Hres

stephen R Malley

410-285-4746



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, 01d 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.

LAWRENCE E. SCHOLDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (2) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management



111 West Chesapeake Avenue Towson, MD 21204 AUGUST 27, 1993

(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 W. Chesapeake Avenue in Towson, Maryland 21204

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

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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.

cc: Stephen Maily/7103 Eastern Avenue/21224 Norman Lauenstein/809 Eastern Boulevard/21221 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 887-3353. (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink

Baltimore County Government Office of Zoning Administration and Development Management

1 . J.

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.

State Highway Administration

O James Lighthizer , ar talary Ha Yassoff Admir syrates

Re: Baltimore County Item No.: 1

Dear Ms. Kehring:

Room 109

Ms. Helene Kehring

Zoning Administration and

Development Management

111 W. Chesapeake Avenue

Towson, Maryland 21204

County Office Building

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,

Wick some and

John Contestabile, Chief Engineering Access Permits

My telephone number is Teletypewriter for Impaired Hearing or Speech 383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Calvert St., Baltimore, Maryland 21203-0717



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director Zoning Administration and

DATE: August 30, 1993

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

Development Management

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 887-3480.

PK/JL:lw



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

7109 EASTERN AVENUE, 21224

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 RUSSELL T. MEYERS 500 S. 48 TH STREET, 21224 WILLIAM & DOROTHY THOMAS 7105 EASTERN AVENUE, 21224 CHESTER & MARINE GEIZE 7111 EASTERN AVENUE, 21224 JOSEPH LAMB SR.

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.

time of filing.

For newspaper advertising:

PAYMENT WILL BE MADE AS FOLLOWS:

1) Posting fees will be accessed and paid to this office at the

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 ZONI

Baltimore County Government

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

This office will ensure that the legal requirements for posting and

advertising are satisfied. However, the petitioner is responsible for

a sign on the property and placement of a notice in at least one

newspaper of general circulation in the County.

the costs associated with these requirements.

which is the subject of an upcoming zoning hearing. For those petitions

which require a public hearing, this notice is accomplished by posting

Office of Zoning Administration -

and Development Management

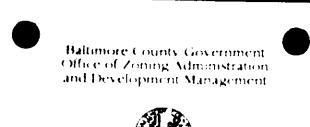
PHONE NUMBER: 410-285-4746

Printed on Recycled Paper

111 West Chesapeake Avenue

Towson, MD 21204

(Revised 04/09/93)



111 West Chesapeake Avenue Towson, MD 21201

(410) 887-3353

October 78, 1493

Mr. William R. Thomas 7105 Eastern Avenue Baltimore, MD 21/24

Mrs. Maxine Gjeze 7111 Eastern Avenue Baltimore, MD 21224 Mr. Joseph Lamb

Baltimore, MD 21224 Ms. Nancy L. Novak 537 46th Street Baltimore, MD 21224

7109 Eastern Avenue

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. Novak

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

If you have any questions concerning this matter, please do not hemitate to contact Julie Winiarski at 887-1391.

Sincerely,

AJ:jaw

c: People's Counsel

Proceed with Burylands in the Parkers in

ZAC.62/PZONE/ZAC1

(410) 887-3353

APPEAL

Petition for Variance SEC Intersection Eastern Avenue and Forty Seventh Street (710) 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

cortificate of Publication

Honing Plans Advisory Committee Comments

Potitioner(s) and Protestant(s) Sign-in Sheets

Petitioner's Exhibits: | 1 - Plat to accompany Coming Variance

2 - Two Photographs

3 - Neighbors Petition of Approval

Protestant's Exhibits: 1 - Nine Photographs

Coming Commissioner's Order dated October 7, 1993 (Denied) Notice of Appeal received on October 28, 1993 from Mr. Stephen

c: T. Wray McCurdy, Esquire, Sutton, McCurdy and Stone, 101 Eastern Blvd, Baitimore, MD 21221

Mr. William R. Thomas, 2105 Eastern Avenue, Baltimore, MD 21224

Mrs. Maxine Geize, /111 Eastern Avenue, Baltimore, MD 21224 Mr. Joseph Lamb, 7109 Eastern Avenue, Baltimore, MD 21224

Ms. Namey 1. Novak, 537 46th Street, Baltimore, MD 21224

People's Counsel of Baltimore County Rm. 304, 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

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

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 Lauensten, 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

Arnold Jablon, Director /ZADM

W. Carl Richards, Jr. /ZADM Docket Clerk /ZADM

12 29/93 -Lir did 12 27/93 from Norman W. Lauenstein, Esquire --: no longer represents protestants in this matter; withdrawn from file.

2/10/94 -Hearing concluded before Board; deliberated at conclusion of hearing. D -variances requested; 30 days from date of written Order to remove truck: written Opinion and Order to be issued.

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE SEC intersection Eastern Ave. and Forty-Seventh Street 7103 Eastern Avenue 12 th Election District

* BOARD OF APPEALS

7th Councilmanic District Stephen R. Malloy

* OF BALTIMORE COUNTY

Petitioner

* Case No. 94-76A

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

362D 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 21 day of emailed to Stephen R. Malloy, 7103 Eastern Avenue, Baltimore Maryland 21224, Petitioner.

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.

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

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

Counsel for Protestants Out per Norman Lauenston, Esquire Mr. William R. Thomas Protestant 18, 14/27/73 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

> Kathleen C. Weidenhammer Administrative Assistant

> > DATE: May 25, 1994

Printed with Soybean Ink.

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director Zoning Administration &

Development Management 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

MINUTES OF DELIBERATION

IN THE MATTER OF: STEPHEN R. MALLOY

Case No. 94 76 A

: William T. Hackett, Chairman (WTH) Michael B. Sauer (MBS) S. Diane Levero

: February 10, 1994 /At conclusion of hearing

(SDL)

SECRETARY : Kathleen C. Weidenhammer

Administrative Assistant

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

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; wehicle 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.);

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 887-3353 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 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

Commission Commission

LAUENSTEIN & LAUENSTEIN ATTORNEYS AT LAW First National Bank Building 809 Eastern Boulevard

Essex, Maryland 21221

NORMAN W. LAUENSTEIN DOUGLAS C. LAUENSTEIN MARY E. GEPHARDT

TELEPHONE (410) 687-2299 TELEFAX (410) 687-2616

December 27, 1993

Chairman William Hackett County Board of Appeals of Baltimore County Old Courthouse, Room 49 400 Washington Avenue Towson, Maryland 21204

Re: Stephen R. Malloy/Petitioner 7103 Eastern Avenue

Dear Chairman Hackett:

This is to thank your office for a copy of the Notice of Assignment in the above entitled matter.

Even though I did represent the protestants before the Zoning Commissioner, I do not represent the protestants in the matter now before the Board of Appeals.

I do appreciate your courtesy, I remain,

Yours truly, form W. Harrille

Norman W. Lauenstein

co: Mr. & Mrs. William Thomas

Nancy L. Novak 537 46th Street Baltimore, Maryland 21224

September 29, 1993

Baltimore County Zoning Office Arnold Jablon, Director County Office Building 111 W. Chesapeake Avenue, Room 113 Towson, Maryland 21204

> RE: #94-76-A Commercial vehicle parking & 20' garage

Dear Mr. Jabon:

I have noticed the zoning posting of a hearing slated for October 5, 1993 concerning the property located at Eastern Avenue and 47th Street. They are requesting permission to park a commercial vehicle over 20,000 pounds on the lot and to construct a 20 foot high garage. Since I am unable to attend the hearing, I want to express my objections to both requests in writing.

The only real access to this property is from Eastern Avenue at 45th street or at 50th street. The intersection at 45th street is already known as a difficult one to maneuver, with several accidents occurring in just the past few years. The turn from 50th street is rather awkward for a car; I cannot imagine a large truck being able to successfully complete it. Without the garage, parking such a large vehicle on the street would not only take up a number of parking spaces, it does not present a view conducive to a residential neighborhood. As residents living just off of Interstate 95 and Eastern Avenue, we must already endure the sounds and smells of commercial traffic; we do not want it any closer.

Few people realize the impact an additional five feet makes on a structure. I am aware of how imposing this size is, since we are already dealing with a zoning violation in the neighborhood for a garage over 15 feet in height. A building this size can too easily be utilized to contain a commercial operation, which then may be followed by a zoning request to legally change the zoning code for the property. A future residential sale of the property would more than likely be hampered by such a building; a commercial sale would

7105 Eastern Ave. Baltimore, Md. 21224

537 46TH STREET 284-5187

1203 BETHLEHEM AVENUE 633-8941

Movember 11, 1993

Baltimore County Board of Appeals 401 Bosley Avenue

Mowson, Maryland 21204

GRACELAND PARK

IMPROVEMENT ASSOCIATION

ATT: Milliam Hackett RE: #94 - 76 A

Commercial Vehicle Parking and 20 foot garage

Jentlemen:

We are a residential area inundated with too much commercialism and streets too narrow to properly handle present traffic flow. Our membership has expressed its vehement objection to any change in zoning whatsoever with regard to this property.

Our organization was very pleased with the initial ruling handed down in the above captioned matter. Your consideration in rejecting this appeal will be gratefully appreciated.

> Sincerely yours, GRACELAND PARK IMPROVEMENT Asset

by Frank J. Tyber, Nice- Ires.

ರರ:,Jon mason

November 23, 1993

County Board of Appeals Attn: William Hackett 401 Bosley Avenue Towson, Maryland 21204

RE: Case #94-76-A 7103 Eastern Ave.

Dear Sirs:

I have lived in the 7100 block of Eastern Avenue for 68 years. I moved into 7109 with my parents at age 4. My husband and I have lived at 7105 for over 47 years. The advent of new neighbors and a huge, dirty, noisy dump truck has changed the quality of life of our so-called golden years. We are both 72. We are vibrated awake every morning sometimes as early as 5 A.M. We cannot use window screens because of exhaust fumes and the smell of accumulated grease and oil in the driveway. Mr. Molloy works on the truck usually on Sunday afternoons. All this takes place thirteen feet from my living room windows. The driveways abut and there is approximately twenty-six feet between the houses separated by our chain link fence. On the evening of 8/9/93, while he was attempting to remove a truck tire from its rim, the tire exploded sending the two rims two stories in the air. Fortunately, they landed in the truck bed.

I implore you to deny this variance. I would like to have my right as a voting, tax paying citizen restored and my life in my later years restored to the quality I enjoyed before Mr. Molloy decided to drive home one evening with this huge truck and change the character of my life-long

Sincerely, Dorothy M. Thomas

83 NOV 24 PH 3: 11 CONNIA DOVINO DE NELEVER BECENTER Baltimore County Board of Appeals

Attention: William Hackett

County Board of Appeals

401 Bosley Avenue

Dear Sir:

Towson, MD 21204

Attention: William Hackett

Towson, Maryland 21204

93 DEC -1 PN 12: 33

RE: Appeal for Zoning

Nancy L. Novak

537 46th Street

Baltimore, Maryland 21224

Dear Mr. Hackett:

401 Bosley Avenue

Enclosed is a copy of my original letter to the Zoning Commissioner regarding the petition for zoning variances to the captioned property. My reasons for objecting to granting the requested variances, as stated, still stand. They are in agreement with those reasons cited by the commissioner's office for turning down the request. I trust you will review my letter along with the commissioner's original decision.

I am planning to make every effort to be available to attend the appeal hearing. This type of "development" is not in the best interest of this RESIDENTIAL neighborhood and I want my voice heard. Please inform me of the hearing date as soon as it is scheduled. I can also reached at 244-3465 during business hours.

7105 Eastern Ave.

January 1, 1994

Baltimore, Md. 21224

November 30, 1993

Variance

7130 Eastern Avenue Original Case #94-76-A

I certainly hope that justice will prevail.

500 D. W. W. Olympia

Baltimare, Mal style:

PETITION AGAINST THE ZONING VARIANCE

The undersigned residents of the Harbor View and Graceland Park area are hereby opposed to the requested zoning variance (relief from section 431 and Section 400.2) to the property located at 7103 Eastern Avenue (SEC intersection Eastern Avenue & 47th Street) for the following reasons:

no desire to change residential nature of area safety of all residents compromised lower property values

potential damage to homes and streets due to heavy traffic increased noise pollution reduced parking for residents, if truck parks on street

NAME	ADDRESS	PHONE NUMBER
A vilan Rojos	401 Pambinoha Blyl	(410) 235-380
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r. Midofini Figarac	506 a Albert	289 0126
Jeroumake		
Mit + Min Micha	What is 508 47th st	287-036
Day racher	1 510 47th st	255-21

Las Margaret had and with 1850-4123

11 1 Mus Hard Sadaryund 333 4 16 57 384-9331

85:1 HJ L- NYC 76

RE: Case #94-76-A

Enclosed are signatures from residents of the Harbor View and Graceland Park vicinity who object to having a

commercial vehicle (a 10 ton dump truck) parked on the property at 7103 Eastern Ave. The truck is not only

unsightly, but creates noise and air pollution problems in the neighborhood. The surrounding areas have been

be ignored, might create problems in the future. It will

property as a parking area for any type of commercial

business they might be involved in.

give a signal to anyone else that it is okay to use their

strictly limited to being residential since the early

1900's. Allowing the zoning for residential only to

CCCALL BEST FOR THE METAL THE BLOCKER

William Thomas

7105 Eastern Ave.

Balto., Md. 21224

I am 67 years old and have lives in Harmor View oll or - 🐯

my life, with the exception of 3 years. Their or often, in page 7103 Hastern Ave. Frequently, When the cars are

parked along there. It is difficult to pass another say

coming the opposite direction. I musting stop and has

It seems so unfair that the neighborn in that hisby two

forced to live with the smell and noise from tree track.

ing this commercial vehicle in his driveway. I come

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All I can see are problems, in the fotore, if his appear

safety will be at a greater rick if he to allowed to cark

is granted. Our property values will go down and our

on the street, besides the smell, noise and damage to

This man is allowed to continually break the lew ty bark-

though the variance was turned down by the koning commisse-

the car coming towards me pann for safety make.

93 NOV 16 PH 2: 15

County Board of Appeals

401 Bonley Avenue

Dear Sir:

Towaan, MĨ) 21204

homes and streets.

Attention: William Hackett

... In . Hackett, ici mo. William Hockett Dear Mr. Hackett Dear Hur Hawkett Ilm against having County Browned of apprecia Ex Definered to the Jam againt a permit. 4315 Billion County 726, 3 1994 mmercial Vehicle and # 94-76-A for a commercial reticle en Dear Siy Name writing about maj Regulations to permit in it built on a residential 2 gy cess of 10,000 lls - to he A am merine Beize and live Case No 94-76-4. When against Kaving manual metile in - to much nouse the parked on a residential libe at 7111 Eastern ave, my husband to perinch garage height of 20 formy to mess represented and I have lived here for about commercial wahile in - No. 94 - 76 A 41 years. I am wattery you in Afren of 10,000 liter granned anioched Um againts in lieu of required 15. al against general stime and on a residential det reference of Steve maloy subo just My Mis Greet Shapp A I am against bearing their Case No. 94-7619 bought the house on the other to ouronit year consent heighto mit for the timmercal of 20° en les of 15° built at 7101 Eastern ave et in a residential section.

Gesteen Are and I I Come Corner 7/03 Eastern av when he Thank your theory of 47 The St. Bultimore hid 2/224. moved in he moved a 20,000 Fronk KAUNT 20 Trank Jones dump truck with him, This is Thursis in reference to Margaret Kreeth mrs. antonia Veley a residental area, we took him -) mes Charles Muesteni Con # 94-76-1-566 S. 47 th- Street to Court once and rule won, now 17 m & Mus Walter freduringenski 542 S.47th St. he is appealing it. He wants to Change Baltimore, Md. 21224 532-4776-84 90 : 114 8- 934 76 Balto- Ind. 21224 the zoning and build a huge. garage to keep the truck in. The devenay is a mess full of oil and grease. He works on the truck there, he wasked I have it out at night I the debrie goes Richard J. Sanse OCT 28, 1993 538 S. 48th. St. COUNTY RECEIVED AFFEALS 10/5/93: Balto, Md. 21224 Dear arnold Jablon Home - 282-0798 Granty Chairt Allepails of Builting To Whom It May Concern: Hor Madaly Many Devould like to appeal case no. 94-76-14 potition for Variance the property to 7103 Contain due. Printed butter of 47th St. at come greatly appeared to Case Please enter my name as an interested party Consider Well 21264 Oll William Brechett, in Zoning Hewing 94-76A. As I understand Janage and 47 th St. Jaing Brown of the form of the control of Beaggette Burger the issue, Mr. Steven Malloy is petitioning Stephen R. Malley April May March In to food heath I am mable 7/03 Eastern and May Alexandre Alexandre Saltimore mo 21224 for a variance to park his commercial operation by the year and was a solution of the Phone Ht 285-4746 Mr Jarlin Time Simplification of a second of the dump truck at his residence on Eastern Avenue. I have the appear were in the solution of me were that ATTOLOGY WRAY MCCURDY and that have the interference of the land the second will be 410/ 282 6314 As a resident of the area and a licensed SUTTON, McCURDY ANDSTONE and the to the Miller Hear attend the plant of the King King 10 (EASTERN BLVD Gooden die national de palitice i familie of BALTIMORE MD 21221 real estate appraiser, I am against permitting Reactionly Williams Education There is the estact (4/0) 686-2200 only he have so stories the whole he there will such a variance. Truck parking is undesireable in Alderagian de Lealing Will the Coper to be filled granted the concern of their the Execution of any residential neighborhood. Please continue to Note the state of the Child Control of the South Co The book of the place of the second of the second protect the appearance and property value of granding Commencerial and the region of heavy become aprilial discussion fraktions. The maning specimen and entire the the homes in my area. Please notify me of The Colleges with our sometimes you provide any upcoming hearings on this matter.
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PROTESTANT(S) SIGN-IN SHEET

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Plat to accompany Petition for Zoning Variance Special Hearing PROPERTY ADDRESS: 7/03 & ASSECTION AND SUBJECT OF SUBJECT

Teople's Counsel

AFFIDAVIT

STATE OF MARYLAND BALTIMORE COUNTY, SS:

FEB-OB-1954 11:82 FEGS HOUTER, MARES 1 SE MUID TO

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
TALEST.	
eula Tyles	President NANCY L NOVAK
Secretary CECELIA TYBER	President NANCY L'NOVAK
DATE: FEBRUARY 7, 1994	_ ()

We the meighbors of Stophen Mollongwho resides at 1103 Existern air approve of a commercial vehicle staying on a mon commercial lat as long as the is willing to beined a grange to store two.

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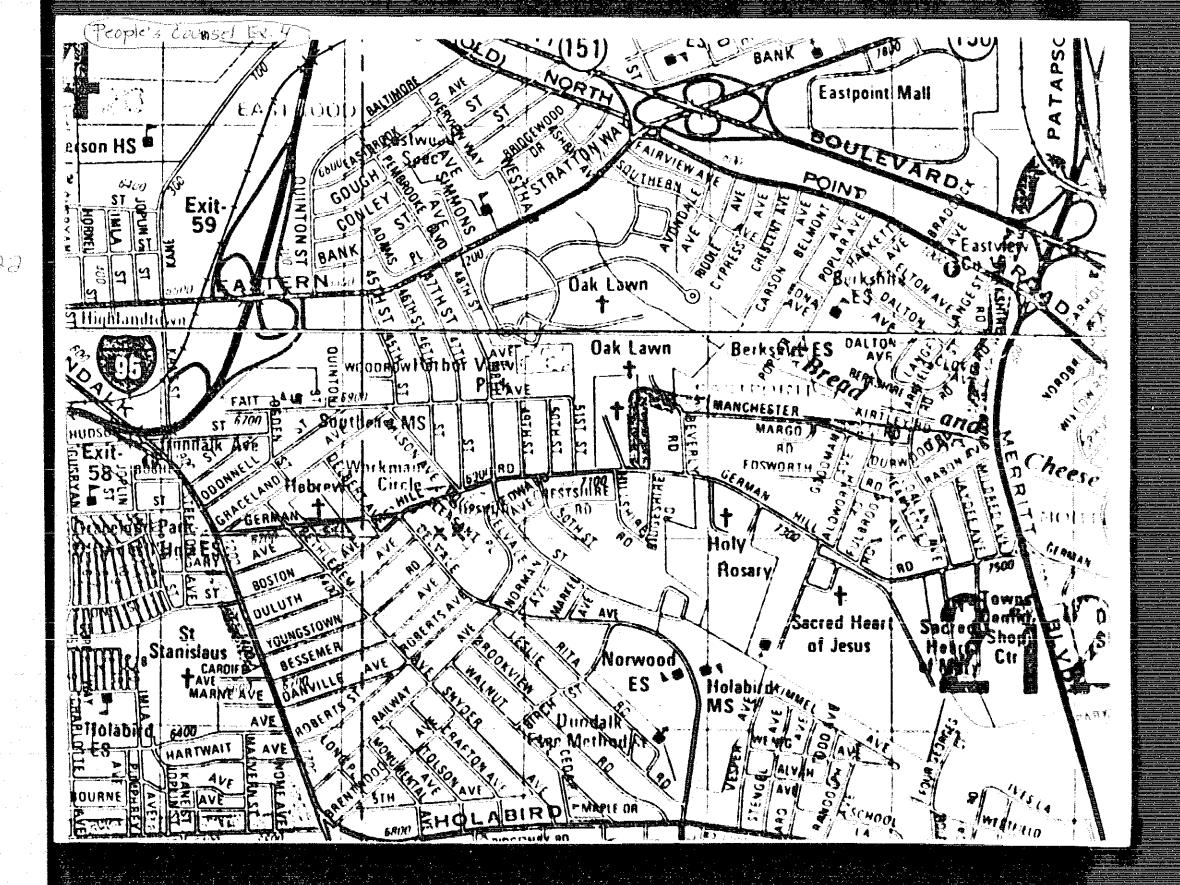
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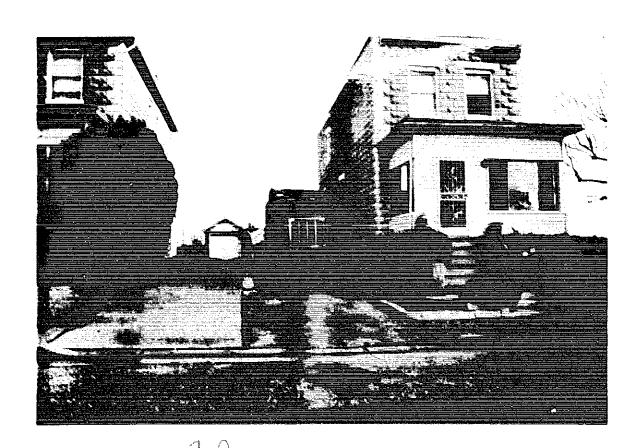
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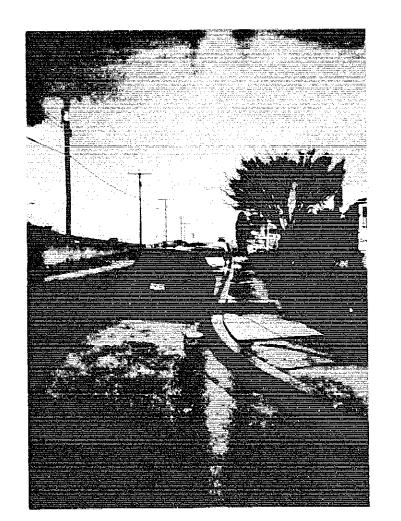


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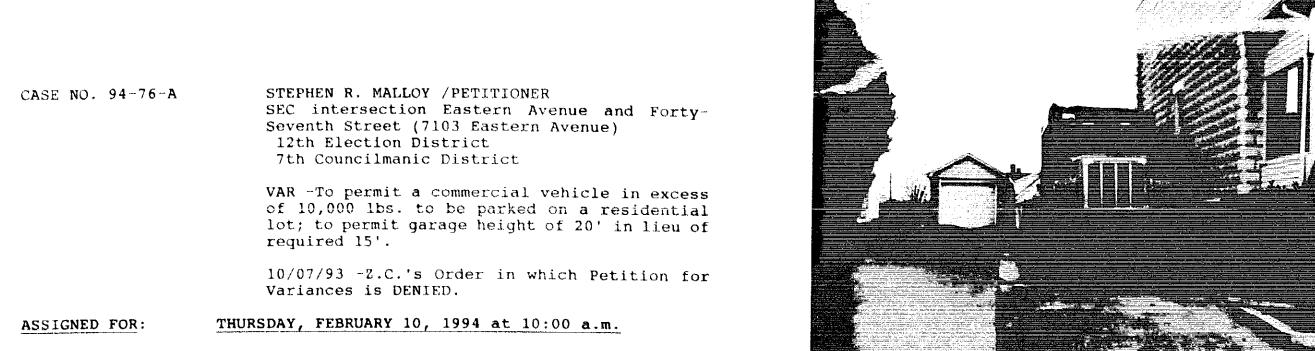


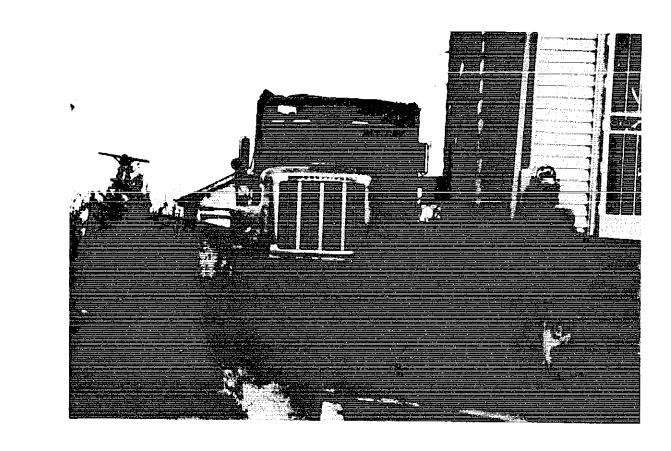


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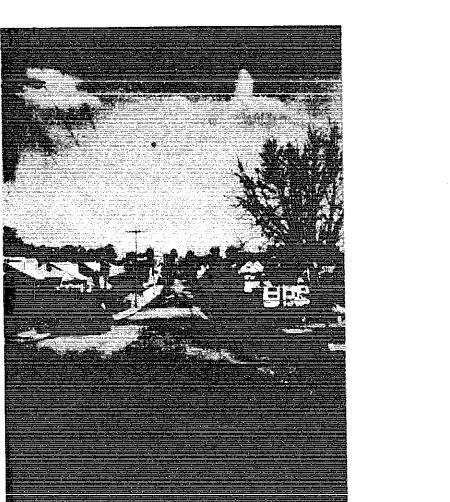




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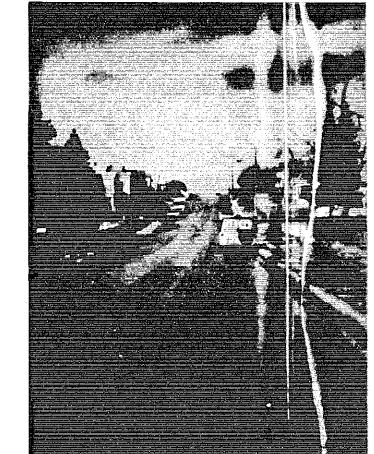


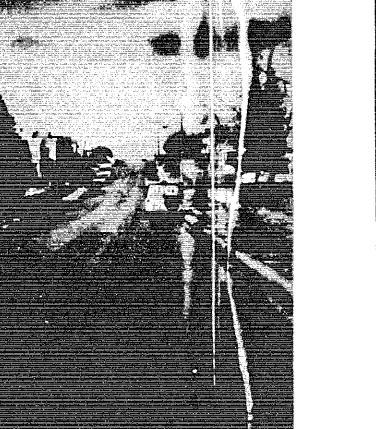
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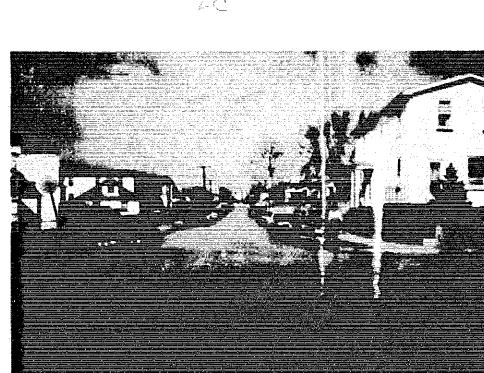




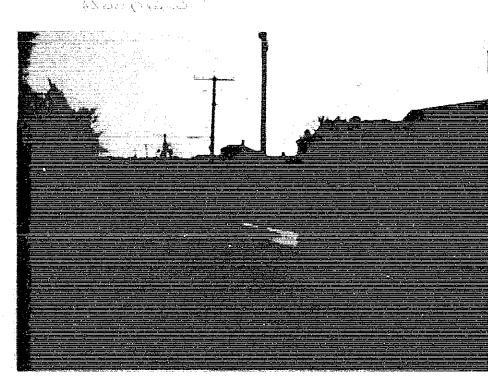
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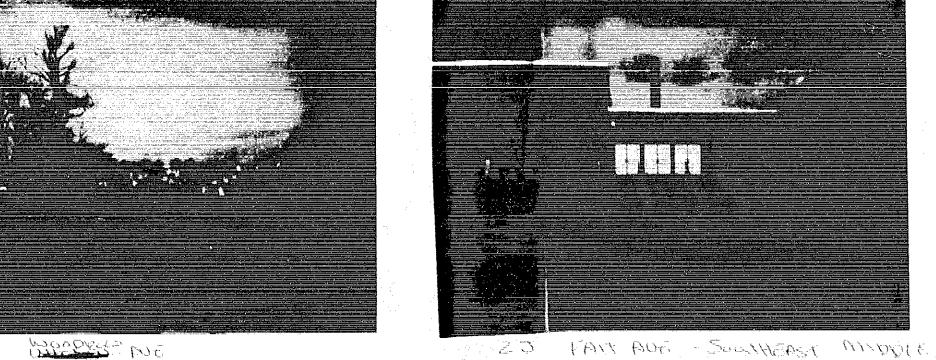


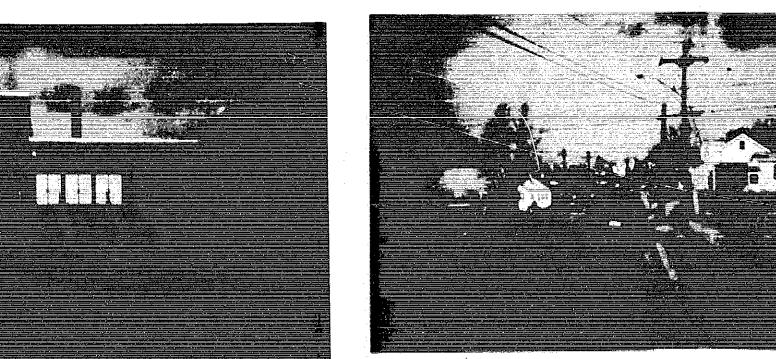


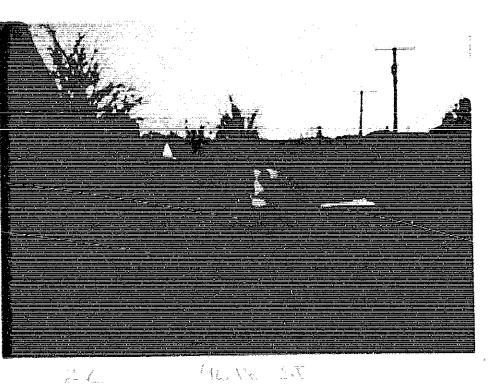
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The Allender











MARTINSBURG, W.V. 25401

PHOTOGRAPHIC MAP

JANUARY 1986