

Prot Ex #7

FRANK

JUN 01 1994

DAR
AUTO
SERVICE

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
NEC Joppa Road and Eddington *
Road * ZONING COMMISSIONER
1766 Joppa Road *
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District *
* Case No. 94-382-A
Hassan Najafali *
Petitioner *
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a Zoning Variance for the property located at 1766 Joppa Road adjacent to that roadway's intersection with Eddington Road. Variance relief is requested from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 0 ft. side yard setback and a 28 ft. rear yard setback, in lieu of the required 30 ft. setbacks for both. The subject property and requested relief are more particularly shown on the amended site plan, submitted as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was the property owner, Hassan Najafali and his associate, R. Banihashemi. These gentlemen are the proprietors of the contemplated business on the site. Also appearing was Paul Lee, the Engineer who prepared the site plan. The Petitioner was represented by Francis X. Borgerding, Jr., Esquire. A number of concerned residents of the surrounding locale also appeared. They included Donna Spicer, representing the Cromwood, Coventry, and Satyr Hill Community Association, Paul Schilling and Wayne Skinner.

Testimony was received from Hassan Najafali. He indicated that he has owned the subject property for about 6 months. He described the property as being located along the highly commercial corridor of Joppa Road near the overpass for I-695 (Baltimore Beltway). There are similar uses in the subject locale including a Midas Muffler Shop immediately next

door. Mr. Najafali proposes operating a service garage on the site. Presently, he operates his business at a rental property nearby. The proposed hours of operation are Monday through Friday, 8:00 A.M. to 6:00 P.M. and 8:00 A.M. to 4:00 P.M. on Saturday. He noted that the nature of the business is to repair and service automobiles. There will be no unlicensed vehicles on site and there will be no body work.

Also testifying was Paul Lee, who prepared the plan. Mr. Lee noted that the site is .32 acres in net area and is zoned B.R.-C.N.2. In that the site is zoned B.R., the service garage use is permitted by right. Mr. Lee also traced the history of the site noting that same had been commercially zoned since 1952. A series of small fast food type restaurants have been on the property in the recent past. The Petitioner proposes razing the existing structure and building a 32 ft. by 91 ft. building. The building will be located on the east side of the property. The building will contain 6 service bays and a small office and storage area. Presently, the site has two curb cuts for vehicular access. One is from Joppa Road and the second from Eddington Road. The Eddington Road access will be modified and relocated closer to Joppa Road away from the residences which are located further down Eddington Road.

Mr. Lee also noted that the building will be located on the extreme east side of the property immediately abutting the property line. The neighbor on this side of the property is the Midas Muffler Shop. Thus, there appears to be no detrimental affect to that property owner in that these businesses are identical in nature and the properties are used in a similar manner. Moreover, the building is set back approximately 25 ft. from Joppa Road, consistent with the Midas Muffler location. In fact, the building is slightly narrower than the Midas building so that a greater

rear setback distance has been provided. Mr. Lee also testified that 15 parking spaces were provided, including the 6 in the garage, whereas only 10 are required under B.C.Z.R.

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).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requested, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular par-

cel. In addition, the variance requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

Notwithstanding my approval of the variances, the Protestants that were present requested several restrictions in this Order. Particularly, although conceding that the use is located only the commercial corridor of Joppa Road, they note that a residential community exists to the rear of the site on Eddington Road. They are particularly fearful of the impact of the use on those houses as well as residences located across the street.

A significant volume of testimony was heard about proposed restrictions. Also, I reviewed the Zoning Plans Advisory Committee comments including those from the Department of Public Works (DPW) and the Office of Planning and Zoning (OPZ). The Petitioner agreed to accept a number of restrictions suggested by OPZ. These include requirements that the dumpster be fixed to a concrete pad and that certain improvements be made to a stockade fence on the northeast side of the property. It was also agreed that no damaged or disabled vehicles will be stored outside of the service garage and that untagged vehicles will not be stored on the street. Lastly, it was agreed that no vehicles should be sold from this location. In addition to these restrictions requested by OPZ, several others were sought by the neighbors and will be implemented to ensure that the locale will not be adversely affected by this use and the required variances. Specifically, I shall require the Petitioner to submit for review and approval a landscape plan to the County's Landscape Architect. I will defer in making any specific recommendations as to the plantings and location of landscaping required but will defer to the expertise of Mr. Avery Harden, Baltimore County's Landscape Architect. It is particu-

larly observed that the rear portion of the site should be significantly landscaped so as to prevent an adverse impact on the homes to the rear of the site. Landscaping appears warranted along Eddington Road to buffer those homes and properties located across Joppa Road. I am confident that the Developers Engineer and the Landscape Architect can reach a reasonable and mutually agreed upon plan to buffer the area while recognizing the limitations on the size and permitted use on this site.

I shall also require the Petitioner to remove the freestanding sign pole which is presently on site. Observations made during a site visit disclosed the pole to be unattractive and unnecessary. The Petitioner is entitled to any signage as allowed by the sign regulations in effect at the time of its application for signage.

Also, there shall be no parking of vehicles on Eddington Road. This includes employees of the proposed business, as well as customers' vehicles. It must be recognized that this is a small residential street which is already adversely impacted by the commercial activity along Joppa Road. In that there is more than sufficient parking on site, it seems appropriate that the Petitioner restrict its parking and short term storage only to the four corners of the property.

Lastly, there were some objections raised as to potential noise generated by the use. In view of same, I will require that the work on motor vehicles be restricted to those hours of operation identified by the Petitioner during his testimony. This will allow the Petitioner to clean up the property after those hours of operation, or finish paperwork and associated activities necessary to conduct business after it is closed to the public, while eliminating potential noise during early morning or late evening hours.

Also, it was agreed that there shall be no underground tanks on the property nor sale of fuel from the site.

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 granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of May, 1994 that a variance from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 0 ft. side yard setback and a 28 ft. rear yard setback, in lieu of the required 30 ft. setbacks for both, for a service garage, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioner shall affix the dumpster to a concrete pad and provide a fence to screen the dumpster.

3. The Petitioner shall seek the neighboring property owner's permission to repair/replace the stockade fence near the dumpster. If permission is received, the fence shall be so upgraded.

4. The Petitioner shall not allow damaged or disabled vehicles to be stored outside of the service garage.

5. The untagged vehicles will not be stored on the site or on the public streets nearby.

6. No vehicles shall be sold from this location.

7. The Petitioner shall not allow parking of vehicles on Eddington Road. This includes

employees of the proposed business, as well as vehicles which are to be repaired by this business.

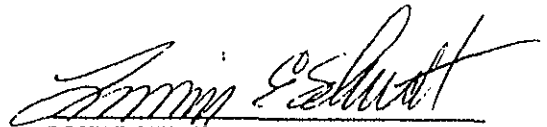
8. The Petitioner shall submit for review and approval a landscape plan to the County's Landscape Architect. The details of this plan shall be mutually agreed by the Developer and the County's Architect. Particular emphasis shall be given to screen the residences nearby.

9. The Petitioner shall remove the freestanding sign pole presently on site. The Petitioner is entitled to erect signs as allowed by the sign regulations in effect at the time of its application for signage.

10. All service garage work shall be performed only during the hours of 8:00 A.M. to 6:00 P.M. Monday thru Friday and 8:00 A.M. to 4:00 P.M. on Saturday.

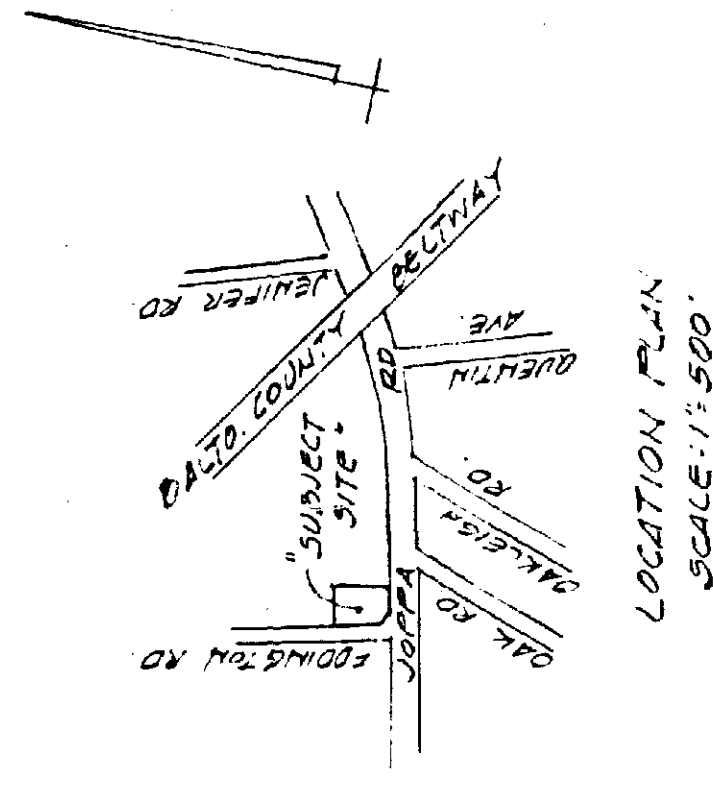
11. There shall be no underground tanks or sale of fuel on the site.

12. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to ensure compliance with this Order.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/rmn



LOCATION PLAN
SCALE: 1"=500'

GENERAL NOTES:

1. AREA OF PROPERTY = 0.32 AC., GROSS = 0.44 AC.
2. EXISTING ZONING OF PROPERTY = "BR-C52"
3. EXISTING USE OF PROPERTY = "VACANT CARRY-OUT"
4. PROPOSED ZONING OF PROPERTY = "BR-C52"
5. PROPOSED USE OF PROPERTY = "SERVICE GARAGE"
6. REQUIRED OFF-STREET PARKING:
7. PROPOSED PARKING SPACES SHOWN = 96 BAYS • 1075
8. PROPERTY SERVED BY PUBLIC UTILITIES
9. PETITIONER REQUESTING A VARIANCE TO SECTION 238.2 OF THE CODE TO PERMIT A 0.5 SIDE YARD AND A 25' REAR YARD IN FULL AS THE REQUIRED 30' (A VARIANCE OF 30' AND 25')
10. PERMITTED F.A.R. = 2.0, PROPOSED = 2.02/1000 S.F. • 0.21
11. PROPOSED SIGNS TO COMPLY WITH SECTION 413 AND ALL ZONING SIGN POLICIES
12. PROPERTY HAS BEEN ZONED TO "COMMERCIAL, C-3.55, CASE 1926A."

94-382A

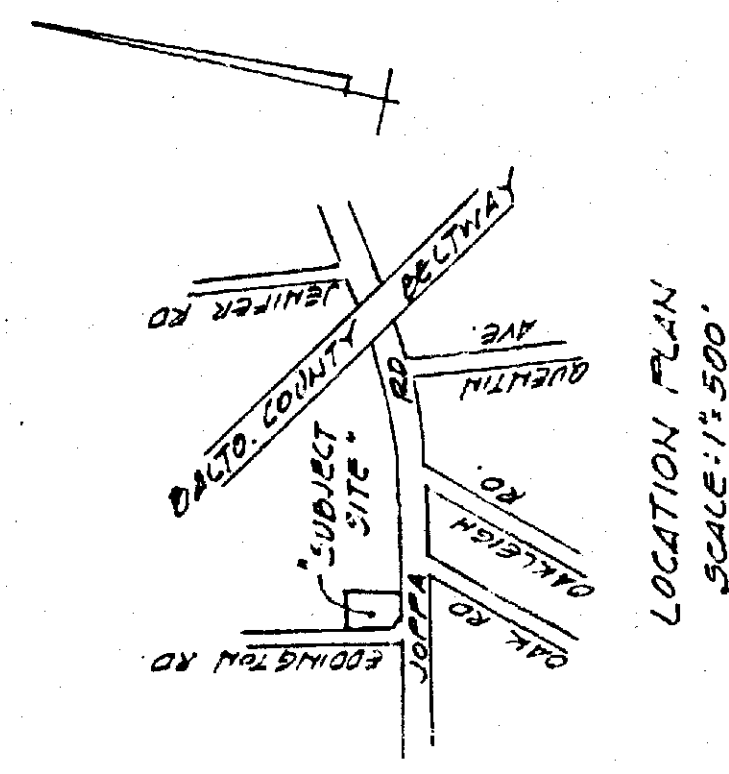
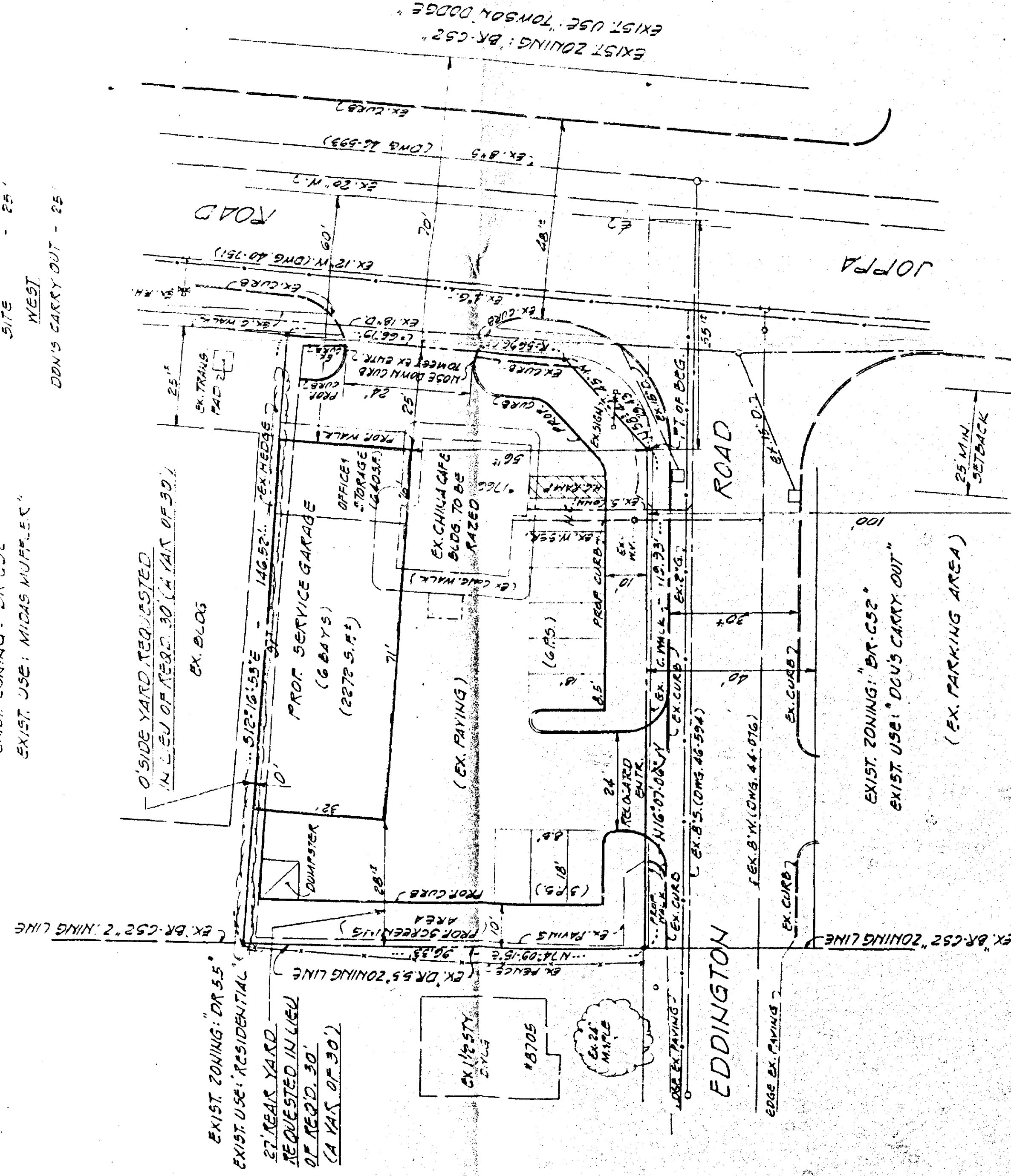
PLAT TO ACCOMPANY PETITION
FOR

VARIANCES
1766 JOPPA ROAD

9TH ELECT DIST. BALTA CO. MD.
SCALE: 1"=20' FEB. 27, 1994
CONVULSIVE 4 ITEM# 368

PAUL LEE ENGINEERING, INC.
304 N. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

34-001



LOCATION PLAN
SCALE: 1"=500'

GENERAL NOTES:

1. AREA OF PROPERTY = 0.32 AC., GROSS = 0.44 AC.
2. EXISTING ZONING OF PROPERTY = "BR-C52"
3. EXISTING USE OF PROPERTY = "VACANT CARRY-OUT"
4. PROPOSED ZONING OF PROPERTY = "BR-C52"
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10. PERMITTED F.A.R. = 2.0, PROPOSED = 2.02/1000 S.F. • 0.21
11. PROPOSED SIGNS TO COMPLY WITH SECTION 413 AND ALL ZONING SIGN POLICIES
12. PROPERTY HAS BEEN ZONED TO "COMMERCIAL, C-3.55, CASE 1926A."
13. COLLECTED JOPPA RD. EXIST. ENTRANCE FROM 24' TO 30' & CORRECTED REAR YD VARIANCE TO 2' PER NOTE 9

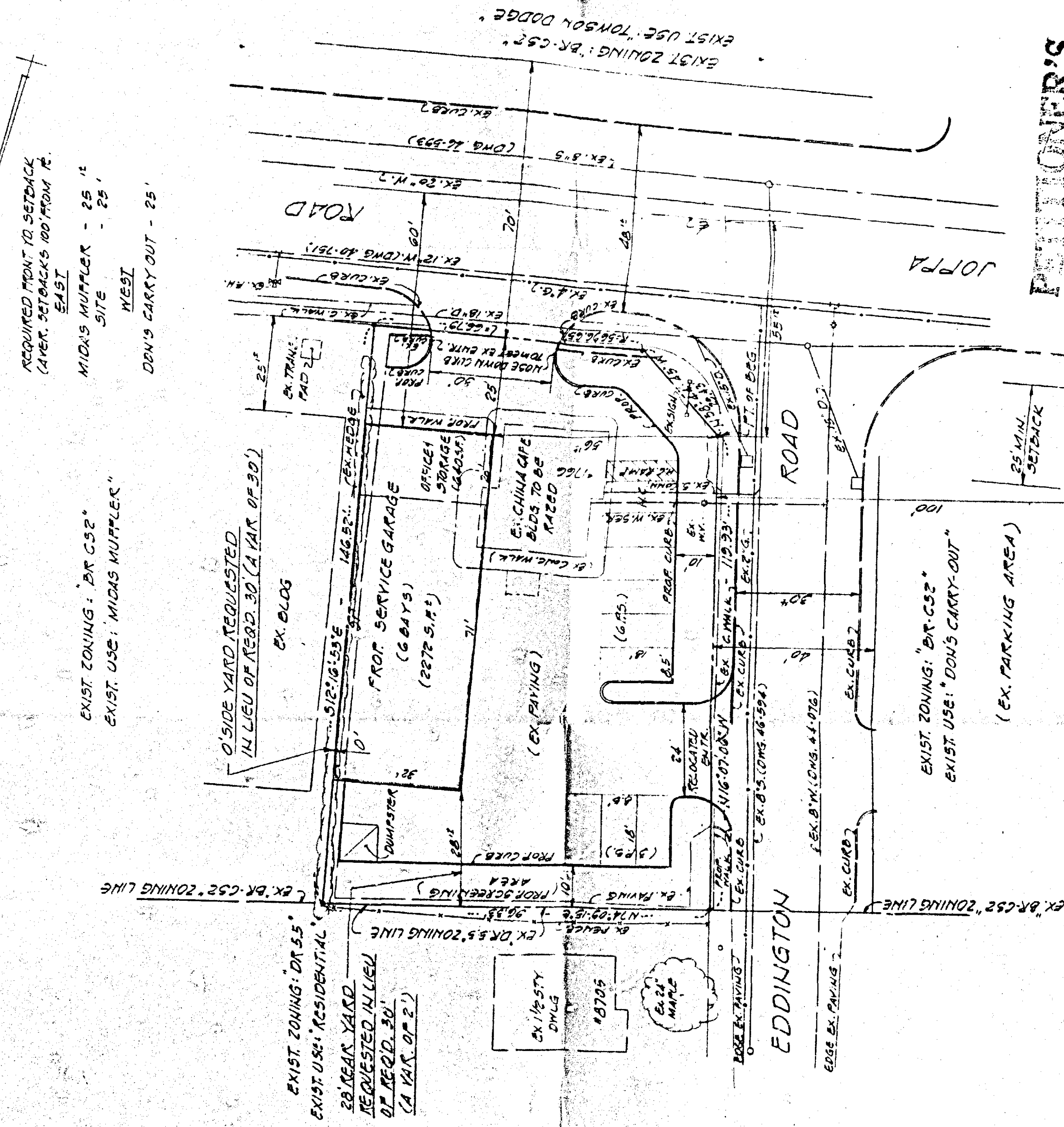
AMENDED PLAT
PLAT TO ACCOMPANY PETITION
FOR

VARIANCES
1766 JOPPA ROAD

9TH ELECT DIST. BALTA CO. MD.
SCALE: 1"=20' FEB. 27, 1994
APRIL 11, 1994

PAUL LEE ENGINEERING, INC.
304 N. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

34-001



PETITIONER'S
EXHIBIT No. 1

10. Extending the proposed (for 8705) replacement stockade fence around the corner and continuing up to the driveway fronting Eddington Rd. We called Mr. Avery Hardin of Baltimore County Landscaping, and discussed this extension of the stockade fence. We believe this extension will not hinder security of the garage property and with plantings in front of the fence will protect the residences (8704, 8706) diagonally across the street from the garage with some screening of related noise and the view of the bays.

Thank you.

Other Concerned Neighbors:

[illegible]

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Donna Spence Clematis Community and Senior and Community Assoc.	8719 Edmonson Rd. Bldg. no. 1033
Paul Schilling	11

WAYNE KINER 1813 EDGEWOOD RD 21234

PETITIONER(S) SIGN-IN SHEET

<u>NAME</u>	<u>ADDRESS</u>
<u>R. BANIHASHEMI</u>	<u>26 Pinewoods Ct. 21234</u>
<u>HASAN NAJAFALI</u>	<u>1726 E. Joppa. AL 21234</u>

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

DATE: April 21, 1994

SUBJECT: Combined comment for Variance and Limited Exemption Plan, ZADM No. IX-620

INFORMATION:

Item Number: 368

Petitioner: Hassan Najafali

Property Size: .32 net acres

Zoning:

Requested Action:

Hearing Date: 5 / 9 / 94

SUMMARY OF RECOMMENDATIONS:

This site is located along the Joppe Road commercial corridor, in an area that has a large number of automotive uses, i.e. automobile dealerships and service garages. This portion of Joppe Road has the typical problems associated with major commercial corridors--high volumes of traffic, frequent curb cuts, lack of shared driveways, inadequate landscape treatment and visual clutter due to the number and size of signs.

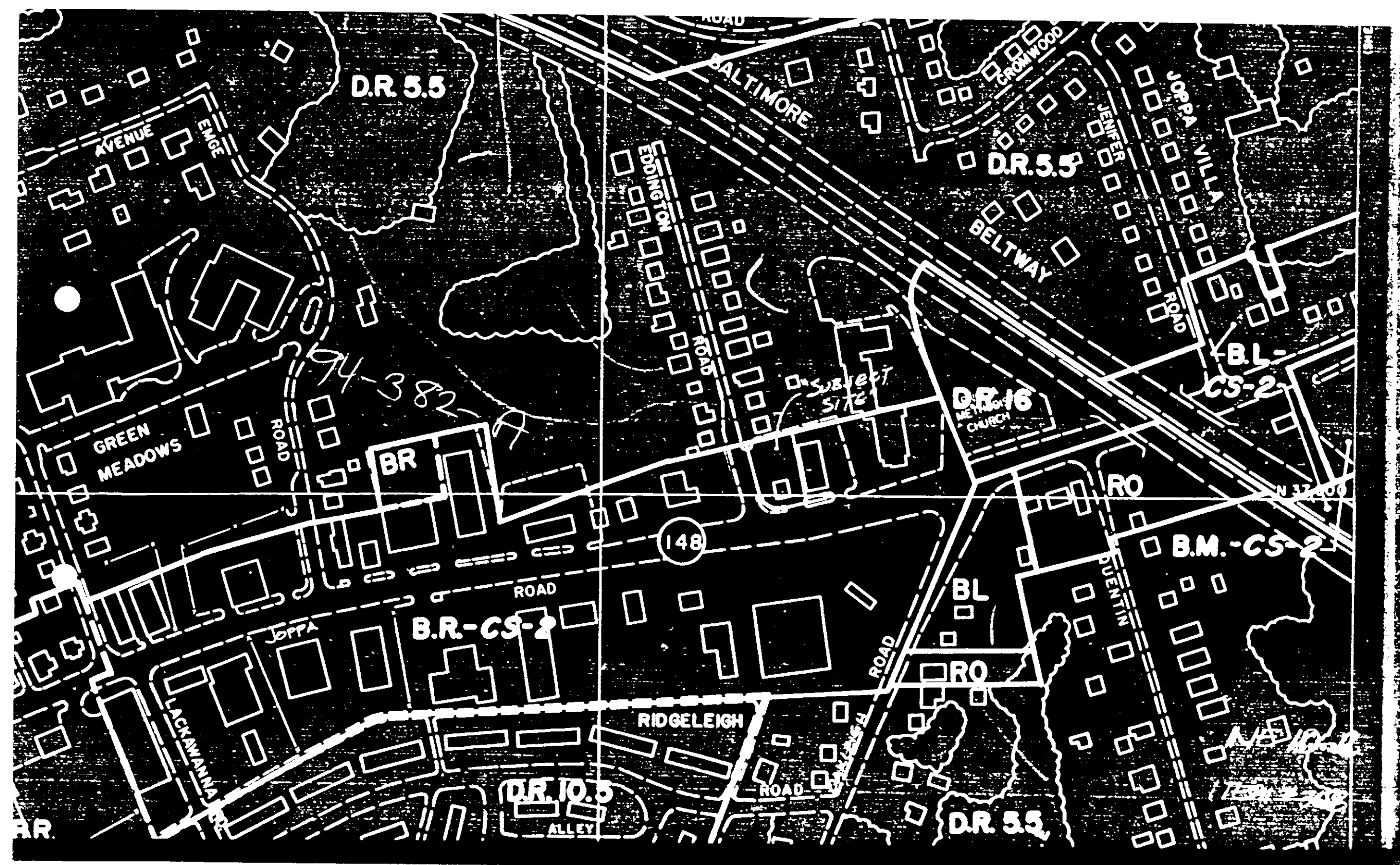
Due to this site's proximity to a Community Conservation Area (the small residential community along Eddington Road) re-development of this site from a vacant carry-out to a 6-bay service garage may have a significant adverse impact upon the adjoining residences and the community unless certain issues are adequately addressed.

A revised site plan and landscape plan is recommended to be reviewed and approved by the County's landscape architect and Director of Planning to address the following:

1. Streetscape should be provided along Joppa Road & Eddington Road frontages;
2. Extensive landscaping in the form of densely planted evergreen screening is needed to buffer the house at 8705 Eddington Road from the parking lot;

620.ZAC/PZONE/ZAC1

Pg. 1



BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: April 18, 1994
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for April 18, 1994
Item No. 368

The Developers Engineering Section has reviewed the subject zoning item. If the variance is granted, the site will be subject to Baltimore County Development Regulations for commercial development. See Department of Public Works Std. Plate R-32 for Commercial Entrances. Also, verify the dimension of the requested rear yard setback variance, as shown on plat (var. of 30').

This site is also subject to the requirements in the Landscape Manual.

RWB:aw

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

(410) 887-4500

DATE: 04/12/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
PHONE: 887-4500

RE: Property Owner:

LOCATION:

Item No.: Zoning Agenda:

Section:

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: 368, 372, 373 and 376.

RECEIVED
APR 13 1994
ZADM

REVIEWER: LT. ROBERT P. SCHERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper

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: May 5, 1994

SUBJECT: Combined comment for Variance and Limited Exemption Plan, ZADM No. IX-620

INFORMATION:

Item Number: 368

Petitioner: Hassan Najafali

Property Size: .32 net acres

Zoning: B.R.

Requested Action:

Hearing Date: 5 / 9 / 94

SUMMARY OF RECOMMENDATIONS:

This site is located along the Joppa Road commercial corridor, in an area that has a large number of automotive uses, i.e. automobile dealerships and service garages. This portion of Joppa Road has the typical problems associated with major commercial corridors--high volumes of traffic, frequent curb cuts, lack of shared driveways, inadequate landscape treatment and visual clutter due to the number and size of signs.

Due to this site's location within a Community Conservation Area, re-development of this site from a vacant carry-out to a 6-bay service garage may have a significant adverse impact upon the adjoining residences and the community unless certain issues are adequately addressed. The Master Plan indicates that "community conservation refers to public and private efforts designed to maintain or enhance the physical, social, and economic resources or the County's older, urban area communities." Under the heading of Community Planning and Conservation, the following policy, in part, is stated on page 37 of the Master Plan.

Baltimore County's planning efforts should be focused on new, as well as existing communities to ensure that the County's built environment provides desirable places for its citizens to live and work....Commercial activities incompatible with the local neighborhood should be restricted in such areas.

620.ZAC/PZONE/ZAC1

Pg. 1

A revised site plan and landscape plan is recommended to be reviewed and approved by the County's landscape architect and Director of Planning to address the following:

1. Streetscape should be provided along Joppa Road & Eddington Road frontages;
2. Extensive landscaping in the form of densely planted evergreen screening is needed to buffer the house at 8705 Eddington Road from the parking lot;
3. It is preferable to have the dumpster fixed to a concrete pad. A stockade fence detail should be provided for the dumpster. The existing stockade fence that is off-site should be replaced with the property owner's permission;
4. No damaged or disabled vehicles may be stored outside the service garage. A note must be added to the plan to that effect;
5. Untagged vehicles were observed at this site and at the existing Pars location on 4/19/94. A note must be added to the plan indicating that untagged vehicles will not be stored on site or on the public street;
6. No vehicles should be sold at this location. A note must be added to the plan to this effect; and
7. A detail should be submitted for the freestanding sign, which should comply with the new sign regulations. The existing sign pole should be removed.

Prepared by:

Division Chief:

PK/DI:pat

620.ZAC/PZONE/ZAC1

Pg. 2

PETITION FOR VARIANCE : BEFORE THE
NEC Joppa Road and Eddington Road : ZONING COMMISSIONER
(1766 Joppa Road), 9th Election :
Dist., 4th Councilmanic Dist. : OF BALTIMORE COUNTY

PETITIONER : CASE NO: 94-382-A
HASSAN NAJAFALI

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
People's Counsel for Baltimore County

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

I HEREBY CERTIFY THAT on this 4th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to Francis X. Borgerding, Jr., Esq., 409 Washington Avenue, Suite 600, Towson, MD 21204, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

APRIL 19, 1994

Francis X. Borgerding, Jr., Esq.
409 Washington Avenue #600
Towson, Maryland 21204

Re: Case Number: 94-382-A
Location: 1766 Joppa Road
Petitioner: Hassan Najafali

Dear Frank:

An error was made in the Notice of Hearing forwarded with regard to the above captioned case. Please change your records to reflect a hearing date of Monday, May 9, 1994 at 10:00 a.m. in Rm. 118 Old Courthouse.

Very truly yours,

G. G. Stephens
887-3391

cc: Hassan Najafali

Printed with Recycled Ink on Recycled Paper

DINENNA AND BRESCHI

ATTORNEYS AT LAW

GEORGE A. DINENNA
FRANCIS X. BORGERDING, JR.
ROBERT A. BRESCHI
BALDWIN MEMBER OF DISTRICT OF COLUMBIA BAR

MERCANTILE BLDG., SUITE 600
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3353
FAX (410) 887-3354

N. ERIC DINENNA
(1988-1991)
OF COUNSEL
JENKINS & A WALT

May 6, 1994

Lawrence Schmidt
Zoning Commissioner for Baltimore County
Old Court House
400 Washington Avenue
Towson, Maryland 21204

RE: Case No.: 94-382-A
Location: 1766 Joppa Road
Petitioner: Hassan Najafali

Dear Mr. Commissioner:

I am writing on behalf of my client in regard to the above-referenced case which is set for hearing on Monday, May 9, 1994, at 10:00 a.m. in Room 118 of the Old Court House. The above-referenced matter was originally scheduled for hearing on Thursday, May 5, 1994, at 10:00 a.m. I was subsequently notified by the correspondence attached hereto that the above-referenced hearing would be heard on Monday, May 9, 1994, at 10:00 a.m. However, through my own inadvertence, I failed to change this matter on my calendar. On Monday, May 9, 1994, at 10:00 a.m. I am scheduled to appear before the United States Bankruptcy Court for the District of Maryland in relation to the case of In Re: Timothy R. and Debra G. Swift, case number 93-5-8517 JS, adversary number 94-5077-JS.

At this time, I have been unable to reschedule the above-referenced bankruptcy matter and am therefore writing to inquire as to whether or not the above-referenced hearing could be heard some time in the afternoon of Monday, May 9, 1994, if your schedule permits. I apologize for this request on the eve of hearing, however, if the hearing could be rescheduled for the afternoon of Monday, May 9, 1994, my client would be more than willing to repeat the new time on the sign in reference to the hearing as well as notify any interested parties that he is or would be made aware of.

Once again, my apologies for this request and I thank you very much for your consideration of this matter.

Very truly yours,

FRANCIS X. BORGERDING, JR.

FXBJr:bjk

Cromwood, Coventry,
and Satyr Hill
Community Association

MAY 14, 1994

Commissioner Lawrence Schmidt
Baltimore County Zoning Office
Old Courthouse Building
Towson, MD. 21204

Dear Mr. Commissioner,

Concerning Case #94-382A, PARS AUTO SERVICE to locate 1766 E. Joppa Rd., we ask you to take under full consideration points discussed during hearing held 3 p.m. May 9, 1994.

We agree with Mr. Pat Keller, Deputy Director Office of Planning and Zoning, this six bay garage may have significant adverse impact upon the adjoining residences and the community unless certain issues are adequately addressed.

We agree with Mr. Keller's recommendations:

1. Streetscape along Joppa Rd. and Eddington Rd.
2. Extensive landscaping to buffer residence at 8705 Eddington Rd.
3. Dumpster fixed to concrete pad, with stockade fence detail. Existing stockade fence should be replaced to protect 8705 Eddington Rd.
4. No damaged or disabled vehicles to be stored outside of garage.
5. No untagged vehicles will be stored on site or on public street.
6. No vehicles will be sold at this location.
7. A new sign to comply with sign regulations and existing pole removed.

Also items discussed during the hearing we hope will be seriously considered:

8. No on street parking of customers or employees. A just concern because of limited parking on site of proposed garage and safety concern for traffic entering and leaving Eddington Rd. (Mr. Hassan Najafali agreed to this point at the hearing.)
9. Limiting mechanical noise to Mr. Najafali's stated business hours (8 a.m. to 6 p.m. Monday thru Friday and 8 a.m. to 4 p.m. on Saturday.) This is our biggest concern due to the multiple sources of noise we now endure and because we have



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1766 Joppa Rd., Baltimore, MD 21234
which is presently zoned B.R.-CNS

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 238.2 of the BCZR to permit a 0 foot side yard and a 28 foot rear yard set back in lieu of the required 30 foot set backs (A variance of 30 feet and 2 feet)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

- 1) Shape and configuration of the property; and
- 2) Such other and further reasons to be presented at the time of the hearing of this matter.

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.

Contact Purchaser/Lessor

Type or Print Name

Signature

Address

City

State

Zipcode

Attorney for Petitioner

Francis X. Borgerding, Jr.

Type or Print Name

Signature

409 Wash. Ave., Ste. 600 296-6820

Towson

MD

21204

City

State

Zipcode

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

Legal Owner(s)

Hassan Najafali

Type or Print Name

Hassan Najafali

Signature

Address

City

State

Zipcode

Attorney for Petitioner

2737 Superior Ave. 256-4004

Type or Print Name

Baltimore MD 21234

City

State

Zipcode

Name, Address and phone number of representative to be contacted

Francis X. Borgerding, Jr.

Type or Print Name

409 Washington Ave., Ste. 600

Towson

MD

21204

City

State

Zipcode

ESTIMATED LENGTH OF HEARING

minutes

the following date

ALL

OTHER

REVIEWED BY: R.T.

DATE: 5-29-94

ITEM # 368

Paul Lee P.B.

Paul Lee Engineering Inc.
303 W. Pennsylvania Ave.
Towson, Maryland 21204
410-821-5341

DESCRIPTION

1766 JOPPA ROAD

9th ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the east side of Eddington Road, said point also being located 53 feet ± from the center of Joppa Road; thence binding on the east side of Eddington Road (1) N 16°07'06" W - 119.93 feet, thence leaving said east side of Eddington Road (2) N 74°09'15" E - 96.33 feet thence (3) S 12°16'53" E - 146.52 feet to the north side of Joppa Road, thence binding on the north side of Joppa Road by a curve to the right (4) R= 5696.65 feet for an arc length of 66.79 feet and (5) N 58°44'45" W - 29.43 feet to the point of beginning.

Containing 0.32 acres of land more or less.



2/23/94

J.C. 94-001

Engineers - Surveyors - Site Planners

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 9th

Date of Posting: 4/17/94

Posted for: Variance

Petitioner: Hassan Najafali

Location of property: 1766 Joppa Rd., NE/Sec. 5, Eddington Rd.

Location of Sign: Being two days, and properly being served

Remarks:

Posted by: [Signature]

Date of return: 4/22/94

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD.

April 15, 1994

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 April 14, 1994.

THE JEFFERSONIAN,

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 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
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:
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
CASE NUMBER: 94-382-A (Item 368)
1766 Joppa Road
NEC Joppa Road and Eddington Road
9th Election District - 4th Councilmanic
Petitioner(s): Hassan Najafali
HEARING: MONDAY, MAY 5, 1994 at 10:00 a.m., Rm. 118, Old Courthouse.
Variance to permit a zero ft. side yard and a 28 ft. rear yard setback in lieu of the required 30 ft. setback.
[Signature]
Arnold Jablon
Director
cc: Hassan Najafali
Francis X. Borgerding, Jr., Esq.
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 FILING AND/OR HEARING, CONTACT THIS OFFICE BY 887-3391.

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.: 368

Petitioner: HASSAN NAJAFALI

Location: 1766 JOPPA ROAD - 21234

PLEASE FORWARD ADVERTISING BILL TO:

NAME: HASSAN NAJAFALI

ADDRESS: 2737 SUPERIOR AVE 41234

PHONE NUMBER: 256 4004

AJ:ggg

(Revised 04/09/93)

TO: FUTURE PUBLISHING COMPANY
April 14, 1994 Issue - Jeffersonian

Please forward billing to:

Hassan Najafali
2737 Superior Avenue
Baltimore, Maryland 21234
256-4004

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 as follows:
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:
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CASE NUMBER: 94-382-A (Item 368)
1766 Joppa Road
NEC Joppa Road and Eddington Road
9th Election District - 4th Councilmanic
Petitioner(s): Hassan Najafali
HEARING: MONDAY, MAY 5, 1994 at 10:00 a.m., Rm. 118, Old Courthouse.

Variance to permit a zero ft. side yard and a 28 ft. rear yard setback in lieu of the required 30 ft. setback.

LAWRENCE E. SCHWEDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

APRIL 8, 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 as follows:
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:
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CASE NUMBER: 94-382-A (Item 368)
1766 Joppa Road
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Petitioner(s): Hassan Najafali
HEARING: MONDAY, MAY 5, 1994 at 10:00 a.m., Rm. 118, Old Courthouse.

Variance to permit a zero ft. side yard and a 28 ft. rear yard setback in lieu of the required 30 ft. setback.

[Signature]
Arnold Jablon
Director

cc: Hassan Najafali
Francis X. Borgerding, Jr., Esq.

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(3) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, CONTACT THIS OFFICE BY 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 2, 1994

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: Case No. 94-382-A, Item No. 368
Petitioner: Hassan Najafali
Petition for Variance

Dear Mr. Borgerding:

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 March 29, 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.

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
NEC Joppa Road and Eddington * ZONING COMMISSIONER
Road *
1766 Joppa Road *
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District * Case No. 94-382-A
Hassan Najafali
Petitioner * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a Zoning Variance for the property located at 1766 Joppa Road adjacent to that roadways intersection with Eddington Road. Variance relief is requested from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 0 ft. side yard setback and a 28 ft. rear yard setback, in lieu of the required 30 ft. setbacks for both. The subject property and requested relief are more particularly shown on the amended site plan, submitted as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was the property owner, Hassan Najafali and his associate, R. Banihashemi. These gentlemen are the proprietors of the contemplated business on the site. Also appearing was Paul Lee, the Engineer who prepared the site plan. The Petitioner was represented by Francis X. Borgerding, Jr., Esquire. A number of concerned residents of the surrounding locale also appeared. They included Donna Spicer, representing the Cromwood, Coventry, and Satyr Hill Community Association, Paul Schilling and Wayne Skinner.

Testimony was received from Hassan Najafali. He indicated that he has owned the subject property for about 6 months. He described the property as being located along the highly commercial corridor of Joppa Road near the overpass for I-695 (Baltimore Beltway). There are similar uses in the subject locale including a Midas Muffler Shop immediately next

door. Mr. Najafali proposes operating a service garage on the site. Presently, he operates his business at a rental property nearby. The proposed hours of operation are Monday through Friday, 8:00 A.M. to 6:00 P.M. and 8:00 A.M. to 4:00 P.M. on Saturday. He noted that the nature of the business is to repair and service automobiles. There will be no unlicensed vehicles on site and there will be no body work.

Also testifying was Paul Lee, who prepared the plan. Mr. Lee noted that the site is .32 acres in net area and is zoned B.R.-C.N.2. In that the site is zoned B.R., the service garage use is permitted by right. Mr. Lee also traced the history of the site noting that same had been commercially zoned since 1952. A series of small fast food type restaurants have been on the property in the recent past. The Petitioner proposes razing the existing structure and building a 32 ft. by 91 ft. building. The building will be located on the east side of the property. The building will contain 6 service bays and a small office and storage area. Presently, the site has two curb cuts for vehicular access. One is from Joppa Road and the second from Eddington Road. The Eddington Road access will be modified and relocated closer to Joppa Road away from the residences which are located further down Eddington Road.

Mr. Lee also noted that the building will be located on the extreme east side of the property immediately abutting the property line. The neighbor on this side of the property is the Midas Muffler Shop. Thus, there appears to be no detrimental affect to that property owner in that these businesses are identical in nature and the properties are used in a similar manner. Moreover, the building is set back approximately 25 ft. from Joppa Road, consistent with the Midas Muffler location. In fact, the building is slightly narrower than the Midas building so that a greater

-2-

rear setback distance has been provided. Mr. Lee also testified that 15 parking spaces were provided, including the 6 in the garage, whereas only 10 are required under B.C.Z.R.

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).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requested, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular par-

-3-

cel. In addition, the variance requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

Notwithstanding my approval of the variances, the Protestants that were present requested several restrictions in this Order. Particularly, although conceding that the use is located only the commercial corridor of Joppa Road, they note that a residential community exists to the rear of the site on Eddington Road. They are particularly fearful of the impact of the use on those houses as well as residences located across the street.

A significant volume of testimony was heard about proposed restrictions. Also, I reviewed the Zoning Plans Advisory Committee comments including those from the Department of Public Works (DPW) and the Office of Planning and Zoning (OPZ). The Petitioner agreed to accept a number of restrictions suggested by OPZ. These include requirements that the dumpster be fixed to a concrete pad and that certain improvements be made to a stockade fence on the northeast side of the property. It was also agreed that no damaged or disabled vehicles will be stored outside of the service garage and that untagged vehicles will not be stored on the street. Lastly, it was agreed that no vehicles should be sold from this location. In addition to these restrictions requested by OPZ, several others were sought by the neighbors and will be implemented to ensure that the locale will not be adversely affected by this use and the required variances. Specifically, I shall require the Petitioner to submit for review and approval a landscape plan to the County's Landscape Architect. I will defer in making any specific recommendations as to the plantings and location of landscaping required but will defer to the expertise of Mr. Avery Harden, Baltimore County's Landscape Architect. It is particu-

-4-

larly observed that the rear portion of the site should be significantly landscaped so as to prevent an adverse impact on the homes to the rear of the site. Landscaping appears warranted along Eddington Road to buffer those homes and properties located across Joppa Road. I am confident that the Developers Engineer and the Landscape Architect can reach a reasonable and mutually agreed upon plan to buffer the area while recognizing the limitations on the size and permitted use on this site.

I shall also require the Petitioner to remove the freestanding sign pole which is presently on site. Observations made during a site visit disclosed the pole to be unattractive and unnecessary. The Petitioner is entitled to any signage as allowed by the sign regulations in effect at the time of its application for signage.

Also, there shall be no parking of vehicles on Eddington Road. This includes employees of the proposed business, as well as customers' vehicles. It must be recognized that this is a small residential street which is already adversely impacted by the commercial activity along Joppa Road. In that there is more than sufficient parking on site, it seems appropriate that the Petitioner restrict its parking and short term storage only to the four corners of the property.

Lastly, there were some objections raised as to potential noise generated by the use. In view of same, I will require that the work on motor vehicles be restricted to those hours of operation identified by the Petitioner during his testimony. This will allow the Petitioner to clean up the property after those hours of operation, or finish paperwork and associated activities necessary to conduct business after it is closed to the public, while eliminating potential noise during early morning or late evening hours.

-5-

Also, it was agreed that there shall be no underground tanks on the property nor sale of fuel from the site.

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 granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of May, 1994 that a variance from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 0 ft. side yard setback and a 28 ft. rear yard setback, in lieu of the required 30 ft. setbacks for both, for a service garage, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner shall affix the dumpster to a concrete pad and provide a fence to screen the dumpster.
3. The Petitioner shall seek the neighboring property owner's permission to repair/replace the stockade fence near the dumpster. If permission is received, the fence shall be so upgraded.
4. The Petitioner shall not allow damaged or disabled vehicles to be stored outside of the service garage.
5. The untagged vehicles will not be stored on the site or on the public streets nearby.
6. No vehicles shall be sold from this location.
7. The Petitioner shall not allow parking of vehicles on Eddington Road. This includes

employees of the proposed business, as well as vehicles which are to be repaired by this business.

8. The Petitioner shall submit for review and approval a landscape plan to the County's Landscape Architect. The details of this plan shall be mutually agreed by the Developer and the County's Architect. Particular emphasis shall be given to screen the residences nearby.

9. The Petitioner shall remove the freestanding sign pole presently on site. The Petitioner is entitled to erect signs as allowed by the sign regulations in effect at the time of its application for signage.

10. All service garage work shall be performed only during the hours of 8:00 A.M. to 6:00 P.M. Monday thru Friday and 8:00 A.M. to 4:00 P.M. on Saturday.

11. There shall be no underground tanks or sale of fuel on the site.

12. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to ensure compliance with this Order.

LBS:mmn


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

-7-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

May 23, 1994

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue
Suite 600
Towson, Maryland 21204

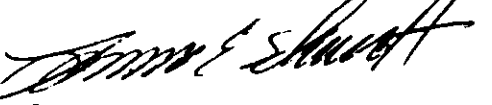
RE: Case No. 94-382-A
Petition for Zoning Variance
Property: 1766 Joppa Road
Hassan Najafali, Petitioner

Dear Mr. Borgerding:

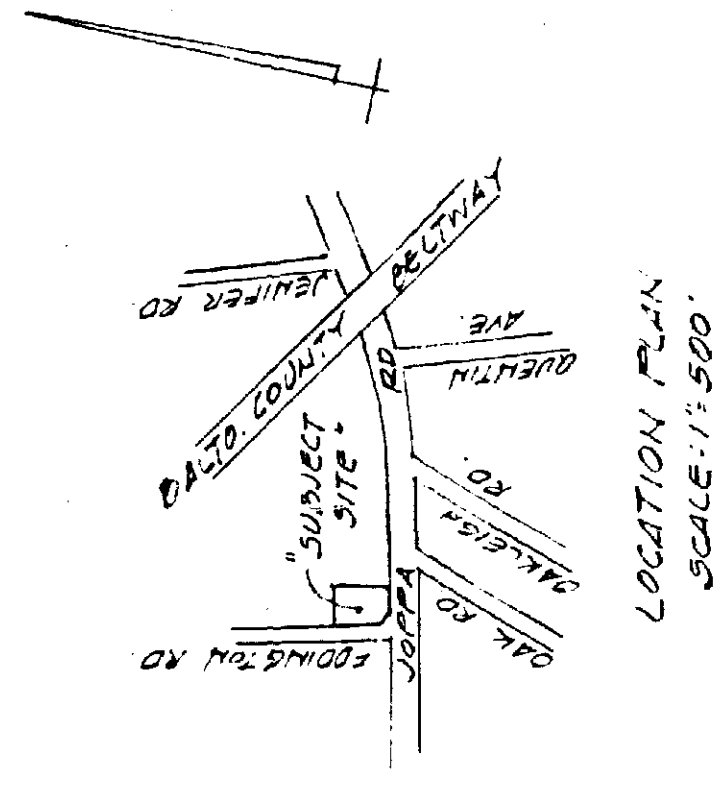
Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

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

LBS:mmn
att.
cc: Ms. Donna Spicer, Cromwood, Coventry and Satyr Hill Comm. Assoc.
cc: Mr. Wayne Skinner



LOCATION PLAN
SCALE: 1"=500'

GENERAL NOTES:

1. AREA OF PROPERTY = 0.32 AC., GROSS = 0.44 AC.
2. EXISTING ZONING OF PROPERTY = "BR-C52"
3. EXISTING USE OF PROPERTY = "VACANT CARRY-OUT"
4. PROPOSED ZONING OF PROPERTY = "BR-C52"
5. PROPOSED USE OF PROPERTY = "SERVICE GARAGE"
6. REQUIRED OFF-STREET PARKING:
7. PROPOSED PARKING SPACES SHOWN = 96 BAYS • 1075
8. PROPERTY SERVED BY PUBLIC UTILITIES
9. PETITIONER REQUESTING A VARIANCE TO SECTION 238.2 OF THE CODE TO PERMIT A 0.5 SIDE YARD AND A 25' REAR YARD IN FULL AS THE REQUIRED 30' (A VARIANCE OF 30' AND 25')
10. PERMITTED F.A.R. = 2.0, PROPOSED = 2.02/1000 S.F. • 0.21
11. PROPOSED SIGNS TO COMPLY WITH SECTION 413 AND ALL ZONING SIGN POLICIES
12. PROPERTY HAS BEEN ZONED TO S. COMMERCIAL, 6-5-55, CASE 1226A.

94-382A

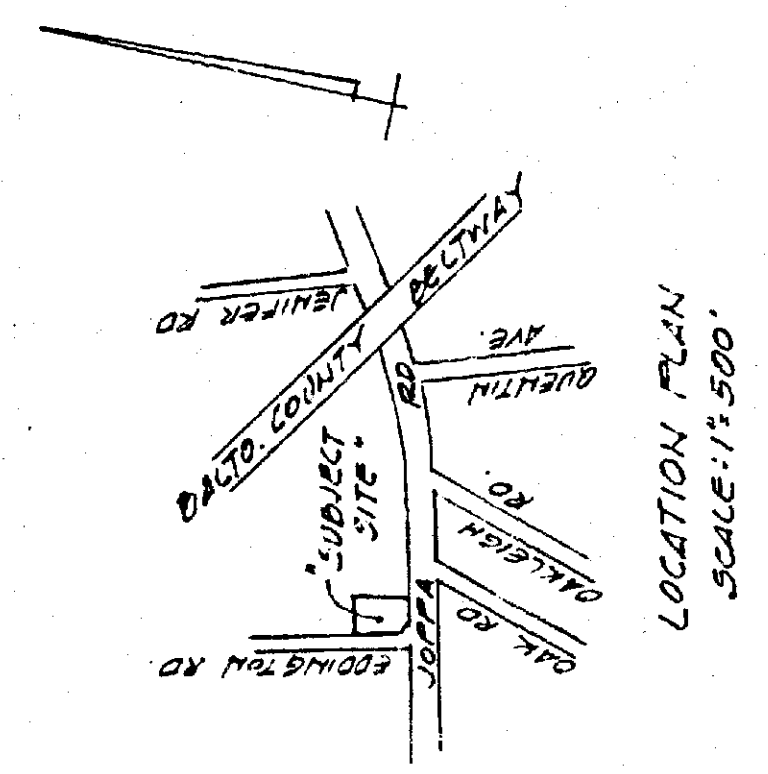
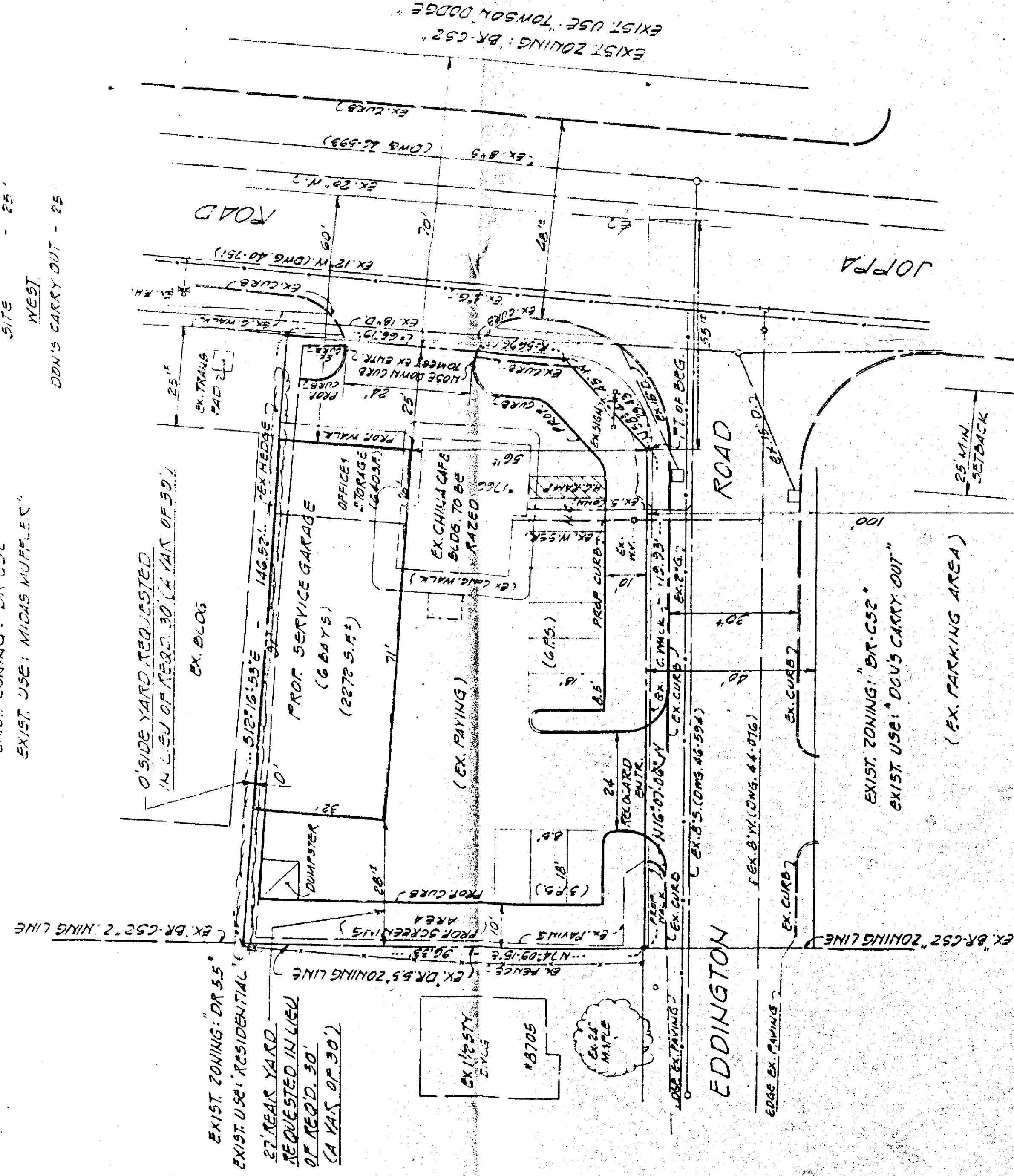
PLAT TO ACCOMPANY PETITION
FOR

VARIANCES
1766 JOPPA ROAD

9TH ELECT DIST. BALTA. CO. MD.
SCALE: 1"=20' FEB. 27, 1994
CONVULSIVE 4 ITEM# 368

PAUL LEE ENGINEERING, INC.
304 N. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

34-001



LOCATION PLAN
SCALE: 1"=500'

GENERAL NOTES:

1. AREA OF PROPERTY = 0.32 AC., GROSS = 0.44 AC.
2. EXISTING ZONING OF PROPERTY = "BR-C52"
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10. PERMITTED F.A.R. = 2.0, PROPOSED = 2.02/1000 S.F. • 0.21
11. PROPOSED SIGNS TO COMPLY WITH SECTION 413 AND ALL ZONING SIGN POLICIES
12. PROPERTY HAS BEEN ZONED TO S. COMMERCIAL, 6-5-55, CASE 1226A.
13. COLLECTED JOPPA RD. EXIST. ENTRANCE FROM 24' TO 30' & CORRECTED REAR YD VARIANCE TO 2' PER NOTE 9

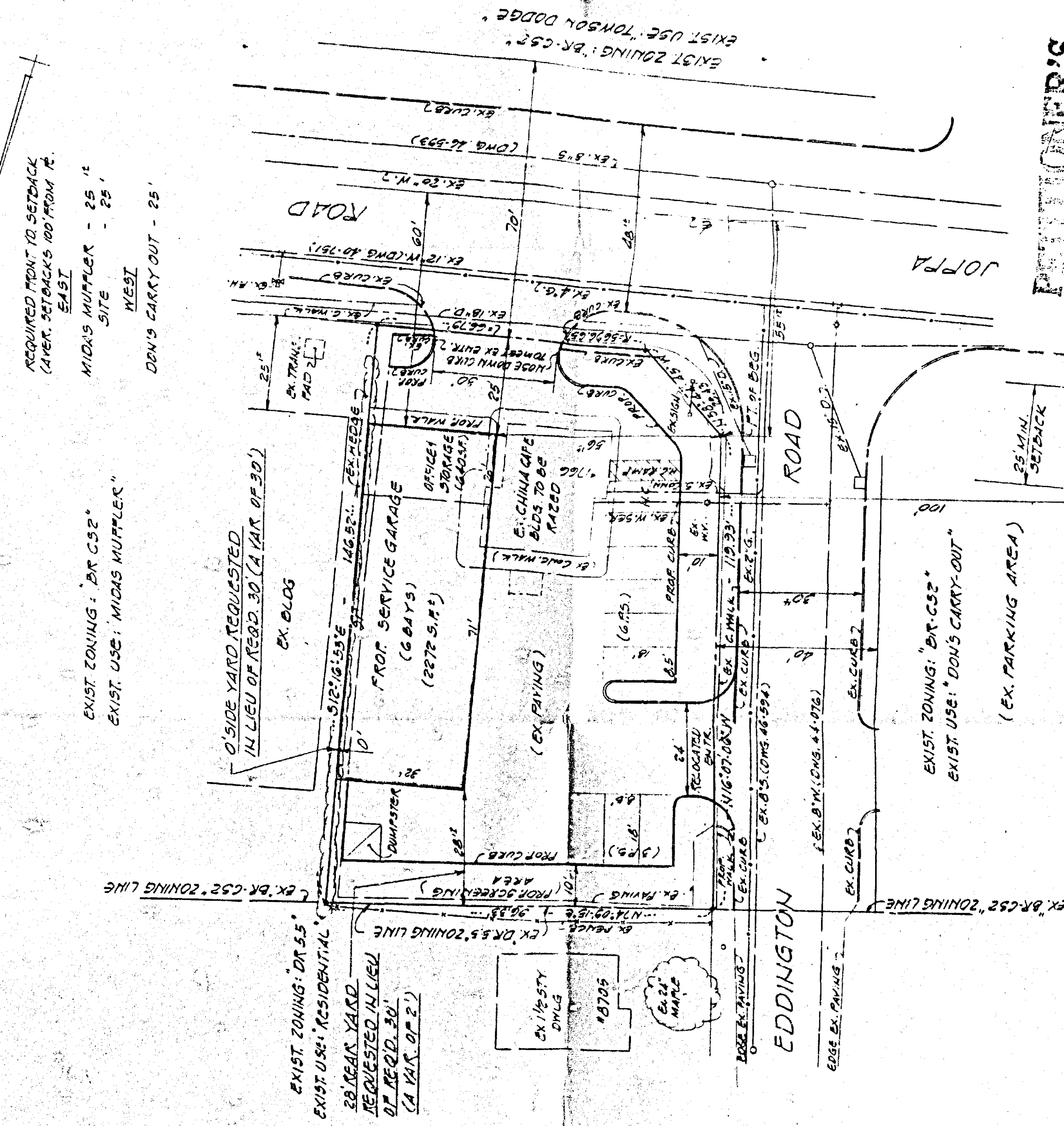
AMENDED PLAT
PLAT TO ACCOMPANY PETITION
FOR

VARIANCES
1766 JOPPA ROAD

9TH ELECT DIST. BALTA. CO. MD.
SCALE: 1"=20' FEB. 27, 1994
APRIL 11, 1994

PAUL LEE ENGINEERING, INC.
304 N. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

34-001



PETITIONER'S
EXHIBIT No. 1

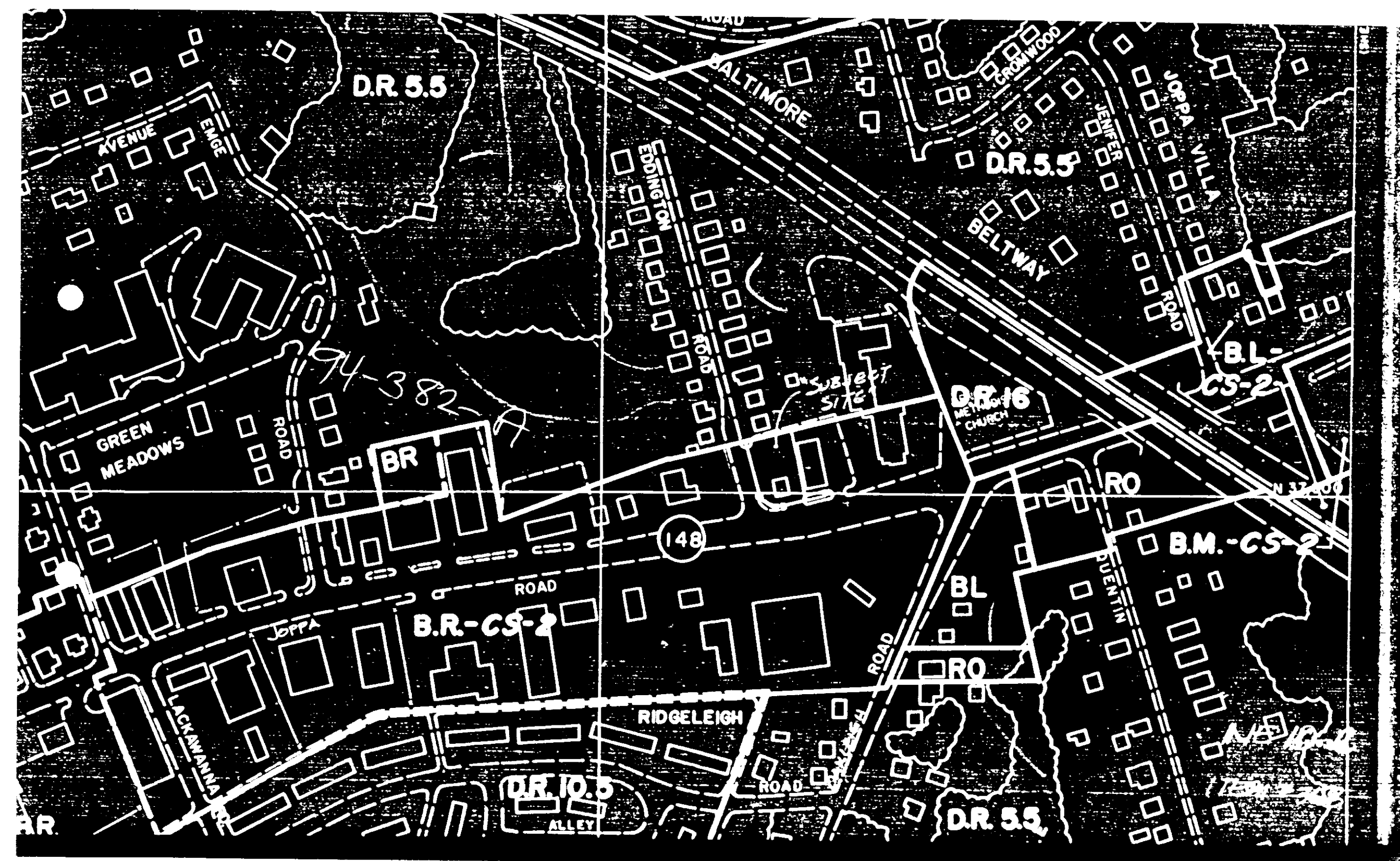
10. Extending the proposed (for 8705) replacement stockade fence around the corner and continuing up to the driveway fronting Eddington Rd. We called Mr. Avery Hardin of Baltimore County Landscaping, and discussed this extension of the stockade fence. We believe this extension will not hinder security of the garage property and with plantings in front of the fence will protect the residences (8704, 8706) diagonally across the street from the garage with some screening of related noise and the view of the bays.

Thank you.

Other Concerned Neighbors:
Name

[illegible][illegible][illegible]

Fig. 1



BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: April 18, 1994
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for April 18, 1994
Item No. 368

The Developers Engineering Section has reviewed the subject zoning item. If the variance is granted, the site will be subject to Baltimore County Development Regulations for commercial development. See Department of Public Works Std. Plate R-32 for Commercial Entrances. Also, verify the dimension of the requested rear yard setback variance, as shown on plat (var. of 30').

This site is also subject to the requirements in the Landscape Manual.

RWB:aw

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

(410) 887-4500

DATE: 04/12/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
PHONE: 887-4500

RE: Property Owner:

LOCATION:

Item No.: Zoning Agenda:

Section:

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: 368, 372, 373 and 376.

RECEIVED
APR 13 1994
ZADM

REVIEWER: LT. ROBERT P. SCHERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper

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: May 5, 1994

SUBJECT: Combined comment for Variance and Limited Exemption Plan, ZADM No. IX-620

INFORMATION:

Item Number: 368

Petitioner: Hassan Najafali

Property Size: .32 net acres

Zoning: B.R.

Requested Action:

Hearing Date: 5 / 9 / 94

SUMMARY OF RECOMMENDATIONS:

This site is located along the Joppa Road commercial corridor, in an area that has a large number of automotive uses, i.e. automobile dealerships and service garages. This portion of Joppa Road has the typical problems associated with major commercial corridors--high volumes of traffic, frequent curb cuts, lack of shared driveways, inadequate landscape treatment and visual clutter due to the number and size of signs.

Due to this site's location within a Community Conservation Area, re-development of this site from a vacant carry-out to a 6-bay service garage may have a significant adverse impact upon the adjoining residences and the community unless certain issues are adequately addressed. The Master Plan indicates that "community conservation refers to public and private efforts designed to maintain or enhance the physical, social, and economic resources or the County's older, urban area communities." Under the heading of Community Planning and Conservation, the following policy, in part, is stated on page 37 of the Master Plan.

Baltimore County's planning efforts should be focused on new, as well as existing communities to ensure that the County's built environment provides desirable places for its citizens to live and work....Commercial activities incompatible with the local neighborhood should be restricted in such areas.

620.ZAC/PZONE/ZAC1

Pg. 1

A revised site plan and landscape plan is recommended to be reviewed and approved by the County's landscape architect and Director of Planning to address the following:

1. Streetscape should be provided along Joppa Road & Eddington Road frontages;
2. Extensive landscaping in the form of densely planted evergreen screening is needed to buffer the house at 8705 Eddington Road from the parking lot;
3. It is preferable to have the dumpster fixed to a concrete pad. A stockade fence detail should be provided for the dumpster. The existing stockade fence that is off-site should be replaced with the property owner's permission;
4. No damaged or disabled vehicles may be stored outside the service garage. A note must be added to the plan to that effect;
5. Untagged vehicles were observed at this site and at the existing Pars location on 4/19/94. A note must be added to the plan indicating that untagged vehicles will not be stored on site or on the public street;
6. No vehicles should be sold at this location. A note must be added to the plan to this effect; and
7. A detail should be submitted for the freestanding sign, which should comply with the new sign regulations. The existing sign pole should be removed.

Prepared by:

Division Chief:

PK/DI:pat

620.ZAC/PZONE/ZAC1

Pg. 2

PETITION FOR VARIANCE : BEFORE THE
NEC Joppa Road and Eddington Road : ZONING COMMISSIONER
(1766 Joppa Road), 9th Election :
Dist., 4th Councilmanic Dist. : OF BALTIMORE COUNTY

PETITIONER : CASE NO: 94-382-A
HASSAN NAJAFALI

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
People's Counsel for Baltimore County

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

I HEREBY CERTIFY THAT on this 4th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to Francis X. Borgerding, Jr., Esq., 409 Washington Avenue, Suite 600, Towson, MD 21204, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

APRIL 19, 1994

Francis X. Borgerding, Jr., Esq.
409 Washington Avenue #600
Towson, Maryland 21204

Re: Case Number: 94-382-A
Location: 1766 Joppa Road
Petitioner: Hassan Najafali

Dear Frank:

An error was made in the Notice of Hearing forwarded with regard to the above captioned case. Please change your records to reflect a hearing date of Monday, May 9, 1994 at 10:00 a.m. in Rm. 118 Old Courthouse.

Very truly yours,

G. G. Stephens
887-3391

cc: Hassan Najafali

Printed with Recycled Ink on Recycled Paper

DINENNA AND BRESCHI
ATTORNEYS AT LAW

GEORGE A. DINENNA
FRANCIS X. BORGERDING, JR.
ROBERT A. BRESCHI
BALDWIN MEMBER OF DISTRICT OF COLUMBIA BAR

MERCANTILE BLDG., SUITE 600
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3353
FAX (410) 887-3354

N. ERIC DINENNA
(1988-1991)
OF COUNSEL
JENKINS & A WALT

May 6, 1994

Lawrence Schmidt
Zoning Commissioner for Baltimore County
Old Court House
400 Washington Avenue
Towson, Maryland 21204

RE: Case No.: 94-382-A
Location: 1766 Joppa Road
Petitioner: Hassan Najafali

Dear Mr. Commissioner:

I am writing on behalf of my client in regard to the above-referenced case which is set for hearing on Monday, May 9, 1994, at 10:00 a.m. in Room 118 of the Old Court House. The above-referenced matter was originally scheduled for hearing on Thursday, May 5, 1994, at 10:00 a.m. I was subsequently notified by the correspondence attached hereto that the above-referenced hearing would be heard on Monday, May 9, 1994, at 10:00 a.m. However, through my own inadvertence, I failed to change this matter on my calendar. On Monday, May 9, 1994, at 10:00 a.m. I am scheduled to appear before the United States Bankruptcy Court for the District of Maryland in relation to the case of In Re: Timothy R. and Debra G. Swift, case number 93-5-8517 JS, adversary number 94-5077-JS.

At this time, I have been unable to reschedule the above-referenced bankruptcy matter and am therefore writing to inquire as to whether or not the above-referenced hearing could be heard some time in the afternoon of Monday, May 9, 1994, if your schedule permits. I apologize for this request on the eve of hearing, however, if the hearing could be rescheduled for the afternoon of Monday, May 9, 1994, my client would be more than willing to repeat the new time on the sign in reference to the hearing as well as notify any interested parties that he is or would be made aware of.

Once again, my apologies for this request and I thank you very much for your consideration of this matter.

Very truly yours,

FRANCIS X. BORGERDING, JR.

FXBJr:bjk

Cromwood, Coventry,
and Satyr Hill
Community Association

MAY 14, 1994

Commissioner Lawrence Schmidt
Baltimore County Zoning Office
Old Courthouse Building
Towson, MD. 21204

Dear Mr. Commissioner,

Concerning Case #94-382A, PARS AUTO SERVICE to locate 1766 E. Joppa Rd., we ask you to take under full consideration points discussed during hearing held 3 p.m. May 9, 1994.

We agree with Mr. Pat Keller, Deputy Director Office of Planning and Zoning, this six bay garage may have significant adverse impact upon the adjoining residences and the community unless certain issues are adequately addressed.

We agree with Mr. Keller's recommendations:

1. Streetscape along Joppa Rd. and Eddington Rd.
2. Extensive landscaping to buffer residence at 8705 Eddington Rd.
3. Dumpster fixed to concrete pad, with stockade fence detail. Existing stockade fence should be replaced to protect 8705 Eddington Rd.
4. No damaged or disabled vehicles to be stored outside of garage.
5. No untagged vehicles will be stored on site or on public street.
6. No vehicles will be sold at this location.
7. A new sign to comply with sign regulations and existing pole removed.

Also items discussed during the hearing we hope will be seriously considered:

8. No on street parking of customers or employees. A just concern because of limited parking on site of proposed garage and safety concern for traffic entering and leaving Eddington Rd. (Mr. Hassan Najafali agreed to this point at the hearing.)
9. Limiting mechanical noise to Mr. Najafali's stated business hours (8 a.m. to 6 p.m. Monday thru Friday and 8 a.m. to 4 p.m. on Saturday.) This is our biggest concern due to the multiple sources of noise we now endure and because we have

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
NEC Joppa Road and Eddington * ZONING COMMISSIONER
Road *
1766 Joppa Road *
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District * Case No. 94-382-A
Hassan Najafali
Petitioner * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a Zoning Variance for the property located at 1766 Joppa Road adjacent to that roadways intersection with Eddington Road. Variance relief is requested from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 0 ft. side yard setback and a 28 ft. rear yard setback, in lieu of the required 30 ft. setbacks for both. The subject property and requested relief are more particularly shown on the amended site plan, submitted as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was the property owner, Hassan Najafali and his associate, R. Banihashemi. These gentlemen are the proprietors of the contemplated business on the site. Also appearing was Paul Lee, the Engineer who prepared the site plan. The Petitioner was represented by Francis X. Borgerding, Jr., Esquire. A number of concerned residents of the surrounding locale also appeared. They included Donna Spicer, representing the Cromwood, Coventry, and Satyr Hill Community Association, Paul Schilling and Wayne Skinner.

Testimony was received from Hassan Najafali. He indicated that he has owned the subject property for about 6 months. He described the property as being located along the highly commercial corridor of Joppa Road near the overpass for I-695 (Baltimore Beltway). There are similar uses in the subject locale including a Midas Muffler Shop immediately next

door. Mr. Najafali proposes operating a service garage on the site. Presently, he operates his business at a rental property nearby. The proposed hours of operation are Monday through Friday, 8:00 A.M. to 6:00 P.M. and 8:00 A.M. to 4:00 P.M. on Saturday. He noted that the nature of the business is to repair and service automobiles. There will be no unlicensed vehicles on site and there will be no body work.

Also testifying was Paul Lee, who prepared the plan. Mr. Lee noted that the site is .32 acres in net area and is zoned B.R.-C.N.2. In that the site is zoned B.R., the service garage use is permitted by right. Mr. Lee also traced the history of the site noting that same had been commercially zoned since 1952. A series of small fast food type restaurants have been on the property in the recent past. The Petitioner proposes razing the existing structure and building a 32 ft. by 91 ft. building. The building will be located on the east side of the property. The building will contain 6 service bays and a small office and storage area. Presently, the site has two curb cuts for vehicular access. One is from Joppa Road and the second from Eddington Road. The Eddington Road access will be modified and relocated closer to Joppa Road away from the residences which are located further down Eddington Road.

Mr. Lee also noted that the building will be located on the extreme east side of the property immediately abutting the property line. The neighbor on this side of the property is the Midas Muffler Shop. Thus, there appears to be no detrimental affect to that property owner in that these businesses are identical in nature and the properties are used in a similar manner. Moreover, the building is set back approximately 25 ft. from Joppa Road, consistent with the Midas Muffler location. In fact, the building is slightly narrower than the Midas building so that a greater

-2-

rear setback distance has been provided. Mr. Lee also testified that 15 parking spaces were provided, including the 6 in the garage, whereas only 10 are required under B.C.Z.R.

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).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requested, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular par-

-3-

cel. In addition, the variance requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

Notwithstanding my approval of the variances, the Protestants that were present requested several restrictions in this Order. Particularly, although conceding that the use is located only the commercial corridor of Joppa Road, they note that a residential community exists to the rear of the site on Eddington Road. They are particularly fearful of the impact of the use on those houses as well as residences located across the street.

A significant volume of testimony was heard about proposed restrictions. Also, I reviewed the Zoning Plans Advisory Committee comments including those from the Department of Public Works (DPW) and the Office of Planning and Zoning (OPZ). The Petitioner agreed to accept a number of restrictions suggested by OPZ. These include requirements that the dumpster be fixed to a concrete pad and that certain improvements be made to a stockade fence on the northeast side of the property. It was also agreed that no damaged or disabled vehicles will be stored outside of the service garage and that untagged vehicles will not be stored on the street. Lastly, it was agreed that no vehicles should be sold from this location. In addition to these restrictions requested by OPZ, several others were sought by the neighbors and will be implemented to ensure that the locale will not be adversely affected by this use and the required variances. Specifically, I shall require the Petitioner to submit for review and approval a landscape plan to the County's Landscape Architect. I will defer in making any specific recommendations as to the plantings and location of landscaping required but will defer to the expertise of Mr. Avery Harden, Baltimore County's Landscape Architect. It is particu-

-4-

larly observed that the rear portion of the site should be significantly landscaped so as to prevent an adverse impact on the homes to the rear of the site. Landscaping appears warranted along Eddington Road to buffer those homes and properties located across Joppa Road. I am confident that the Developers Engineer and the Landscape Architect can reach a reasonable and mutually agreed upon plan to buffer the area while recognizing the limitations on the size and permitted use on this site.

I shall also require the Petitioner to remove the freestanding sign pole which is presently on site. Observations made during a site visit disclosed the pole to be unattractive and unnecessary. The Petitioner is entitled to any signage as allowed by the sign regulations in effect at the time of its application for signage.

Also, there shall be no parking of vehicles on Eddington Road. This includes employees of the proposed business, as well as customers' vehicles. It must be recognized that this is a small residential street which is already adversely impacted by the commercial activity along Joppa Road. In that there is more than sufficient parking on site, it seems appropriate that the Petitioner restrict its parking and short term storage only to the four corners of the property.

Lastly, there were some objections raised as to potential noise generated by the use. In view of same, I will require that the work on motor vehicles be restricted to those hours of operation identified by the Petitioner during his testimony. This will allow the Petitioner to clean up the property after those hours of operation, or finish paperwork and associated activities necessary to conduct business after it is closed to the public, while eliminating potential noise during early morning or late evening hours.

-5-

Also, it was agreed that there shall be no underground tanks on the property nor sale of fuel from the site.

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 granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of May, 1994 that a variance from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 0 ft. side yard setback and a 28 ft. rear yard setback, in lieu of the required 30 ft. setbacks for both, for a service garage, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner shall affix the dumpster to a concrete pad and provide a fence to screen the dumpster.
3. The Petitioner shall seek the neighboring property owner's permission to repair/replace the stockade fence near the dumpster. If permission is received, the fence shall be so upgraded.
4. The Petitioner shall not allow damaged or disabled vehicles to be stored outside of the service garage.
5. The untagged vehicles will not be stored on the site or on the public streets nearby.
6. No vehicles shall be sold from this location.
7. The Petitioner shall not allow parking of vehicles on Eddington Road. This includes

employees of the proposed business, as well as vehicles which are to be repaired by this business.

8. The Petitioner shall submit for review and approval a landscape plan to the County's Landscape Architect. The details of this plan shall be mutually agreed by the Developer and the County's Architect. Particular emphasis shall be given to screen the residences nearby.

9. The Petitioner shall remove the freestanding sign pole presently on site. The Petitioner is entitled to erect signs as allowed by the sign regulations in effect at the time of its application for signage.

10. All service garage work shall be performed only during the hours of 8:00 A.M. to 6:00 P.M. Monday thru Friday and 8:00 A.M. to 4:00 P.M. on Saturday.

11. There shall be no underground tanks or sale of fuel on the site.

12. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to ensure compliance with this Order.

LBS:mmn


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

-7-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

May 23, 1994

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue
Suite 600
Towson, Maryland 21204

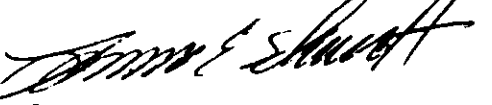
RE: Case No. 94-382-A
Petition for Zoning Variance
Property: 1766 Joppa Road
Hassan Najafali, Petitioner

Dear Mr. Borgerding:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, 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

LBS:mmn
att.
cc: Ms. Donna Spicer, Cromwood, Coventry and Satyr Hill Comm. Assoc.
cc: Mr. Wayne Skinner