

IN RE: PETITIONS FOR SPECIAL HEARING & ZONING VARIANCE W/S Wampler Road, 400 ft. N of c/1 Sterling Avenue 926 Wampler Road 15th Election District 5th Councilmanic District John L. Gross, Sr., et ux Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as both a Petition for Special Hearing and Petition for Zoning Variance for the property located at 925 Wampler Road in the Middle River section of Baltimore County. The Petition is filed by John L. Gross, Sr. and Helen Gross, his wife, property owners. Within the Petition for Special Hearing, approval is sought for the reduction of the gross area of an existing nonconforming lot zoned D.R.1. Within the Petition for Zoning Variance, relief is requested from the strict application of Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 26 ft. in lieu of the required 50 ft.; and a variance to allow a lot area of 13,760 sq. ft. in lieu of the required 40,000 sq. ft. The subject property and all of the requested relief is more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Special Hearing.

Appearing at the requisite public hearing held for this case were the property owners/Petitioners. Also appearing was their development consultant, Leonard Buerhaus. Dennis Wertz from the Office of Planning and Zoning, also appeared in support of the Petitions. Robert Tobash, owner of an adjacent property, appeared in opposition. Testimony and evidence presented was that the subject site is approximately three-fourths of an acre in

area and is split zoned D.R.1 and D.R.3.5. The D.R.1 portion of the property encompasses the front part of the lot, closest to Wampler Road. The D.R.1 part of the property, known as lot No. 1, is improved with a one story rancher. This dwelling was built several years ago and is rented by the Petitioners. The rear portion of the site, zoned D.R.3.5, and shown as lot No. 2, is unimproved. The configuration of the lot is also noteworthy. The lot is relatively narrow (100 ft. approx.) but extends to a significant depth in excess of 350 ft.

The Petitioners testified that they originally proposed a minor subdivision of this property sometime ago. Originally, three lots were proposed. However, it was ultimately determined that the available density would support only two lots. While proceeding through the minor subdivision process, the Petitioners realized that the subject zoning petitions were necessary. As to the Petition for Zoning Variance, the existing rancher is oriented sideways on the lot and does not face Wampler Road. Further, a panhandle driveway is proposed on the south side of lot No. 1 to provide access to lot No. 2. Due to this panhandle driveway and the orientation of the house, a front yard setback of only 26 ft. can be maintained, in lieu of the required 50 ft.

The remaining request under the Petition for Variance, to allow a lot area of less than the required 40,000 ft., ties in with the request for special hearing. This issue was commented upon by Dennis Wertz from the Office of Planning and Zoning ("OPZ"). As demonstrated by Mr. Wertz's testimony, as well as the Zoning Plans Advisory Committee (ZAC) comment from OPZ, that office supports the requested relief. Mr. Wertz noted that prior to the last cyclical zoning maps in 1992, the property was split zoned D.R.1 and M.L.R.-I.M. In OPZ's view, the M.L.R.-I.M. designation was improper and a rezoning of that portion of the property was advocated by

that office. Based upon their recommendations, the Council rezoned the rear part of the lot to D.R.3.5. Mr. Wertz testified, however, that, although M.L.R.-I.M. was not appropriate, the property should not have been split zoned. In his view, the correct designation for the entire site is D.R.3.5. In fact, Mr. Wertz and the ZAC comment indicates that the Office of Planning and Zoning is considering rezoning lot No. 1 to D.R.3.5 during the 1996 cyclical process so that the entire property enjoys a uniform zoning classification.

This testimony was particularly significant in view of other comments made within the ZAC comment and during Mr. Wertz's testimony. Therein, it was noted that implementation of the Petitioners' proposal will be an appropriate use of this property and that the proposed subdivision is in keeping with sound community planning principals for this locale. That is, development in the manner proposed will provide consistent residential development within the surrounding community. The Office of Planning and Zoning noted that there are many similar sized lots and uses in the subject location.

As to Mr. Tobash, his opposition appears to center upon a dispute between him and Mr. Gross regarding this property in the past. Apparently, there were negotiations between these parties as to a purchase of the property by Mr. Tobash. However, a price could not be agreed upon. Mr. Tobash offered little testimony regarding the proposed subdivision in and of itself.

It is well settled that a Petition for Variance can be granted only when the Petitioner complies with the requirements of Section 307 of the B.C.Z.R. In essence, this section mandates that the petitioner demonstrate that practical difficulty would exist if the variance was denied. Moreover, proof must be offered that a granting of the variance will not detrimentally affect the surrounding locale. In this instance, I am persuaded

that the Petitioners have met their burden. Development, as proposed, appears entirely consistent with the surrounding community. Mr. Wertz's testimony was particularly compelling on this issue. Moreover, the property's configuration satisfies the practical difficulty standard. The lot is of such narrow width that the front yard setback cannot be maintained and the entire property, combining lots 1 and 2, does not meet the area requirements. A further reduction of the area of lot No. 1 is not improper, particularly in view of Mr. Wertz's testimony as to the erroneous reclassification of this property's zoning designation in 1992. For these reasons, the Petition for Zoning Variance shall be granted.

This same rationale is applicable to the Petition for Special Hearing. Clearly, same should be granted. Development of the parcel in the manner proposed is entirely proper.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 23rd day of November, 1993 that, pursuant to the Petition for Special Hearing, approval for the reduction of the gross area of an existing nonconforming lot, zoned D.R.1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a Petition for Variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 26 ft., in lieu of the required 50 ft., and a variance to allow a lot area of 13,760 sq. ft., in lieu of the required 40,000 sq. ft., be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein.

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever

ORDER RECEIVED FOR FILING Date 11/23/93 By [Signature]

ORDER RECEIVED FOR FILING Date 11/23/93 By [Signature]

ORDER RECEIVED FOR FILING Date 11/23/93 By [Signature]

ORDER RECEIVED FOR FILING Date 11/23/93 By [Signature]

reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

[Signature] LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

LES:mmm

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

November 22, 1993

Mr. and Mrs. John L. Gross, Sr. 5930 Ebeneser Road White Marsh, Maryland

RE: Case No. 94-162-SPHA Petition for Special Hearing John L. Gross, Sr., et ux, Petitioners

Dear Mr. and Mrs. Gross:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Zoning Variance have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Appeals Clerk at 887-3391.

Very truly yours, [Signature] LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

LES:mmm cc: Mr. Leonard Buerhaus cc: Mr. Dennis Wertz

ORDER RECEIVED FOR FILING Date 11/23/93 By [Signature]

Petition for Special Hearing to the Zoning Commissioner of Baltimore County for the property located at 926 Wampler Rd which is presently zoned

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 600.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve:

The reduction of the gross area of an existing non-conforming (undersized/area) DR-1 zoned lot.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Form with fields for Contact Person/Address, Signature of Petitioner (John L. Gross Sr., Helen Gross), Signature of Petitioner (Leonard G. Buerhaus), and other details.

Petition for Variance to the Zoning Commissioner of Baltimore County for the property located at 926 Wampler Rd which is presently zoned DE-1/DE-3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 1802.3.C.1; BCZR, to permit a front yard setback of 26' in lieu of the required 50' and a lot area of 13760.404 sq ft in lieu of the required 40,000 sq ft.

Further testimony to be developed at hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Form with fields for Contact Person/Address, Signature of Petitioner (John L. Gross Sr., Helen Gross), Signature of Petitioner (Leonard G. Buerhaus), and other details.

ZONING DESCRIPTION FOR 926 Wampler Rd.
Election District 15 Councilmatic District C-5

94-162-SPHA

Beginning at a point on the West side of Wampler Rd. 40 feet wide (ultimate 60 feet) at a distance of 400 feet Northerly from the centerline of Sterling Ave., which is 30 feet wide, as recorded in deed Liber 8507 Folio 672, and which describes as follows:

- 1) North 71'-10"-06" West 378.33 feet;
- 2) North 36'-12"-48" East 102.22 feet;
- 3) South 70'-55"-09" East 201.74 feet; and
- 4) South 02'-45"-33" West 100.07 feet to the place of beginning. Containing 0.8454 Acres of land more or less.

#158

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

94-162-SPHA

District: 158 Date of Posting: 10/27/93
 Posted for: Special Hearing & Petition
 Petitioner: John L. Gross
 Location of property: 926 Wampler Rd., 400' N of c/l Sterling Ave., 15th Election District - 5th Councilmatic
 Location of Signs: 100' W of c/l Sterling Ave., 400' N of c/l Sterling Ave.
 Remarks:
 Posted by: _____ Date of return: 10/28/93
 Number of Signs: 2

NOTICE OF HEARING
 The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 West Chesapeake Avenue in Towson, Maryland 21204 on November 17, 1993 at 9:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
 Case: 94-162-SPHA (Item 158)
 926 Wampler Road
 400' N of c/l Sterling Avenue
 15th Election District - 5th Councilmatic
 Petitioner(s): John L. Gross, Sr. and Helen Gross
 Hearing: Wednesday, November 17, 1993 at 9:00 a.m. in Room 118, Old Courthouse.
 Special Hearing to approve the reduction of the gross area of an existing non-conforming (undersized area) lot.
 Variance to permit a front yard setback of 26 feet in lieu of the required 50 feet and a lot area of 13,760.604 square feet in lieu of the required 40,000 square feet.
 LAURENCE E. SCHMIDT
 Zoning Commissioner for Baltimore County

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/28, 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 10/28, 1993

THE JEFFERSONIAN,
A. Henickson
LEGAL AD. - TOWSON

From 158 receipt
 94-162-SPHA
 Account R001-6180
 Number JCM
 Date 10-6-93
 JOHN GROSS SR. (CIC) 50.00
 VARIANCE (030) 50.00
 Postnl- (090) 2x35 70.00
 170.00
 D3A03M0076M1C RC \$170.00
 BA C002143PM10-06-93
 Please Make Checks Payable To Baltimore County
 Cashier Validation

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/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.
 This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

- PAYMENT WILL BE MADE AS FOLLOWS:
- 1) Posting fees will be 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.

Arnold Jablon, Director

For newspaper advertising:
 Item No.: 158
 Petitioner: John Gross
 Location: 926 Wampler Rd.
 PLEASE FORWARD ADVERTISING BILL TO:
 NAME: John L. Gross, Sr.
 ADDRESS: 5930 Ebenezer Rd
White Marsh, Md 21162
 PHONE NUMBER: 335-1124 335-4572

AJ:ggg (Revised 04/09/93)

TO: PUBLISHER PUBLISHING COMPANY
 October 28, 1993 Issue - Jeffersonian
 Please forward billing to:
 John L. Gross
 5930 Ebenezer Road
 White Marsh, Maryland 21162
 410-335-0124

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 West Chesapeake Avenue in Towson, Maryland 21204

or
 Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
 CASE NUMBER: 94-162-SPHA (Item 158)
 926 Wampler Road
 400' N of c/l Sterling Avenue
 15th Election District - 5th Councilmatic
 Petitioner(s): John L. Gross, Sr. and Helen Gross
 HEARING: WEDNESDAY, NOVEMBER 17, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve the reduction of the gross area of an existing non-conforming (undersized area) lot.
 Variance to permit a front yard setback of 26 feet in lieu of the required 50 feet; and a lot area of 13,760.604 square feet in lieu of the required 40,000 square feet.

LAURENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

Baltimore County Government
 Office of Zoning Administration
 and Development Management
 111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

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Arnold Jablon
Director

cc: John L. Gross, Sr. and Helen Gross
 Leonard G. Posthuma

NOTES: (1) ZONING SIGN & COPY MUST BE RETURNED TO RM. 104, 111 WEST CHESAPEAKE AVENUE ON THE HEARING DATE.
 (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
 (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

Printed with Recycled Ink on Recycled Paper

Baltimore County Government
 Office of Zoning Administration
 and Development Management
 111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

November 8, 1993

Mr. and Mrs. John L. Gross, Sr.
 5930 Ebenezer Road
 White Marsh, Maryland 21162
 RE: Case No. 94-162-SPHA, Item No. 158
 Petitioner: John L. Gross, Sr., et ux
 Petition for Special Hearing

Dear Mr. and Mrs. Gross:
 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 October 6, 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.

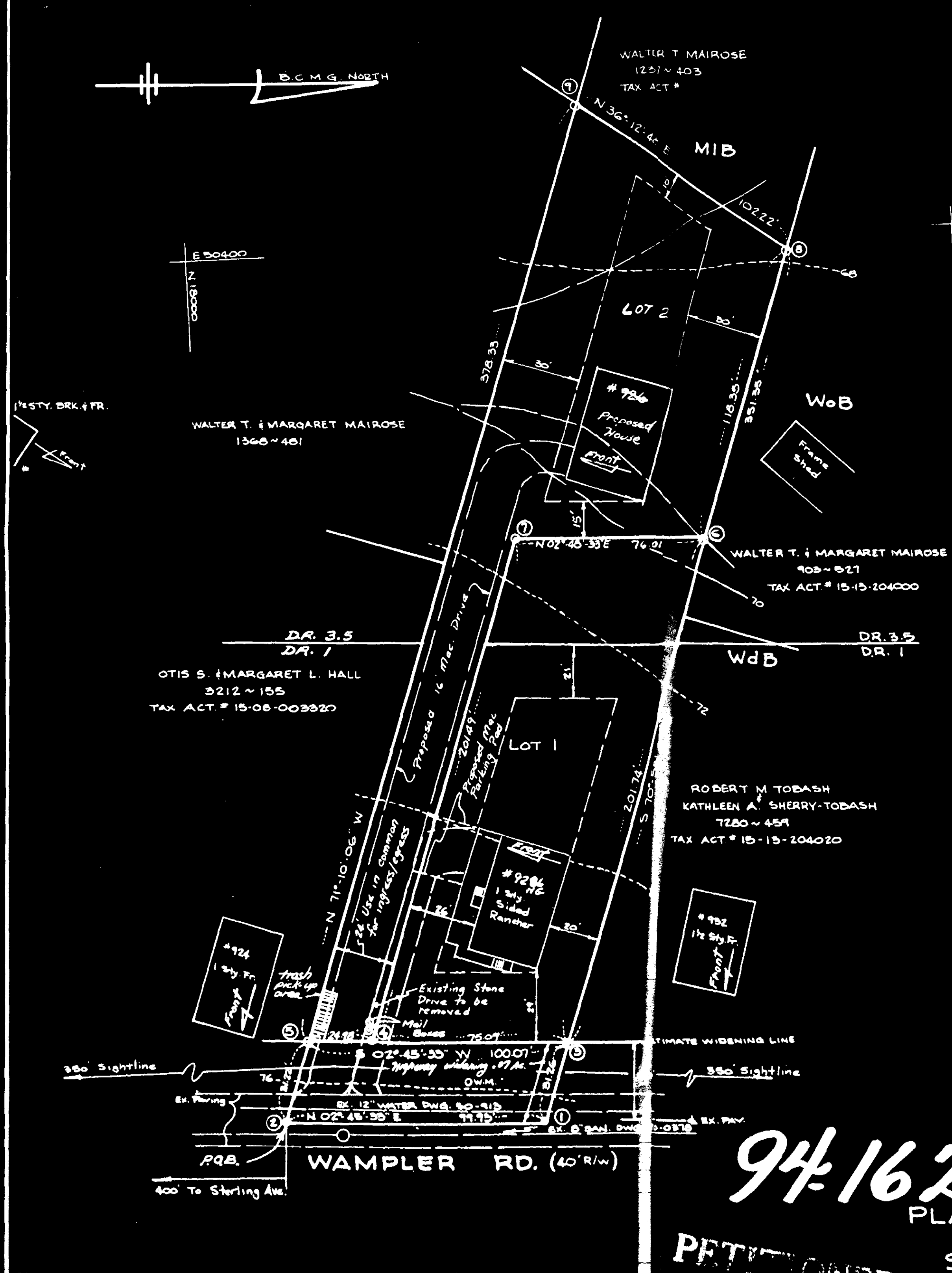
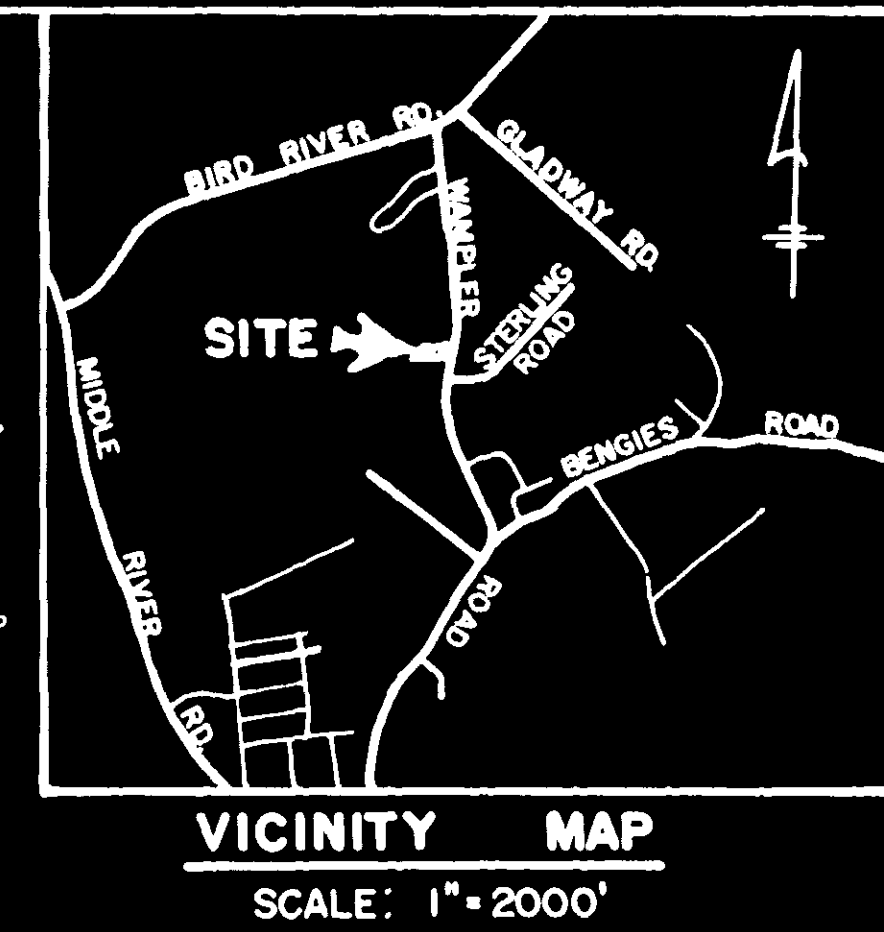
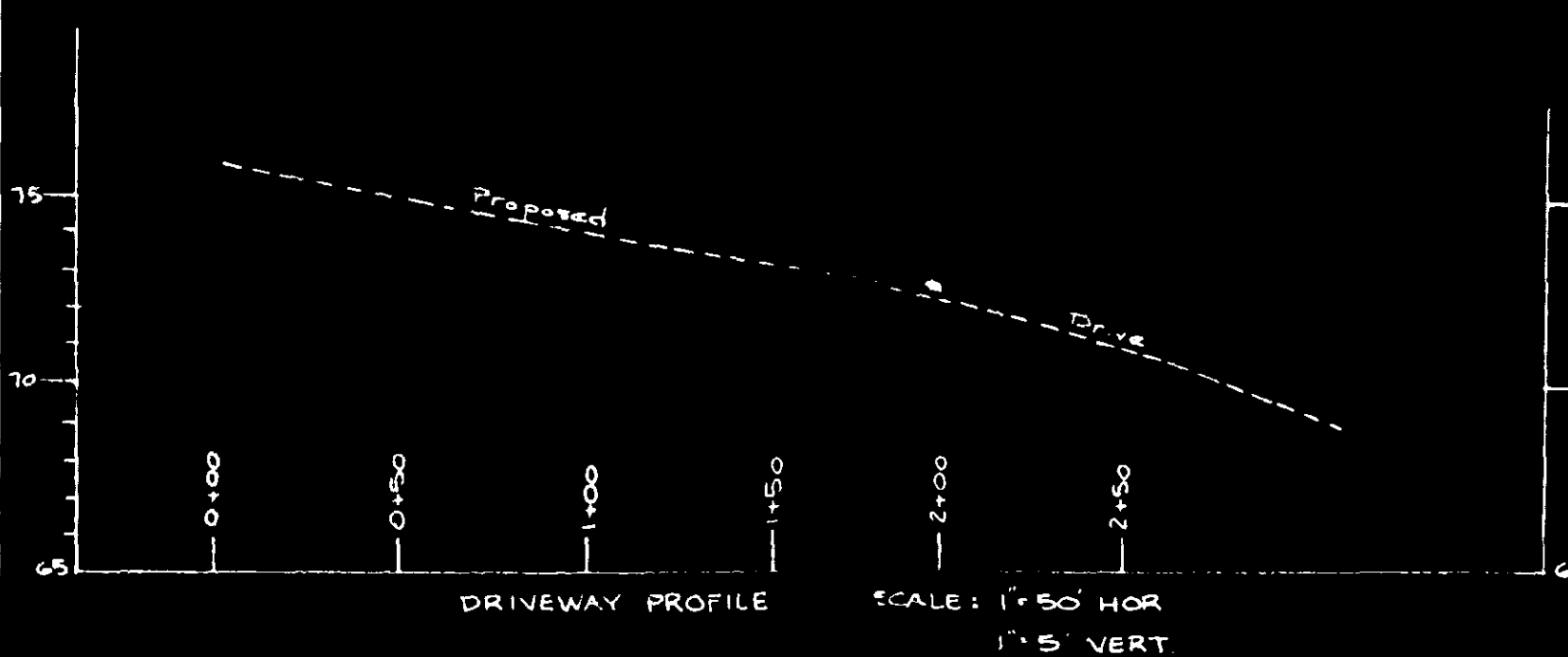
1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this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

BALTIMORE COUNTY, MARYLAND
 INTEROFFICE CORRESPONDENCE
 TO: Arnold Jablon, Director
 DATE: 11/8/93
 FROM: Robert W. Bowling, Dept. of Zoning Administration and Development Management
 RE: Zoning Advisory Committee Meeting for November 1, 1993
 Item No. 158

The Development Plan Review Section has reviewed the subject zoning item. This item is subject to the provisions of the Development Regulations.

RWB:gg

PROPERTY COORDINATES		
NO.	NORTH	EAST
①	18122.03	50735.84
②	18022.21	50734.03
③	18132.25	50704.30
④		
⑤	18032.27	50704.46
⑥	18178.20	50518.64
⑦		
⑧	18236.89	50406.79
⑨	18154.41	50346.40



- NOTES
- 1 Area - Lot 1 - Gross 0.3815 Ac. Net 0.3558 Ac. Lot 2 - Gross 0.4579 Ac. Net 0.4407 Ac. Highway Widening - 0.0684 Ac.
 - 2 Present Zoning - D.R. 1 & D.R. 3.5 (Map N.E. 5-I)
 - 3 No. Lots Allowed 2 No. Lots Proposed 2
 - 4 Present Owners - John & Helen Gross 1212 Burke Rd. Chase, Md. 21220 Tel - 535-0124
 - 5 Tax act = 15-13-202070
 - 6 Deed Ref. 8507 ~ 672
 - 7 Tax map 90 Bk 6 Parcel 1B20
 - 8 Census tract 4514
 - 9 Regional Planning Dist. 527
 - 10 School Dist. 88
 - 11 Watershed 6
 - 12 Sub. Surveyed 15
 - 13 Coordinates and bearings are referred to the Balto. Co. Metro Dist. and are based on the following traverse stations:
12194 N 17174.56 E 50696.77
X-2594 N 18966.69 E 50766.06
 - 14 This property shown has been held in fact since 6-6-75. The developer's Engineer has confirmed that no part of the gross area of this property as shown on the plan has ever been utilized, recorded, or represented as density or area to support any off-site dwellings.
 - 15 There are no wells, septic tanks or underground storage tanks on subject or adjacent properties.
 - 16 There are no streams or wetlands within 200' of property.
 - 17 Property is not in critical Bay area.
 - 18 Local open space waiver has been applied for.
 - 19 The area between the sight line and edge of paving shall be kept cleared and graded and free of any obstructions.
 - 20 Use of Lot 1 - single family dwelling Lot 2 -
 - 21 There are no underground storage tanks on this site.
 - 22 Density Calculations
D.R. 1 x .3818 No. Lots allowed 1
No. Lots proposed 1
D.R. 3.5 x 0.4579 - No. Lots allowed 1.609
E 80700 No. Lots proposed 1

#158
94-162-SPHA
PLAT TO ACCOMPANY
PETITION FOR
SPECIAL HEARING

EXHIBIT 1
MINOR SUBDIVISION OF
GROSS PROPERTY

APPROVED, DPW _____
DATE: ___/___/___

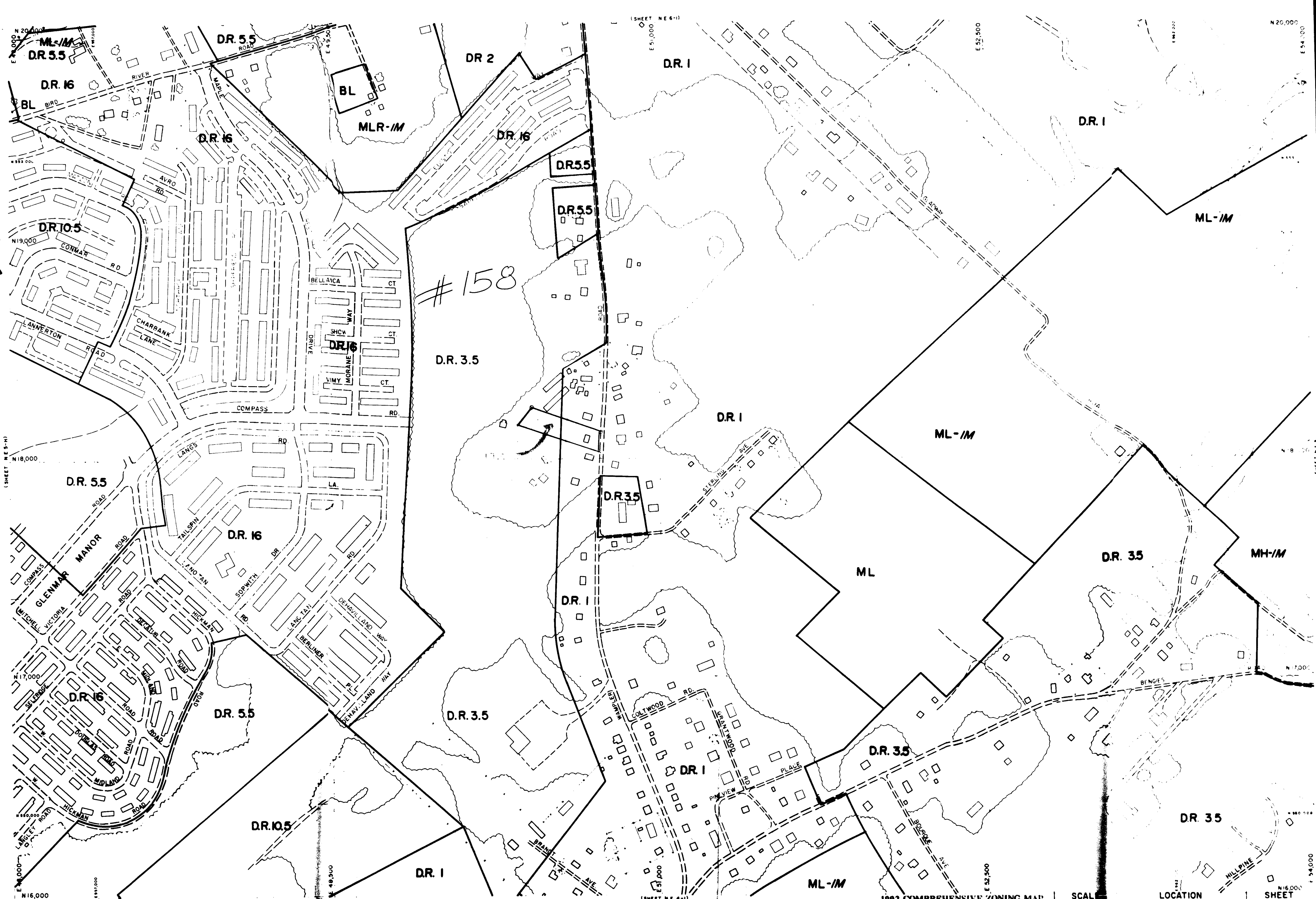
APPROVED, DEPRM _____
DATE: ___/___/___

PREPARED BY: _____

LEONARD G. BUEHARS
1830 LONGFORD ROAD
LUTHERVILLE, MD 21093
TEL. NO. 881-1156

ELECTION DIST. NO. 18 BALTO. CO. MD.
COMMISSIONER DIST. C-8
DRAWN: D.B. CHECK: L.S.B.
SCALE: 1"=30' DATE: 1/20/88

94-162-SPHA



BALTIMORE COUNTY
 OFFICE OF PLANNING AND ZONING
 OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
 Adopted by the Baltimore County Council
 Oct. 15, 1992

William A. Howard
 Chairman, County Council

SCALE
 1" = 20'
 DATE OF PHOTOGRAPHY
 JANUARY 1992

LOCATION	N E
BENGIES	5-1
VICINITY	

I - NE
 M - SE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
 TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
 BY BUCHART-HORN, INC. BALTIMORE, MD. 21210