



PETITIONER'S  
EXHIBIT 1

84

PREPARED FOR:

PIERCE HARDY REAL ESTATE, CO.  
4121 WASHINGTON ROAD  
McMURRAY, PA 15317  
(412) 941-8497

PRESIDENT: JOSEPH A. HARDY

SECRETARY: CHRISTINA TORAS

PROPOSAL:

- 1- 20' X 75' WAREHOUSE SHED ADDITION
- 1- 20' X 200' WAREHOUSE SHED ADDITION

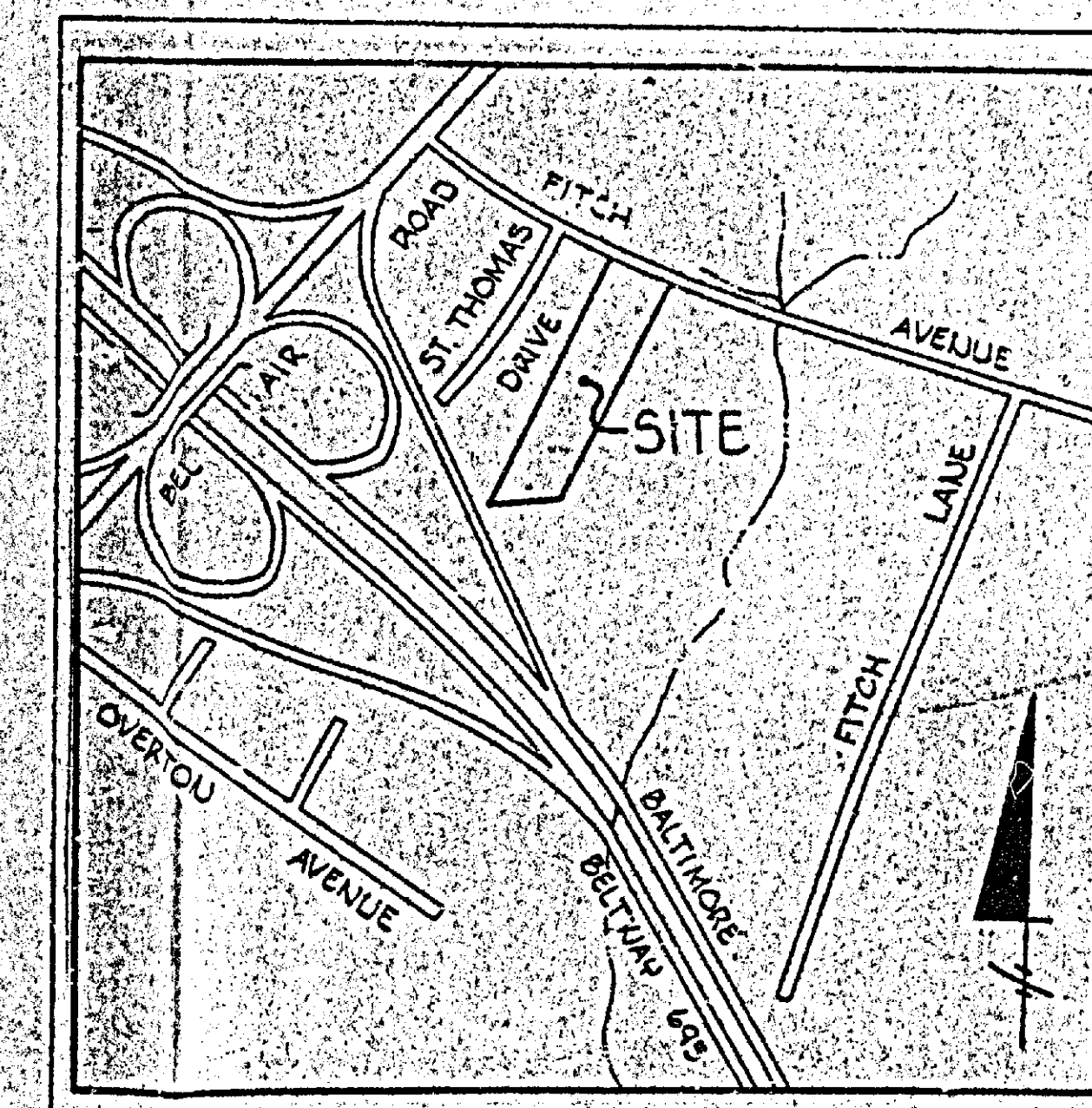
84 LUMBER COMPANY  
4299 FITCH AVENUE  
BALTIMORE, MD 21236  
BALTIMORE COUNTY  
14TH ELECTION DISTRICT  
6TH COUNTY COUNCIL DISTRICT

PROPERTY DESCRIPTION  
PROPERTY TAX #:  
14-23-017970

Property Owner: Pierce Hardy Real Estate Company  
Lessee: 84 Eighty-Four Lumber Company  
Property Address: 4299 Fitch Avenue  
Baltimore, MD 21236  
Property Tax Number: 14-23-017970

1. The lot of ground situated in Baltimore County in the State of Maryland and described as follows:

BEGINNING at a point in the center line of Fitch Avenue at the 3rd line of Lands of U.J.B. (346/402, 198 Parcel) North Thirty-One degrees East (N. 31 Degrees E.) to a point (John F. Nevers Survey, September 7, 1981); thence by the center line of said Road South Sixty-One degrees and Two Minutes and Fifty-Five Seconds East a distance of Two Hundred feet (S. 61 Degrees 02' 55" E. 200.00') to a point (John F. Nevers Survey, September 7, 1981); thence continuing South Twenty-Seven degrees and Forty-Four Minutes and Thirty Seconds West a distance of Six Hundred and Sixty-Two feet (S. 27 Degrees 44' 30" W. 662.00') to a point (John F. Nevers Survey, September 7, 1981); thence continuing to the most South Westerly Point North Eighty-Four degrees and Forty-Three Minutes and Twenty-Three Seconds West a distance of Two Hundred and Sixteen and Thirty-eight one-hundredths feet (N. 84 Degrees 43' 33" W. 216.38') to a point (John F. Nevers Survey, September 7, 1981); thence continuing North Twenty-Seven degrees and 44 Minutes and Thirty Seconds East a distance of Eight Hundred and Twenty-Nine and Ninety-Two one-hundredths feet (N. 27 Degrees 44' 30" E. 829.92') to the Point of Beginning (John F. Nevers, September 7, 1981). Net acreage 3.105 acres more or less.



VICINITY MAP  
SCALE: 1"=500'

BUILDING MANUFACTURER:  
STAR BUILDING SYSTEMS  
P.O. BOX 94910  
OKLAHOMA CITY, OK 73143

June 9, 1989



Dennis F. Rasmussen  
County Executive

Mr. Clark Barr, Manager  
84 Lumber Company  
4259 Fitch Avenue  
Baltimore, Maryland 21236

RE: Case No. 89-185  
4217 Fitch Avenue  
14th Election District

Dear Mr. Barr:

The District Court trial scheduled for June 7, 1989 was dismissed. However, it was observed during an inspection the morning of June 7, 1989, that there continues to be materials stored outside the limits of the covered sheds. This practice should cease immediately. If it continues, the County will not hesitate to issue a new citation for zoning violation. Also it should be mentioned that continued maintenance of the stone paving required in order to remain in compliance with the Zoning Commissioner's Order in case no. 83-146V.

I hope you will oversee the correction and maintenance of the above mentioned items in order to preclude any future action by Baltimore County.

If you should have any questions, please do not hesitate to contact me at 887-8993.

Sincerely,

*Gary C. Freund*  
GARY C. FREUND  
Zoning Inspector

GCF:ljs

cc: S. J. Henkel

*Leonard Malachuk*  
887-5681

RE: ALLEGED ZONING VIOLATION : BEFORE THE  
4217 Fitch Avenue : ZONING COMMISSIONER  
14th Election District :  
84 Lumber Company : OF  
c/o David Darchuk : BALTIMORE COUNTY  
Land Development Director :  
P.O. Box 300 :  
Jopka, Maryland 21085 : 83-146-V, C-83-318  
Defendant :  
84 Lumber Company :  
c/o Lee Steiner, Manager :  
4217 Fitch Avenue :  
Baltimore, Maryland 21236 :  
Defendant :

A complaint has been filed with the Zoning Office concerning an alleged violation of the Baltimore County Zoning Regulations on property at the above location. A hearing was held to determine whether a violation exists.

The following Baltimore County Zoning Regulations are involved:

Section 102.1 - "No land shall be used or occupied and no building or structure shall be erected, altered, located, or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use."

Section 248 - "Use Regulations (M.L.R. Zone)."

Section 409.2.c(1) - "Screening - Offstreet parking facilities for more than five vehicles shall be screened by a wall, fence, or compact planting when adjoining or facing the side or rear lot line of residential or institutional premises or when they are across the street from such premises. Screening shall be at least 4 feet high. Planting shall not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility."

Section 413 - "Signs"

Section 500.9 - "The Zoning Commissioner shall have the power to require the production of plats or developments or subdivisions of land, or of any land in connection with which application for building or use permits or petitions for a Special Exception, a reclassification, or a temporary use shall be made, such plats to show the location of streets or roads and of buildings or other structures proposed to be erected, repaired, altered, or added to. All such plats shall be drawn to scale and shall clearly indicate the proposed location, size, front, side and rear setbacks from property lines and elevation plans of proposed buildings or other structures. Such details shall conform in all respects with Zoning Regulations. No such plats or plans, showing the opening or laying out of roads or streets, shall be approved by the Zoning Commissioner unless such plats or

plans shall have been previously approved by the Office of Planning and the Department of Public Works of Baltimore County."

Testimony at the hearing indicated that the Defendant is guilty of violating the above referenced Baltimore County Zoning Regulations in that full compliance with the site plan, approved June 4, 1982, has not been attained.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 17<sup>th</sup> day of May, 1989, that any inconsistencies with the site plan must be corrected within 90 days from the date of this Order as set forth and agreed to by both parties:

1. 84 Lumber Company will plant evergreen trees at a distance similar to those planted on Fitch Avenue in accordance with the sketch shown on Attachment 2. The evergreens will be maintained in a living condition and if they turn brown or die, they will be replaced immediately or when agreed to by the parties concerned, upon notification by the residents of St. Thomas Drive.
2. 84 Lumber Company will install an additional section of screening on the fence as shown on Attachment 2.
3. 84 Lumber Company will maintain and regrade the gravelled area as necessary to keep the gravelled area from becoming muddy.
4. Parking of automobiles, trucks, vans, campers, etc., will be restricted to the designated parking areas shown on the overall site plan. Parking will not be permitted in the storage shed areas.
5. Lighting will be corrected to ensure that the residential homes adjacent to the 84 Lumber Company property are not illuminated.
6. 84 Lumber Company will take any necessary action to ensure that the area outside the fenced area of their property will be properly maintained, i.e., picking up litter, etc.
7. 84 Lumber Company will either remove the commercial sign which has been erected near Fitch Avenue or obtain a permit to keep it there. The sign is not shown on the existing site plan.

-2-

Any appeal from this decision must be in accordance with Section 500.10 of the Baltimore County Zoning Regulations with 30 days.

*[Signature]*  
Zoning Commissioner  
of  
Baltimore County

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

*Superior J. Henkel, Jr.*

*7837 St. Thomas Drive  
Baltimore, Md. 21236*

*Phoebe Kelly*

*7843 St. Thomas Drive  
Baltimore, Md. 21236*

*Richard C. Dinsmore*

*7841 St. Thomas Drive  
Baltimore, Md. 21236*

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

*WILLIAM MURKIN  
EDWARD SADLER*

*EIGHTY FOUR PA 15384  
EIGHTY FOUR PA 15384*

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management

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

DATE: April 22, 1994

SUBJECT: 4299 Fitch Avenue

INFORMATION:

Item Number: 361

Petitioner: Pierce Hardy Real Estate Company

Property Size: \_\_\_\_\_

Zoning: ML-1M

Requested Action: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

SUMMARY OF RECOMMENDATIONS:

The subject site is located along the south side of Fitch Avenue on property zoned M.L.-1.M. Single-family detached homes along St. Thomas Lane are located immediately west of the applicant's site. Due to lack of a suitable landscape buffer, the St. Thomas Lane residents have individually screened the view by using a variety of fencing and trees. Also, a significant change of grade lies between the site and the residents' back yards.

Based upon an analysis of the information provided and site inspection, staff finds that the property is currently overdeveloped and has been improved in a manner not conforming to the Baltimore County Zoning Regulations. Staff is at a loss to explain how these improvements were made without benefit of County approvals. Presently, in addition to rectifying existing deficient setbacks, the applicant wishes to be granted further relief for yet another site limitation.

This Office finds it incredible that substantial relief is being sought without any offer on the part of the applicant to mitigate the impact of this overdeveloped site. Therefore, staff recommends that the applicant's request to allow a four yard setback of five feet for the proposed warehouse/shed be denied. As a practical matter, this office does not oppose the relief being sought for existing site deficiencies.

Should, however, the request be granted in whole or part, staff recommends a carefully conceived planting treatment for the site be designed to create an appropriate screening of the property from the adjoining residential properties.

Prepared by: Giffrey W. Fox

Division Chief: Carroll L. Rios

PK/JL:lw

PETITION FOR VARIANCE : BEFORE THE  
SW/S Fitch Avenue, 160' +/- E of : ZONING COMMISSIONER  
c/o St. Thomas Drive (4299 Fitch :  
Avenue), 14th Election Dist., : OF BALTIMORE COUNTY  
6th Councilmanic Dist. :  
PETITIONER : CASE NO: 94-377-A  
PIERCE HARDY REAL ESTATE CO. :  
: : : : :  
ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above captioned matter. Notice 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  
Peter Max Zimmerman  
People's Counsel for Baltimore County

Carole S. Demilio  
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 4<sup>th</sup> day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to Pierce Hardy Real Estate Co., Joseph A. Hardy, 4121 Washington Road, McMurray, PA 15317, ATTN: Lizette Rios, Petitioners.

Peter Max Zimmerman  
Peter Max Zimmerman

May 2, 1994

TO: Baltimore County Office of Planning & Zoning  
REF: Case No. 94-377A

The variance requested by 84 Lumber Company in Case No. 94-377-A is opposed for the following reasons:

1. In his May 17, 1983 Order, Mr. William E. Hammond stated in Section 10.2.1 that no building or structure shall be erected, altered, located, moved or removed in conformity with the regulations and that no structure include any extension of an existing nonconforming use. At that time Mr. Hammond said to 84 Lumber, in effect, do not come back asking for any additional variance to the original plans. A copy of Mr. Hammond's Order is attached for your information.
2. The residents of St. Thomas Drive have continually had to report 84 Lumber for site and zoning violations. On September 27, 1988, Councilman William R. Evans sent an Inter-Office Correspondence to J. Robert Haines, Zoning Commissioner of St. Thomas residents complaints. 84 Lumber signed most of the complaints. Mr. Evans correspondence is attached.

Page 2.

3. On June 4, 1989 Gary C. Freund, Zoning Inspector, notified, by letter, 84 Lumber that even after a District Court trial scheduled for June 7, 1989 had been settled out of court that 84 Lumber continues to store material outside the limits of the storage sheds. This is a site violation. A copy of Mr. Freund's letter is attached.
4. Even though the site plan indicates that the storage area is not open to the public, the public continues to drive cars and trucks back into the area and collect material from the storage sheds. This is a site violation.
5. Under the proposed variance a storage shed, height unknown, would be erected only five (5) feet from the property line of the St. Thomas Drive residents. This will cause drainage problems and will be a further nuisance. The erection of such a shed is strongly opposed.
6. One resident of St. Thomas Drive has complained to 84 Lumber that the gasoline-powered lift trucks

Page 3.

6. (cont'd) are excessively noisy and has recommended that 84 Lumber replace them with electric lift trucks. This recommendation has been ignored.
  7. The 84 Lumber property is an eyesore as it exists, fences falling down, material stored outside the storage sheds, and car traffic in the storage area. Therefore, it is requested that the proposed variance be rejected and that 84 Lumber not to be allowed to further encroach on the residents of St. Thomas Drive and further depreciate the value of the St. Thomas Drive homes.
  8. There now exists a row of evergreen trees along the property line separating the St. Thomas Drive homes and 84 Lumber. Construction of a storage shed or relocating the existing fence will kill these trees. These trees were planted by 84 Lumber as a result of Mr. Hammond's order and should not be touched.
- Sebastian J. Henkel, Jr.  
7837 ST. THOMAS DRIVE  
BALTIMORE, MD. 21236  
PHONE: (410)-648-4016



BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3353

WILLIAM E. HAMMOND  
ZONING COMMISSIONER

May 17, 1983

84 Lumber Company  
c/o Mr. David Darchuk  
Land Development Director  
P.O. Box 300  
Joppa, Maryland 21085

RE: 4217 Fitch Avenue  
Case No. 83-146-V

Dear Mr. Darchuk:

I have this date passed my Order in the above captioned matter. Copy of said Order is enclosed.

Failure to comply with the attached Order will result in District Court action.

Very Truly yours,

William E. Hammond  
WILLIAM E. HAMMOND  
Zoning Commissioner

WEH:eoh

Enclosure

c/o Lee Steiner, Manager  
4217 Fitch Avenue  
Baltimore, Maryland 21236

Mr. S.J. Henkel, Jr.  
7837 St. Thomas Drive  
Baltimore, Maryland 21236

Mrs. Gloria Kelly  
7843 St. Thomas Drive  
Baltimore, Maryland 21236

File

Construction Manager  
84 Development Company  
500 Route 211 East  
Middletown, New York 10940

(914) 692-5849

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines, Zoning Commissioner  
FROM: William R. Evans, Councilman, Sixth District  
SUBJECT: 84 Lumber  
83-146-V/C-83-318

Date: September 27, 1988

Recently received a complaint from the neighbors along St. Thomas Drive. Specifically the complaint concerns:

- A. the continued storage of materials outside the storage area
  - B. the failure to replace Evergreens as ordered
  - C. the failure to maintain gravel around storage sheds.
- Additionally the fence behind St. Thomas Drive is in a severely deteriorated condition.

Please proceed to investigate this matter.

WRE:jih

**receipt**  
94-377-A

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

April 22, 1994

Mr. Joseph A. Hardy  
Pierce Hardy Real Estate Company  
4121 Washington Road  
McMurray, Pennsylvania 15317

RE: Case No. 94-377-A, Item No. 361  
Petitioner: Pierce Hardy Real Estate Company  
Petition for Variance

Dear Mr. Hardy:

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 each zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on March 23, 1994, 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.

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*  
ARNOLD JABLON, DIRECTOR

For newspaper advertising:  
Item No.: 361

Petitioner: \_\_\_\_\_  
Location: \_\_\_\_\_

**PLEASE FORWARD ADVERTISING BILL TO:**  
NAME: PIERCE HARDY REAL ESTATE CO.  
ADDRESS: 4121 WASHINGTON RD.  
McMURRAY, PA 15317  
PHONE NUMBER: 412-941-8497

AJ:998 (Revised 04/09/93)

TO: PUTNAM PUBLISHING COMPANY  
April 7, 1994 Issue - Jeffersonian

Please forward billing to:  
Pierce Hardy Real Estate Co.  
4121 Washington Road  
McMurray, PA 15317  
412-941-8497

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-377-A (Item 361)  
4299 Fitch Avenue  
84 Lumber Company  
SM/S Fitch Avenue, 160' +/- E of c/l St. Thomas Drive  
14th Election District - 6th Councilmanic  
Petitioner(s): Pierce Hardy Real Estate Company  
HEARING: TUESDAY, MAY 3, 1994 at 2:00 p.m., Rm. 118, Old Courthouse.

Variance to allow a rear yard setback of 5 feet (for a proposed warehouse/shed), a distance between structures (existing and proposed) of 37 feet, and a distance between structures (both existing) of 50 feet in lieu of the required 50 feet, 100 feet, and 60 feet respectively.

LAWRENCE E. SCHULTZ  
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 887-3391.

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

MARCH 31, 1994

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-377-A (Item 361)  
4299 Fitch Avenue  
84 Lumber Company  
SM/S Fitch Avenue, 160' +/- E of c/l St. Thomas Drive  
14th Election District - 6th Councilmanic  
Petitioner(s): Pierce Hardy Real Estate Company  
HEARING: TUESDAY, MAY 3, 1994 at 2:00 p.m., Rm. 118, Old Courthouse.

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*Arnold Jablon*  
Arnold Jablon  
Director

cc: Pierce Hardy Real Estate Co.  
Liette Rios

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 CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink  
on Recycled Paper

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204

April 22, 1994

(410) 887-3353

Mr. Joseph A. Hardy  
Pierce Hardy Real Estate Company  
4121 Washington Road  
McMurray, Pennsylvania 15317

RE: Case No. 94-377-A, Item No. 361  
Petitioner: Pierce Hardy Real Estate Company  
Petition for Variance

Dear Mr. Hardy:

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 each zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on March 23, 1994, 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

O. James Lighthizer  
Secretary  
Hal Kasso  
Administrator

4-1-94

Re: Baltimore County  
Item No.: 7361 (JJS)

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

Dear Ms. Minton:

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 project.

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

Thank you for the opportunity to review this item.

Very truly yours,  
*Bob Small*  
for DAVID N. KAMSEY, ACTING CHIEF  
Engineering Access Permits  
Division

BS/

My telephone number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free  
Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street - Baltimore, Maryland 21202

Baltimore County Government  
Fire Department

700 East Joppa Road Suite 901  
Towson, MD 21286-5500

(410) 887-4500

DATE: 03/30/94

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: SEE BELOW  
LOCATION: SEE BELOW

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy. IN REFERENCE TO THE FOLLOWING ITEM NUMBERS 359 AND 364.

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Prevention, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Commissioner and  
Deputy Zoning Commissioner

DATE: March 24, 1994

FROM: John J. Sullivan  
Planner II

SUBJECT: Item #361  
84 Lumber Company  
4299 Fitch Avenue

I asked the petitioner for any prior zoning hearing information and was told "no prior history". However, I seem to recall some type of zoning problems in the past, in my capacity as either zoning inspector or planner. My search of the 1971, 200 ft. scale zoning maps and the zoning hearing card file and I found no prior hearings on this site. As such, I am at a loss to explain the existing structures with deficient setbacks between buildings.

Please note that for structures within 100 feet of the D.R. zone Section 255.2 applies while for the other(s) Section 255.1 applies.

JJS:jaw

IN RE: PETITION FOR VARIANCE  
SW/S Fitch Avenue, 160'E of  
the c/l of St. Thomas Drive  
(4299 Fitch Avenue)  
14th Election District  
6th Councilmanic District  
Pierce Hardy Real Estate Co.  
Petitioner

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 94-377-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 4299 Fitch Avenue, located in the Fullerton area of eastern Baltimore County. The Petition was filed by the owner of the property, U. Pierce Hardy Real Estate Company, by Joseph A. Hardy. The Petitioner seeks relief from Sections 255.2 and 255.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 5 feet in lieu of the required 50 feet for a proposed warehouse storage shed, a distance between an existing shed and the proposed warehouse storage shed of 37 feet in lieu of the required 100 feet, and a distance between existing sheds of 50 feet in lieu of the required 60 feet. The subject property and relief sought are more particularly described on the three-page plans submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were William Myrick and Edward Muller for 84 Lumber, Contract Lessee of the subject property. Appearing as Protestants in the matter were Sylvester J. Henkel, Jr., Gloria Kelly and Mildred C. Dempsey, all residents of St. Thomas Drive located directly behind the subject site.

Examination revealed that the subject property consists of 3.11 acres, more or less, zoned M.L.-I.M. and is improved with a warehouse and

retail building and two storage sheds used by 84 Lumber. The Petitioner proposes to construct a 20' x 200' warehouse storage shed approximately 5 feet from the northwest property line and 37 feet from an existing 38' x 225' shed to provide additional warehouse storage space. The proposed shed will be located immediately adjacent to the residential properties of the Protestants who appeared at the hearing. As a result of its close proximity to the Protestants' properties and the existing shed, the requested variances are necessary in order to proceed as proposed. In addition to the proposed shed, the Petitioner proposes to construct a 20' x 75' addition to the existing 20' x 200' shed on the southeast side of the subject site. Although a variance is not needed for the proposed addition, a variance is needed to legalize the distance between the two existing sheds that have been on the property for many years. These two sheds are approximately 50 feet apart and not 60 feet as required, and thus, a variance is necessary.

Appearing in opposition to the Petitioner's request were Sylvester Henkel, Gloria Kelly and Mildred Dempsey, long-time residents of this area. All of the Protestants reside on St. Thomas Drive immediately adjacent to the location of the proposed warehouse storage shed. The Protestants object to the proposed location of this shed in such close proximity to their properties. Furthermore, they object to the noise that emanates from the subject site by virtue of the forklift trucks used in the warehouse operation. The Protestants feel that the proposed expansion will infringe upon their privacy and cause their properties to depreciate in value. They also believe that the storage of lumber products this close to their properties would be deemed a fire hazard in the event a fire broke out in the proposed shed.

- 2 -

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

The Petitioner requested three variances, one of which is to permit the two existing sheds to remain a distance of 50 feet apart. Inasmuch as these sheds have existed on the property for many years, it appears that a practical difficulty and unreasonable hardship would result if strict compliance were required. In addition, the variance requested will not cause any injury to the public health, safety or general welfare and meets the spirit and intent of the B.C.Z.R. Therefore, this portion of the variance request shall be granted.

As to the relief requested for the proposed warehouse storage shed, in the opinion of this Deputy Zoning Commissioner the relief requested should be denied. The proposed building will be located too close to the residential uses nearby. Furthermore, the subject property is already overburdened by the existing buildings. There simply is not enough room on the site to permit an additional 20' x 200' warehouse storage shed as

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proposed. I do not believe the relief requested is appropriate, and should therefore be denied.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17<sup>th</sup> day of May, 1994 that the Petition for Variance seeking relief from Sections 255.2 and 255.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 5 feet in lieu of the required 50 feet for a proposed warehouse storage shed, and a distance between the existing and proposed warehouse storage shed of 37 feet in lieu of the required 100 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 255.2 and 255.1 of the B.C.Z.R. to permit a distance between the two existing sheds of 50 feet in lieu of the required 60 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

*Timothy W. Kotroco*  
TIMOTHY W. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

- 4 -

Suite 113, Courthouse  
400 Washington Avenue  
Towson, MD 21204

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

May 17, 1994

(410) 887-4386

Mr. Joseph A. Hardy  
4121 Washington Road  
McMurray, Pennsylvania 15417

RE: PETITION FOR VARIANCE  
SW/S Fitch Avenue, 160'E of the c/l of St. Thomas Drive  
(4299 Fitch Avenue)  
14th Election District - 6th Councilmanic District  
Pierce Hardy Real Estate Co. - Petitioner  
Case No. 94-377-A

Dear Mr. Hardy:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in part and denied in part in accordance with the attached Order.

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

Very truly yours,

*Timothy W. Kotroco*  
TIMOTHY W. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. Sylvester J. Henkel, Jr.  
7837 St. Thomas Drive, Baltimore, Md. 21236

Ms. Gloria Kelly  
7843 St. Thomas Drive, Baltimore, Md. 21236

Ms. Mildred C. Dempsey  
7841 St. Thomas Drive, Baltimore, Md. 21236

People's Counsel  
File

## Petition for Variance

to the Zoning Commissioner of Baltimore County  
for the property located at 4299 Fitch Ave.  
which is presently zoned ML-1M

This Petition shall be filed with the Office of Zoning Administration & Development Management.  
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

255.2, 255.1 To allow a rear yard setback of 5 ft. (for a proposed warehouse/shed), a distance between structures (existing and proposed) of 37 ft. and a distance between structures (both existing) of 50 ft. in lieu of the required 50 ft., 100 ft., and 60 ft., respectively.  
of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) To comply with the county's request to have all inventory at the store contained under roof. A minimum amount of inventory must be necessary to construct an additional half shed on the property. Under current storage conditions, it is not possible to house all inventory while using the property as a lumber yard. The proposed installation of a half shed should satisfy all complaints. However, due to space limitations, we are asking that a variance be granted so that the minimum distance between two structures (storage sheds) be 37 feet, also 50 feet.

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.

Current Purchaser/Lessee:  
*Pierce Hardy Real Estate Co.*  
By *Joseph A. Hardy*  
4121 Washington Rd.  
McMurray, PA 15417

Attorney for Petitioner:  
By *William Myrick*  
4121 Washington Rd.  
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