

Baltimore County Government
Fire Department



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

(410) 887-4500

DATE: 06/06/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
DATE: 06/06/94

RE: Property Owner

LOCATION: SEE BELOW

Item No.: SEE BELOW

Settlement:

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.

B. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 457, 458, 461, 462, 463, 464, 466, 467, 468, 469 AND 470.

RECEIVED
JUN 8 1994
ZADM

REVIEWER: L.T. ROBERT P. SAUERHOLD
Fire Marshal Office, PHONE 887-4001, MS-1102F

cc: File

Printed with Soybean Ink
on Recycled Paper

Baltimore County Government
Fire Department



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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: June 14, 1994

SUBJECT: 115 Melancton Avenue

INFORMATION:

Item Number: 451

Petitioner: Alexander Property

Property Size:

Zoning: D.R. 2

Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

The applicant's property is located within the Baltimore County Historic District and the National Register District of Lutherville. The Baltimore County Landmarks Commission has reviewed architectural drawings and the site plan for the proposed two car garage. To date, a certificate of appropriateness has not been issued, and concerns have been expressed regarding the design and setbacks for the addition. While revised architectural drawings were submitted, no resolution has been reached.

No building permit may be issued without a certificate of appropriateness. In the event that the Landmark Preservation Commission disapproves the building permit application, an appeal may be taken pursuant to Section 26-553 of the Baltimore County Code.

Prepared by: Jeffrey M. Long

Division Chief: Gary L. Kern

PK/JL:lw

ZAC-451/PZONE/ZAC1

Pg. 1

Arnold Jablon
ZADM
Room 109, 111 W. Chesapeake Avenue
Towson, MD 21204

In reference to:

Petition for Zoning Variance
S/S Melancton Ave., at SEC
Melancton & Division Ave.
115 Melancton Ave.
8th Election District
4th Councilmanic District
John Alexander, et al
Petitioners
Case No. 94-467-A

I am appealing this decision.

Sandra L. McElroy
109 Melancton Ave.
Lutherville, MD 21093

RECEIVED
JUN 14 1994
ZONING OFFICE

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 29, 1994

Mr. John R. Alexander
Ms. Marsha McLaughlin
115 Melancton Avenue
Lutherville, MD 21093

RE: Petition for Variance
S/S Melancton Ave., at SEC
Melancton & Division Avenues
(115 Melancton Avenue)
8th Election District
4th Councilmanic District
John R. Alexander, et al-Petitioner
Case No. 94-467-A

Dear Mr. Alexander and Ms. McLaughlin:

Please be advised that an appeal of the above-referenced case was filed in this Office on August 25, 1994 by Sandra L. McElroy. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

Arnold Jablon
Director

AJ:jaw

cc: Mr. & Mrs. John Storck
Mr. Harry M. Thomas
People's Counsel

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on Recycled Paper

APPEAL

Petition for Variance
S/S Melancton Ave., at SEC Melancton & Division Avenues
115 Melancton Avenue
8th Election District - 4th Councilmanic District
John R. Alexander, et al-PETITIONER
Case No. 94-467-A

Petition(s) for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

County Council Resolution

Plat to Accompany Petition for Variance

Package marked "Other Examples of Design"

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: 1 - Existing sketch of home

2A-2W Twenty-eight photographs

Protestant's Exhibits: 1A-1C Three photographs

Three miscellaneous letters of support

Zoning Commissioner's Order dated July 29, 1994 (Granted)

Notice of Appeal received on August 25, 1994 from Sandra L. McElroy

cc: Mr. John R. Alexander and Ms. Marsha McLaughlin, 115 Melancton Avenue, Lutherville, MD 21093
Ms. Sandra L. McElroy, 109 Melancton Avenue, Lutherville, 21093
Mr. & Mrs. John Storck, 112 Melancton Avenue, Lutherville, 21093
Mr. Harry M. Thomas, 107 Melancton Avenue, Lutherville, 21093
People's Counsel of Baltimore County, M.S. 2010

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

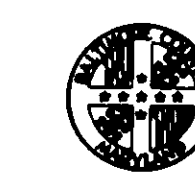
DATE: May 16, 1995

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: Case No. 94-467-A
JOHN B ALEXANDER, ET AL
8th E; 4th C

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

Attachment



County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

September 6, 1994

NOTICE OF ASSIGNMENT

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

CASE NO. 94-467-A

JOHN B. ALEXANDER, ET AL
S/S Melancton Avenue, at SEC Melancton &
Division Avenues (115 Melancton Avenue)
8th Election District
4th Councilmanic District

VAR -To permit front & rear yard setbacks of 30' (both existing) in lieu of required 40'; side yard setback of 4' in lieu of required 15' (2-car garage).

7/29/94 -Z.C.'s Order in which Petition for Variance was GRANTED.

ASSIGNED FOR: TUESDAY, NOVEMBER 29, 1994 at 10:00 a.m.

cc: Mr. John R. Alexander and
Ms. Marsha McLaughlin

Petitioners

Ms. Sandra L. McElroy

Appellant /Protestant

Mr. & Mrs. John Storck
Mr. Harry M. Thomas

People's Counsel for Baltimore County

Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink
on Recycled Paper

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th Date of Posting: 9/1/94
 Posted for: Approved
 Petitioner: John R. Alexander et al.
 Location of property: 115 Melancton Ave. Hy 95
 Location of Signs: Along road along ex property line adjacent
 Remarks: _____
 Posted by: M. Kelly Date of return: 9/1/94
 Number of Signs: 1

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 9/1/94 ACCOUNT: 451
 AMOUNT: \$ 210.00
 RECEIVED FROM: _____
 FOR: _____
 \$210.00
 VALIDATION OR SIGNATURE OF CARRIER

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Date: 5-19-94 Number: 451
John R. Alexander 115 Melancton Ave CAN.
Marsha McLaughlin Lutherville, MD 21093
010 Rte. 42 SC
CSC SIGN \$35
TECH \$85
 Please Make Checks Payable To Baltimore County

receipt
94-467-A

TO: POTTERY PUBLISHING COMPANY
 June 2, 1994 Issue - Jeffersonian
 Please forward billing to:
 John R. Alexander
 115 Melancton Avenue
 Lutherville, Maryland 21093
 887-8121

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: 94-467-A (Item 451)
 115 Melancton Avenue
 S/S Melancton Avenue, at SEC Melancton and Division Avenues
 8th Election District - 4th Councilmanic
 Legal Owner: John R. Alexander and Marsha McLaughlin
 HEARING: WEDNESDAY, JUNE 29, 1994 at 9:00 a.m., Rm. 118 Old Courthouse
 Variance to allow a front yard setback and rear yard setback of 30 feet (both existing) in lieu of the required 40 feet and a side yard setback of 4 feet in lieu of the required 15 feet for a two-car garage.

LAWRENCE E. SCHWIDY
 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.

Item Number: 451
 Planner: CAM
 Date Filed: 5-18-94

PETITION PROCESSING FLAG

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

Need an attorney _____
 The following information is missing:
 _____ Descriptions, including accurate beginning point
 _____ Actual address of property
 _____ Zoning
 _____ Acreage
 _____ Plats (need 12, only _____ submitted)
 _____ 200 scale zoning map with property outlined
 _____ Election district
 _____ Councilmanic district
 _____ BCZR section information and/or wording
 _____ Hardship/practical difficulty information
 _____ Owner's signature (need minimum 1 original signature) and/or
 _____ printed name and/or address and/or telephone number
 _____ Contract purchaser's signature (need minimum 1 original
 _____ signature) and/or printed name and/or address
 _____ Signature (need minimum 1 original signature) and/or
 _____ printed name and/or title of person signing for legal
 _____ owner/contract purchaser
 _____ Power of attorney or authorization for person signing for
 _____ legal owner and/or contract purchaser
 _____ Attorney's signature (need minimum 1 original signature)
 _____ and/or printed name and/or address and/or telephone number
 _____ Notary Public's section is incomplete and/or incorrect
 _____ and/or commission has expired

PET-FLAG (TXTSOPH)
 11/17/93

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

NOTICE OF HEARING

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

CASE NUMBER: 94-467-A (Item 451)
 115 Melancton Avenue
 S/S Melancton Avenue, at SEC Melancton and Division Avenues
 8th Election District - 4th Councilmanic
 Legal Owner: John R. Alexander and Marsha McLaughlin
 HEARING: WEDNESDAY, JUNE 29, 1994 at 9:00 a.m., Rm. 118 Old Courthouse

Variance to allow a front yard setback and rear yard setback of 30 feet (both existing) in lieu of the required 40 feet and a side yard setback of 4 feet in lieu of the required 15 feet for a two-car garage.

Arnold Jablon
 Director

cc: John R. Alexander and Marsha McLaughlin

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.

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

June 10, 1994

Mr. and Mrs. William A. Baumgartner
 2 Melview Court
 Ruxton, Maryland 21204

RE: Case No. 94-474-A, Item No. 467
 Petitioner: William A. Baumgartner, et ux.
 Petition for Administrative Variance

Dear Mr. and Mrs. Baumgartner:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on May 27, 1994 and scheduled for a hearing accordingly. Any attached comments from a 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.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

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.

Zoning Plans Advisory Committee Comments
 Mr. and Mrs. William A. Baumgartner
 Date: June 10, 1994
 Page 2

2. Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the zoning commissioner will deny the petition due to errors or incompleteness.
 3. Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 887-3391 or the commenting agency.

Sincerely,

W. Carl Richards Jr.
 W. Carl Richards, Jr.
 Zoning Supervisor

WCR:cm
 Enclosures

SFA Maryland Department of Transportation
 State Highway Administration

O. James Lighthizer
 Secretary
 Hal Kassoff
 Administrator

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

Re: Baltimore County
 Item No. 467 (JJS)

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. RAYSEY, ACTING CHIEF
 John Contestabile, Chief
 Engineering Access Permits
 Division

BS/

My telephone number is _____
 Maryland Relay Service for Impaired Hearing or Speech
 1-800-735-2268 Statewide Toll Free
 Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
 Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

ing locale. Third, the variance request must be compatible with the spirit and intent of the zoning regulations.

As to the practical difficulty test, clearly the proposed garage is a permitted use/structure in this zone. The garage will be used to support the residential dwelling. Moreover, I am persuaded by Mr. Alexander's arguments that the proposed location is the only site feasible. It would not be proper to destroy the mature trees on the west side of the property. Moreover, the slope on that side of the site imposes conditions which would prevent construction on that side. Thus, I believe that the Petitioner has offered reasons to support a finding of practical difficulty as to the garage location.

As to the second test, I, likewise, find that the proposed garage will not be detrimental to the surrounding locale. The testimony of Mr. Link was persuasive on this issue as well as the correspondence received from the Lutherville Community Association and the Lutherville Advisory Committee. It is also to be noted that the Landmarks Preservation Commission must issue a certificate of appropriateness in order for a building permit to be issued. Thus, irrespective of my decision on this variance, the Petitioner will need to obtain their approval before construction can commence. However, in my view, Mr. Alexander's efforts to ensure compatibility with the historic and architectural character of the community have been appropriate. For these reasons, I, likewise, find that the proposed use and subject variance is consistent with the spirit and intent of the BCZR.

For these reasons, I will approve the variances requested. However, certain restrictions will condition my approval so as to ensure no adverse impact on the surrounding locale. The proposed garage cannot be used for

any commercial purpose or to support any business venture. Also, there shall be no apartment type use of the garage. Moreover, the garage shall be constructed so as to ensure that an increased flow of water runoff does not result from the construction.

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.

THREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27th day of July, 1994 that a variance from 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a front yard setback and rear yard setback of 30 ft. (both existing), in lieu of the required 40 ft., and also a side yard setback of 4 ft., in lieu of the required 15 ft., for a two car garage, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioners shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

3. The garage shall not be used for any commercial purposes or to support any business operation. The use of the garage shall be incidental and accessory to the residential use of the property.

4. The garage shall be designed in construction so as to prevent any additional storm water runoff from the subject property to adjacent properties.

5. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

6. Upon request and reasonable notice, the Petitioners 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/mnn

ORDER RECEIVED FOR FILING
Date 7/27/94
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

July 28, 1994

Mr. John R. Alexander
Mrs. Marsha McLaughlin
115 Melancton Avenue
Lutherville, Maryland 21093

RE: Case No. 94-467-A
Petition for Variance
Property: 115 Melancton Avenue

Dear Mr. Alexander and Mrs. McLaughlin:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
LAWRENCE E. SCHMIDT
Zoning Commissioner

LES/mnn
att.
cc: Ms. Sandra L. McElroy
cc: Mr. John Storck/Mrs. Jean Storck
cc: Mr. Harry M. Thomas

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 115 Melancton Ave
which is presently zoned DR-2

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) 1802.3.C.1 to allow a front yard setback of 30 ft. (existing) and rear yard setback of 30 ft. (existing) and a side yard setback of 4 ft. in lieu of the required 15 ft. for a 2 car garage.

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

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.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City State Zipcode

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

Legal Owner(s):

Signature

Signature

Signature

Signature

Signature

Signature

Signature

Signature

Signature

Signature

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Signature

REASONS FOR VARIANCE:

Personal Hardship:

- Need to protect two cars from weather, vandalism, and theft.
- Provide storage - the current house has none. Basement floods with every rain. There is no attic storage. This is a very old house with very little closet space.
- There is no work space.
- Safety at night and during foul weather requires that the garage be attached.
- Access to storage and work area require that the addition be attached.

Practical Difficulty:

- The layout of the house makes attaching the garage at some other point impractical. This is the only side of the house that would not block windows (light and air) or an entrance into the house.
- Placing the proposed garage on the east side of the house over the existing driveway would minimize impact on the site. Anywhere else on the property substantial cutting of large old trees would be required.
- There is a practical difficulty in having storage areas and work areas that would normally be in a house, separated across a yard, particularly at night and in bad weather.

Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR 115 Melancton Ave

Election District 8 Councilmanic District 4

Beginning at a point on the South side of Melancton Ave which is 25 ft. from (No Right of Way) (number of feet of right-of-way width)

wide at a distance of 0' East of the centerline of the nearest improved intersecting street Division Ave (name of street)

which is 19 ft. from (No Right of Way) (number of feet of right-of-way width) wide. *Being Lot #

Block Section in the subdivision of Lutherville as recorded in Baltimore County Plat

Book 5791 Folio 875 containing 14100 sq. ft. ± 32 acres (square feet and acres)

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber Folio and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N.87. 12' 13" E. 321.1 ft., S.18 27' 03" E.87.2 ft., S.62 19' 00" W. 318 ft., and N.08 15' 22" W. 80 ft. to the place of beginning.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8A Date of Posting 6/18/94

Posted for: Variance

Petitioner: John & Marsha McLaughlin

Location of property: 115 Melancton Ave, P.

Location of Sign: Front road way on property being zoned

Remarks:

Posted by: [Signature]

Number of Signs: 7

Date of return: 6/18/94

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 3, 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 June 3, 1994.

THE JEFFERSONIAN,
A. Henickson
LEGAL AD. - TOWSON

Case No.: 94-467-A John R. Alexander, et al.

relief without causing practical difficulty under the law.

For these reasons, the Board will grant the petition for variances, subject to the terms and conditions contained in the following Order and with deference to the dissenting opinion.

ORDER

IT IS THEREFORE this 27th day of January, 1995 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variances seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to permit front and rear yard setbacks of 30 feet (both existing) in lieu of the required 40 feet and, in accordance with Petitioners' Exhibit 4, be and are hereby GRANTED, and

FURTHER ORDERED that the Petition for Variances seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to permit a side yard setback of 4 feet in lieu of the required 15 feet for a 2 car garage, be and hereby is GRANTED subject to the following restrictions and conditions:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as any judicial review of 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. No part of any addition shall extend into the 4 foot side yard setback area.

3. The Petitioners shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

5

Case No.: 94-467-A John R. Alexander, et al.

4. The garage shall not be used for any commercial purposes or to support any business operation. The use of the garage shall be incidental and accessory to the residential use of the property.

5. The garage shall be designed in construction so as to prevent any additional storm water runoff from the subject property to adjacent properties.

6. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

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

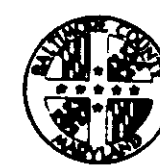
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Judson H. Lipowitz, Acting Chairman

Harry E. Buchheister, Jr.

JHL.DOC\ALEXANDR.OPN

6



County Board of Appeals of Baltimore County

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

January 27, 1995

Ms. Sandra McElroy
109 Melancton Avenue
Lutherville, MD 21093

RE: Case No. 94-467-A
John R. Alexander, et al

Dear Ms. McElroy:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. Also enclosed is a copy of the Dissenting Opinion written of Mr. Schuetz.

Very truly yours,

Charlotte E. Riedel, for
Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Howard L. Alderman, Jr., Esquire
John R. Alexander /Marsha McLaughlin
Mr. & Mrs. John Storck
Mr. Harry M. Thomas
Pat Keller
People's Counsel for Baltimore County
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Printed with Soybean Ink
on Recycled Paper

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Melancton Ave., at SEC * ZONING COMMISSIONER
Melancton & Division Avenues *
115 Melancton Avenue *
8th Election District * OF BALTIMORE COUNTY
4th Councilmanic District *
John R. Alexander, et al * Case No. 94-467-A
Petitioners * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 115 Melancton Avenue in the Lutherville section of Baltimore County. The Petition is filed by John R. Alexander and Marsha McLaughlin, his wife, property owners. Variance relief is requested from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a front yard setback and rear yard setback of 30 ft. (both existing) in lieu of the required 40 ft., and also a side yard setback of 4 ft. in lieu of the required 15 ft., for a two car garage. The subject property and proposed relief are more particularly shown on the plat to accompany the Petition for Zoning Variance.

Appearing at the public hearing held for this case was the property owner John R. Alexander. Also present on his behalf was L.J. Link, Jr., an Architect who has prepared plans for the proposed garage/addition. Three individuals from the surrounding community appeared in opposition. They included Sandra L. McElroy, an immediate next door neighbor, at 109 Melancton Avenue, and Harry M. Thomas, who lives next to Ms. McElroy and two doors down from Mr. Alexander at 107 Melancton Avenue. Also present was John Storck, son of Jean Storck. Mrs. Storck is elderly and resides across the street from Mr. Alexander's property at 112 Melancton Avenue.

At the public hearing held, there was some preliminary comments about the public notice given for this hearing. The file shows that, as re-

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

quired, notice of advertising in a newspaper of general circulation, The Jeffersonian, was provided on June 3, 1994. Moreover, a sign advertising the hearing was posted on the front of the property facing Melancton Avenue. Although there was some dispute as to the orientation of the sign, photographs presented show that same was not obstructed by landscaping and would be clearly visible to all travelers who passed by the subject property. Thus, I am persuaded that proper public notice was afforded. Moreover, the hearing began later than originally scheduled on June 29, 1994 to accommodate the Zoning Commissioner's schedule. All parties were present at the hearing and were afforded full opportunity to testify and present evidence at that time.

At the public hearing, Mr. Alexander testified and presented his site plan. He stated that he and his wife have owned the property and resided therein since 1984. This is an older dwelling in the Lutherville Historic district and was constructed in approximately 1860. Mr. Alexander noted that the existing house has been enlarged over the years. In fact, 7 additions have been built into the house since the original construction, 130 years ago. The subject property is approximately one-third of an acre in size and is zoned D.R.2. Presently, the property does not feature an attached garage. Rather, there is an existing house with an open porch on the front facing Melancton Avenue and a patio to the rear. A detached concrete block shed presently serves as a garage towards the rear of the property.

As to proposed construction, Mr. Alexander testified that he requests approval to construct a two story garage/addition on the east side of the site. This addition will replace the concrete block shed which is to be razed. The first floor will be used as a two car garage and the second

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

-2-

floor will be constructed to provide living space. Mr. Alexander noted that the proposed garage will be 22 ft. wide and the building envelope for same will be within 4 ft. of his property line. Thus, the need for requested variances.

Mr. Alexander also offered extensive testimony about the proposed location of the garage. He noted that the property slopes to the west and construction of the garage on the west side of the house is not feasible. Although the side yard is greater in area on that side, it is filled with a number of mature fruit trees which are esthetically pleasing. Because of the slope of the land and the desire to preserve these trees, Mr. Alexander does not believe that construction of the garage on the west side of the house is feasible or appropriate. He also noted that since the proposed garage will replace the concrete block shed, construction, where contemplated, is proper. It is to be noted that the concrete shed presently exists even closer to the property line than the proposed garage. As shown on the site plan, the concrete block shed is but 2-1/2 ft. from the property line. Thus, although a new garage will be larger, it will be slightly farther away from the McElroy property.

Mr. Alexander testified regarding use of the garage. He noted that the existing house is old and that the basement of same frequently floods. Thus, there is very little usable storage area presently available. The garage also will be used in large part for this purpose. He also agreed that there will be no commercial enterprise or business operation in the garage and that same will be devoted to residential purposes. Also, the garage will not contain any apartment type unit and the second floor of same will be accessible from the main house.

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Date 1/28/95
By [Signature]

-3-

Mr. Link also testified regarding the proposed improvements. He described the existing house from an architectural standpoint and the efforts which he has made to make the proposed garage architecturally compatible with the existing house. He answered all questions regarding the proposed construction appropriately and was persuasive that significant efforts have been made to make the proposed property compatible with the architectural style of the existing house.

As noted above, appearing in opposition to the request was John B. Storck. Mr. Storck was actually speaking on behalf of his elderly mother who resides across the street. In fact, Mr. Alexander indicated that he had spoken with the elder Mrs. Storck and she had orally indicated to him that his plans were acceptable. However, it was unclear whether she fully realized what was contemplated when the matter was discussed.

In any event, Mr. Storck voiced several concerns over the proposed garage addition. First, he was particularly fearful that the construction would promote increased storm water runoff. He was concerned that increased runoff might negatively impact adjacent properties. In this respect, it is noted that the proposed garage is to be constructed over an area that presently contains impervious surface. That is, the site of the garage is presently occupied by an impervious driveway. Thus, as Mr. Alexander noted, there will be no increase in impervious area and storm water runoff should not be a problem. Moreover, Mr. Alexander indicated that he would take whatever steps were necessary, including the installation of rainspouts, etc., to ensure that storm water runoff was not a problem.

Secondly, Mr. Storck is concerned about the change in the ambience of the area by this construction. As he noted, the site is located within

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

-4-

the Baltimore County Historic District and the National Register District of Lutherville. In this respect, he believes that additional construction might be incompatible with the architectural character of the area.

These sentiments were shared by Mr. Thomas, who lives up the street. Mr. Thomas expressed reservations over the project based on its potential incompatibility with the subject area.

Also testifying in opposition to the Petition was Sandra L. McElroy who lives immediately next door. She noted that her family has owned the adjacent property for many years. She is also concerned over potential storm water runoff onto her site. She also expressed fears that the proposed garage would block her view and might increase noise towards her property.

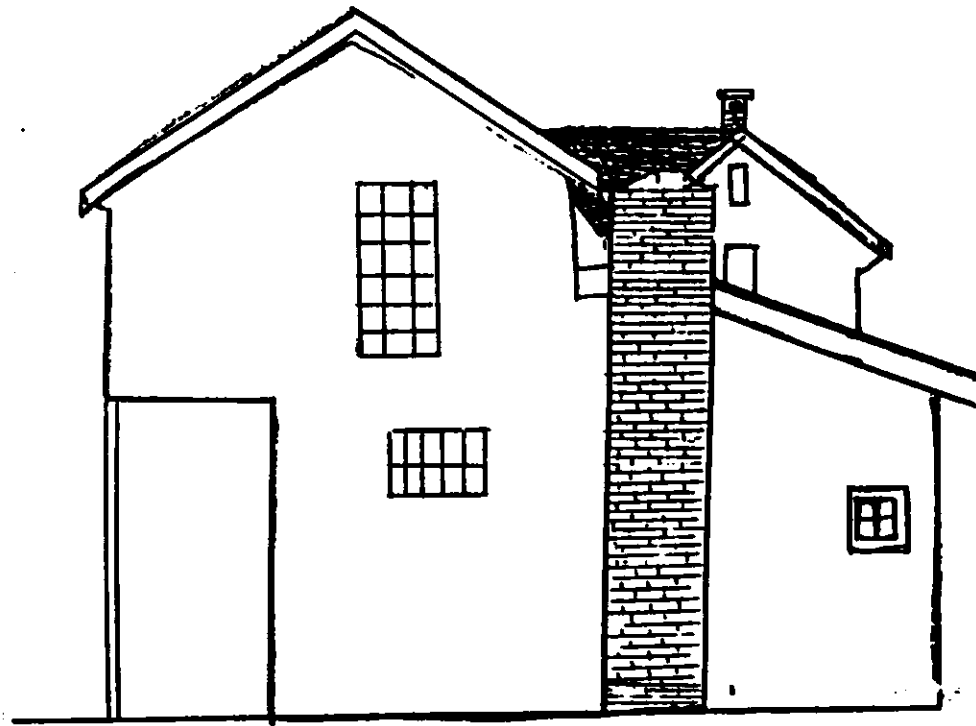
Also received into the record as evidence were numerous photographs of the subject site and correspondence from the Lutherville Community Association and the Lutherville Advisory Committee. A letter received from the Lutherville Community Association endorsed Mr. Alexander's request for zoning variance. Moreover, correspondence from the Lutherville Advisory Committee of the Baltimore County Landmarks Preservation Commission indicated that the Committee was pleased with the development design and would recommend approval of the project.

In adjudging the merits of this request, guidance is provided by Section 307 of the BCZR. Therein a three part test is offered which the Petitioner must satisfy in order for the variance to be granted. First, the Petitioner must show that the property owner would suffer a practical difficulty if the Petition for Variance is denied. Secondly, variance relief can only be granted if same will not be detrimental to the surround-

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

-5-

EXISTING.



June 23, 1991

To Whom It May Concern:

On June 20, 1991, Mr. John R. Alexander met with the Lutherville Advisory Committee to the Baltimore County Landmarks Preservation Commission to discuss plans for an addition to his house which will involve a variance to the applicable sideyard setback requirements. Insofar as it affects the Lutherville Historic District, we have no objection to the variance.

Sincerely,

Robert P. Wingard
Robert P. Wingard, AIA
Chairman, Lutherville Advisory Committee to the
Baltimore County Landmarks Preservation Commission

Lutherville Advisory Committee
Baltimore County Landmarks Preservation Commission

April 14, 1994

Mr. John McGrain, Director
Baltimore County Landmarks Preservation Commission
Office of Planning and Zoning
New Courts Building/ Room 406
401 Bosley Avenue
Towson, Maryland 21204

RE: Proposed Addition
Property of Mr. and Mrs. John Alexander
115 Melancton Avenue

Dear Mr. McGrain:

The Lutherville Advisory Committee has reviewed the final drawings for this project located within the Historic District of Lutherville and find them to be consistent with the preliminary drawings previously approved. In fact, the current drawings represent an architect-designed project that is a much-refined version of the initial concept. We are pleased with the developed design.

The LAC therefore recommends approval by the Commission.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Lutherville Advisory Committee

Robert P. Wingard
Robert P. Wingard, AIA
Chair and Resident Architectural Advisor, LAC
214 Morris Avenue
Lutherville, Maryland 21093
(410) 252-1074 (O) 528-8600

cc: Mr. and Mrs. John Alexander
File

Lutherville Community Association
P/O Box 6
Lutherville, Maryland 21093

Mr. John Alexander
115 Melancton Avenue
Lutherville, Maryland 21093

Re: Zoning Variance

Dear Mr. Alexander:

This letter will confirm recent events concerning your plans to construct a two story garage on the east side of your home. I have discussed this matter with two of your neighbors, both of whom expressed no objections, as well as related these plans to the Board of Directors of the Association. The Board voted to support your proposal, at least in regard to its zoning implications, and this letter will serve as its endorsement of your request for a zoning variance.

I must caution, however, that this letter does not address the issue of architectural compatibility, which must be cleared through the historic district committee. Best wishes to your further endeavors on this project.

Sincerely,

Eric Rockel
Eric Rockel
Zoning Committee

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. Doug Swan DATE: November 14, 1994
Permits Supervisor
Department of Permits & Licenses

FROM: John McGrain
Office of Planning

SUBJECT: John R. and Marsha Alexander
115 Melancton Avenue, Lutherville
PFN #0803078080

The full membership of the Landmarks Preservation Commission reviewed and approved the Alexander house plans by L.J. Link, Jr., architect, for a garage and a residential expansion at 115 Melancton Avenue, Lutherville historic district, on November 10, 1994. These plans were agreed upon following the October 1994 monthly meeting and resulted from an on-site meeting and a follow-up meeting at the office of Jeffrey A. Lees.

John McGrain
John McGrain

JM/mjs
SWAN/PZONE/LANDMARK

cc: John R. and Marsha Alexander
115 Melancton Avenue
Lutherville, MD 21093

L.J. Link, Jr. Inc., Architect
Rockland Grist Mill
P.O. Box 236
Brooklandville, MD 21022

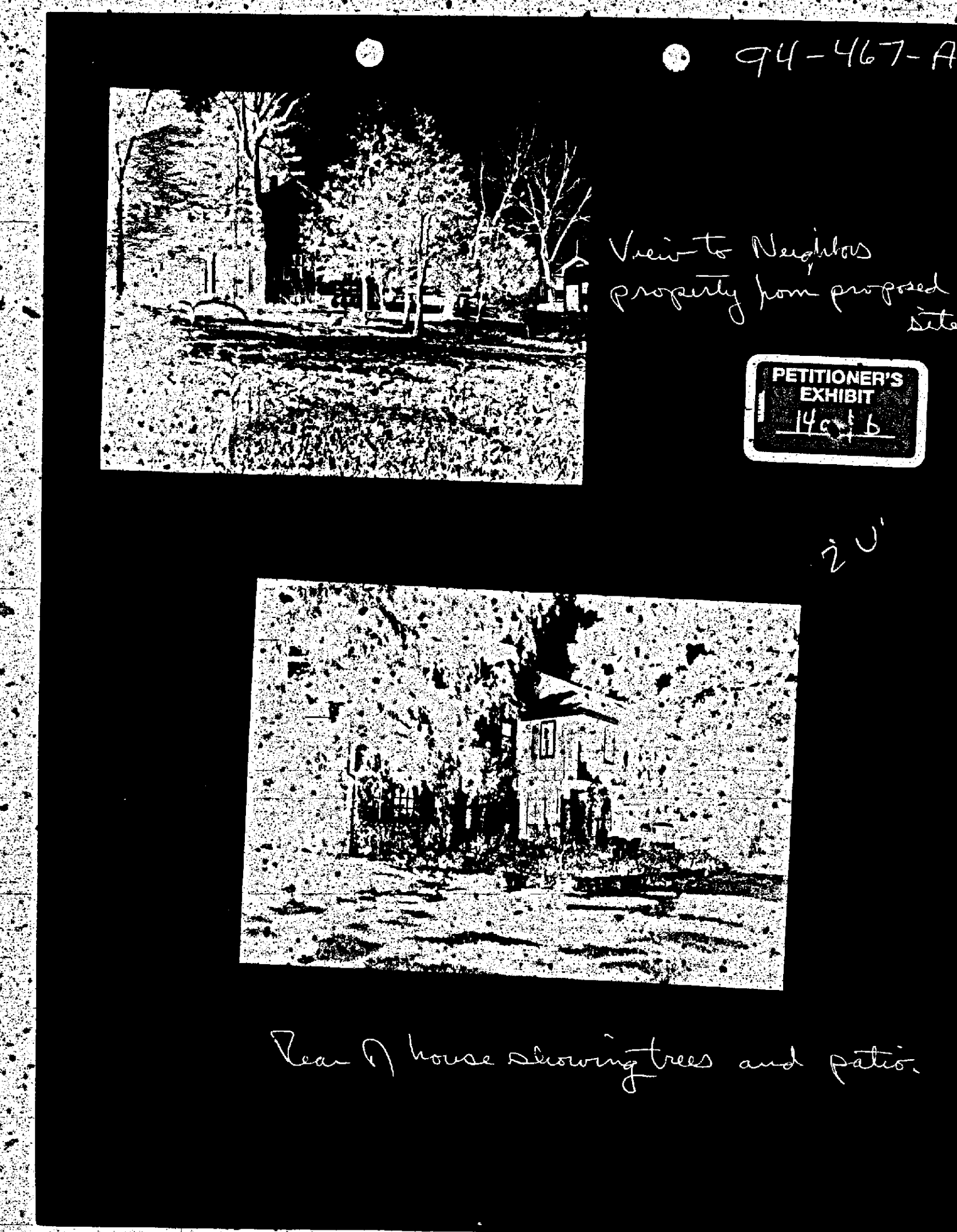
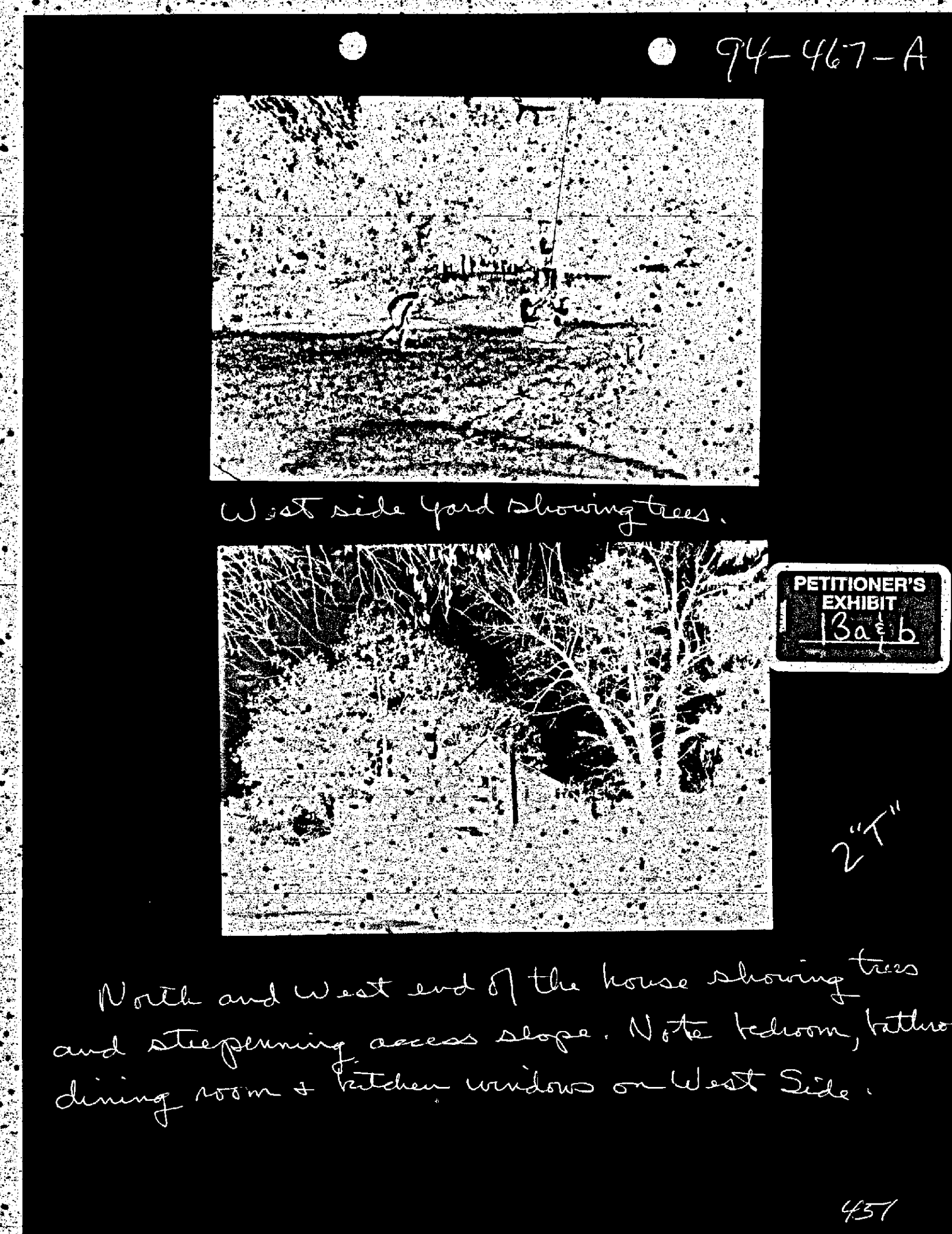
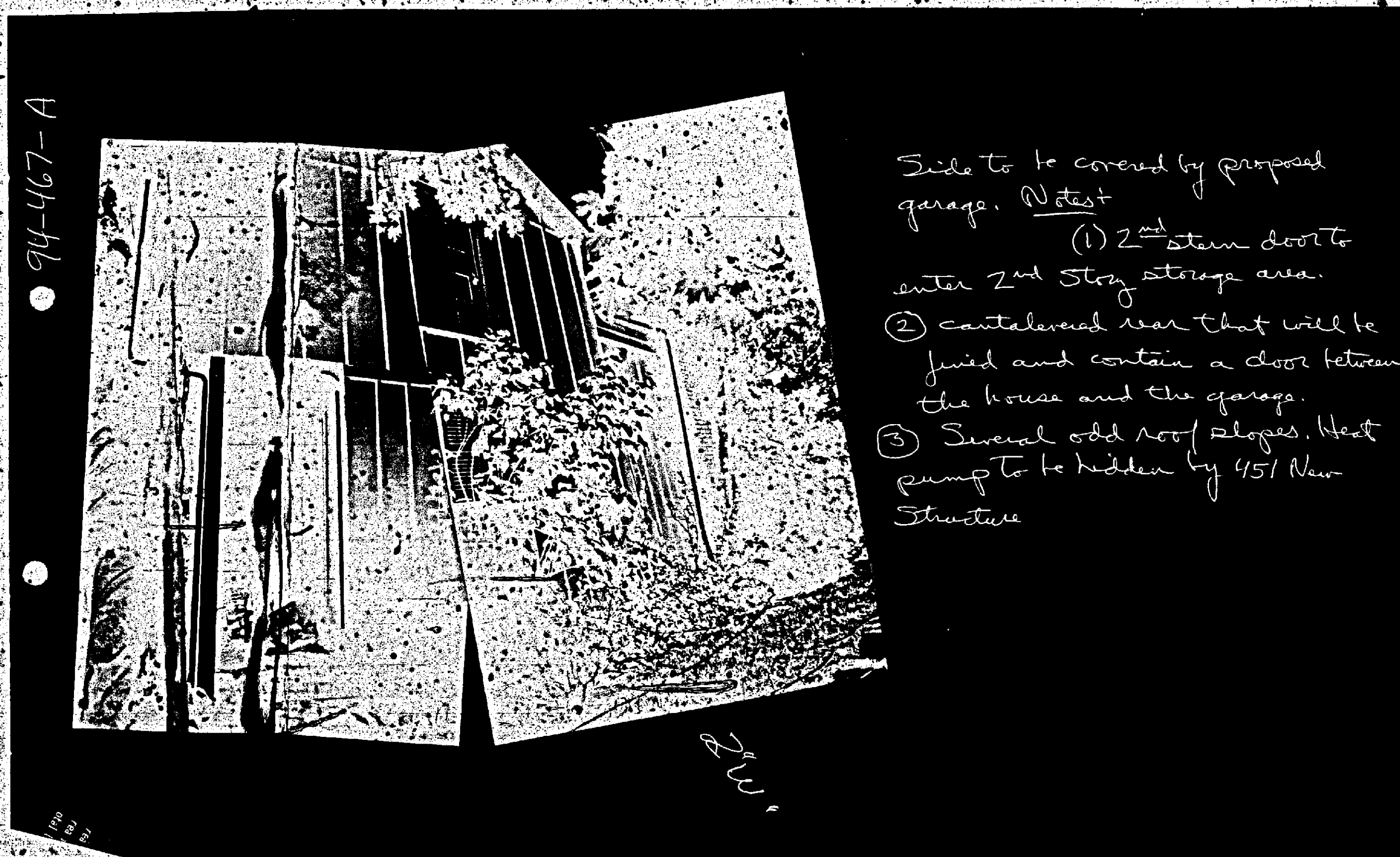
IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Melancton Ave., at SEC * ZONING COMMISSIONER
Melancton & Division Avenues *
115 Melancton Avenue *
8th Election District * OF BALTIMORE COUNTY
4th Councilmanic District *
John R. Alexander, et al * Case No. 94-467-A
Petitioners * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 115 Melancton Avenue in the Lutherville section of Baltimore County. The Petition is filed by John R. Alexander and Marsha McLaughlin, his wife, property owners. Variance relief is requested from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a front yard setback and rear yard setback of 30 ft. (both existing) in lieu of the required 40 ft., and also a side yard setback of 4 ft. in lieu of the required 15 ft., for a two car garage. The subject property and proposed relief are more particularly shown on the plat to accompany the Petition for Zoning Variance.

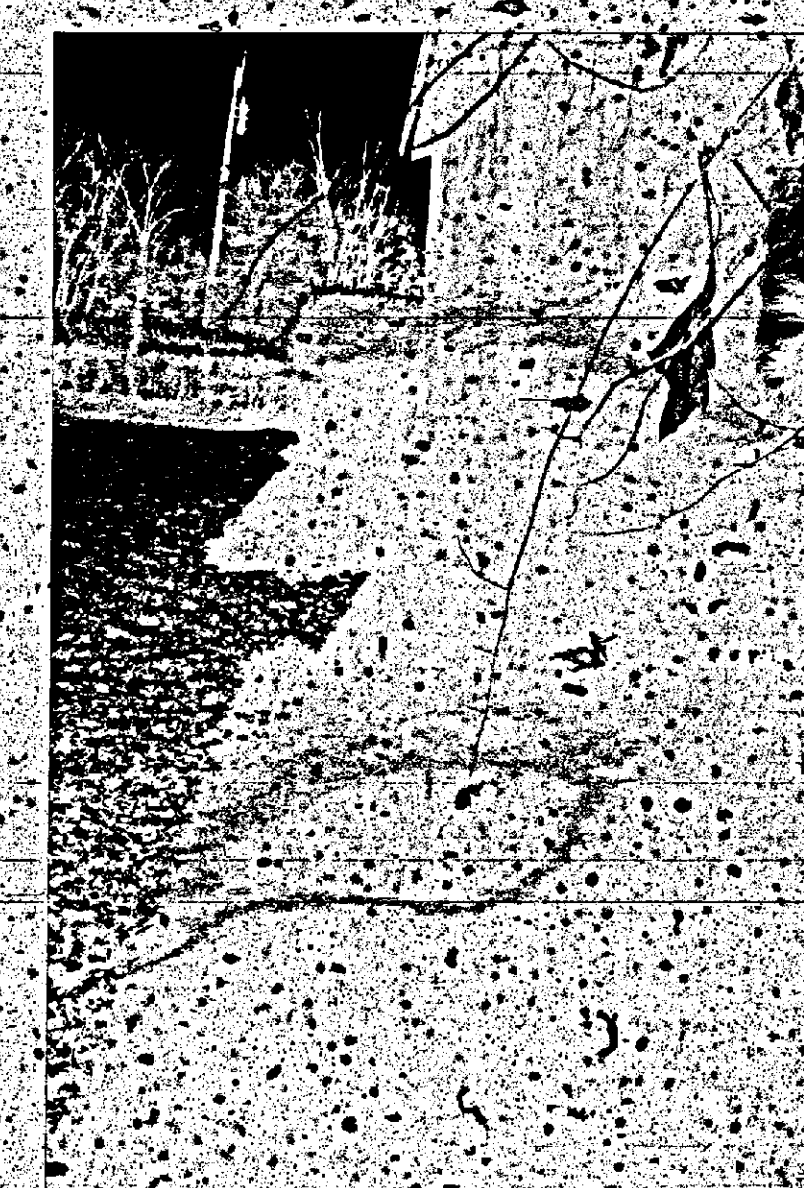
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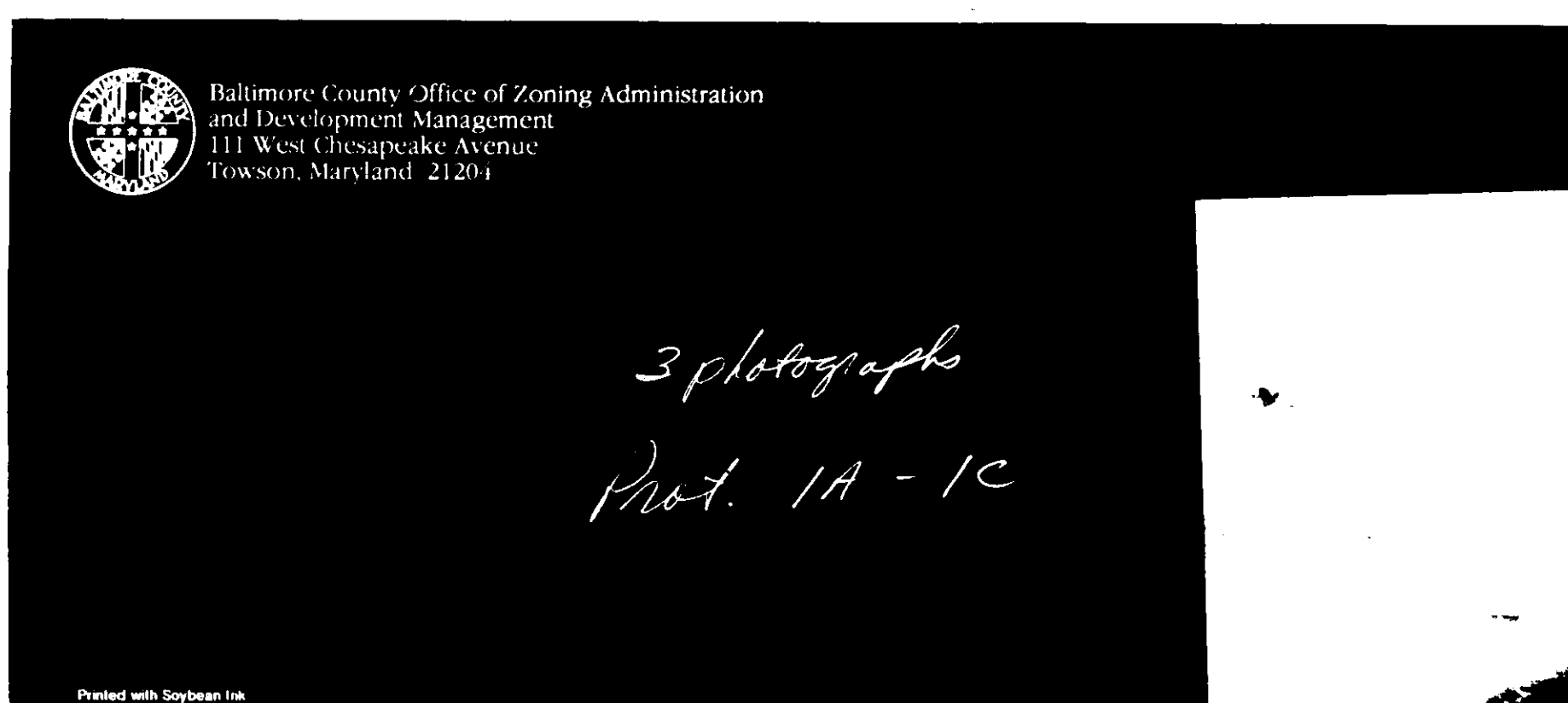
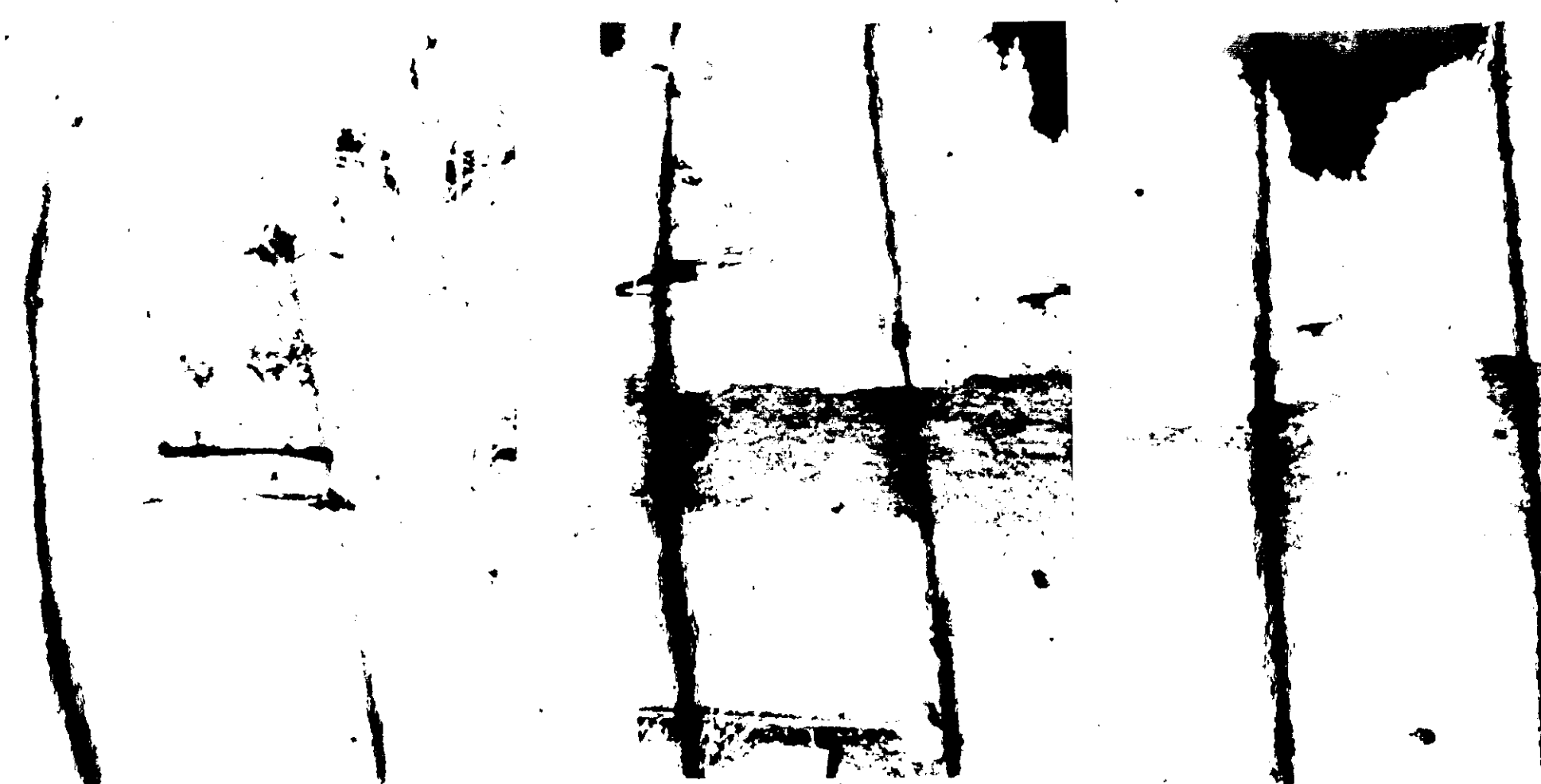
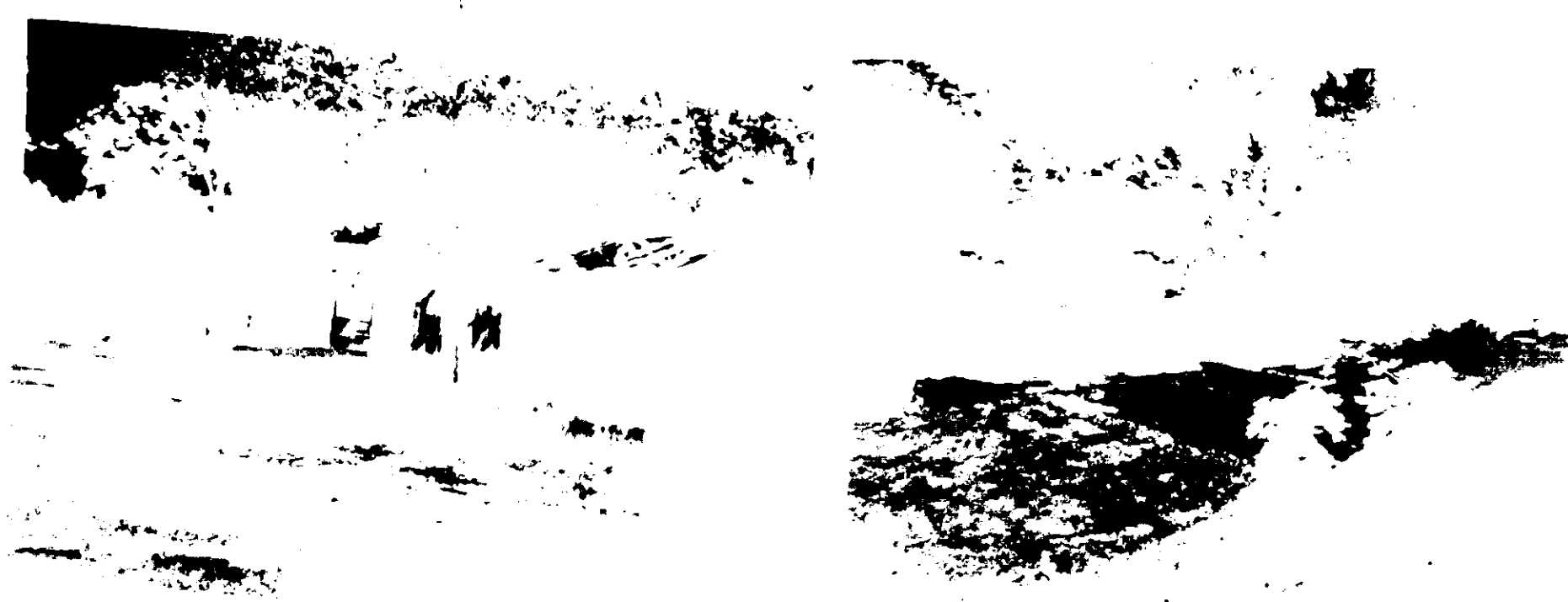
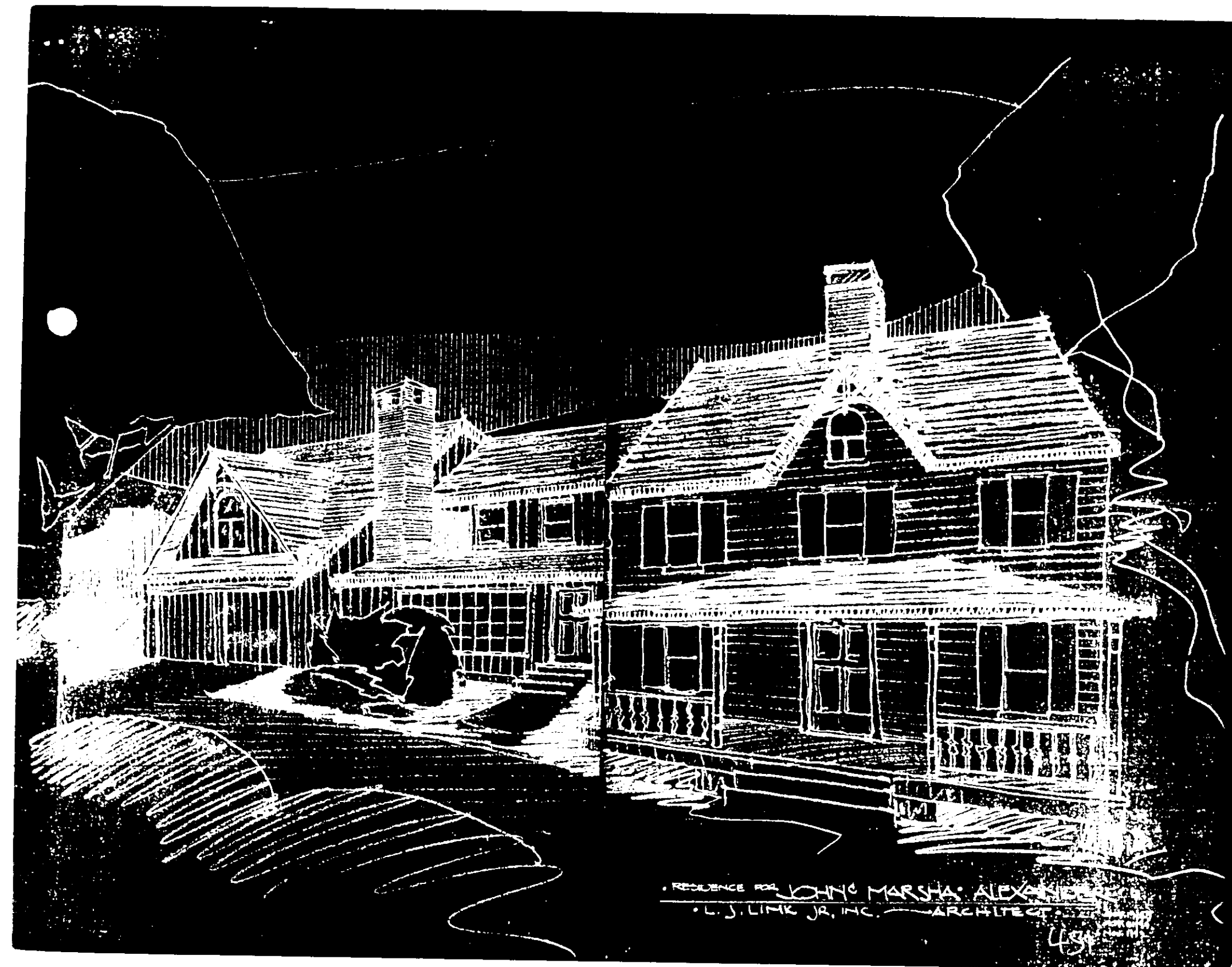
At the public hearing held, there was some preliminary comments about the public notice given for this hearing. The file shows that, as re-



Petitioner's Exh. # 12A-12F

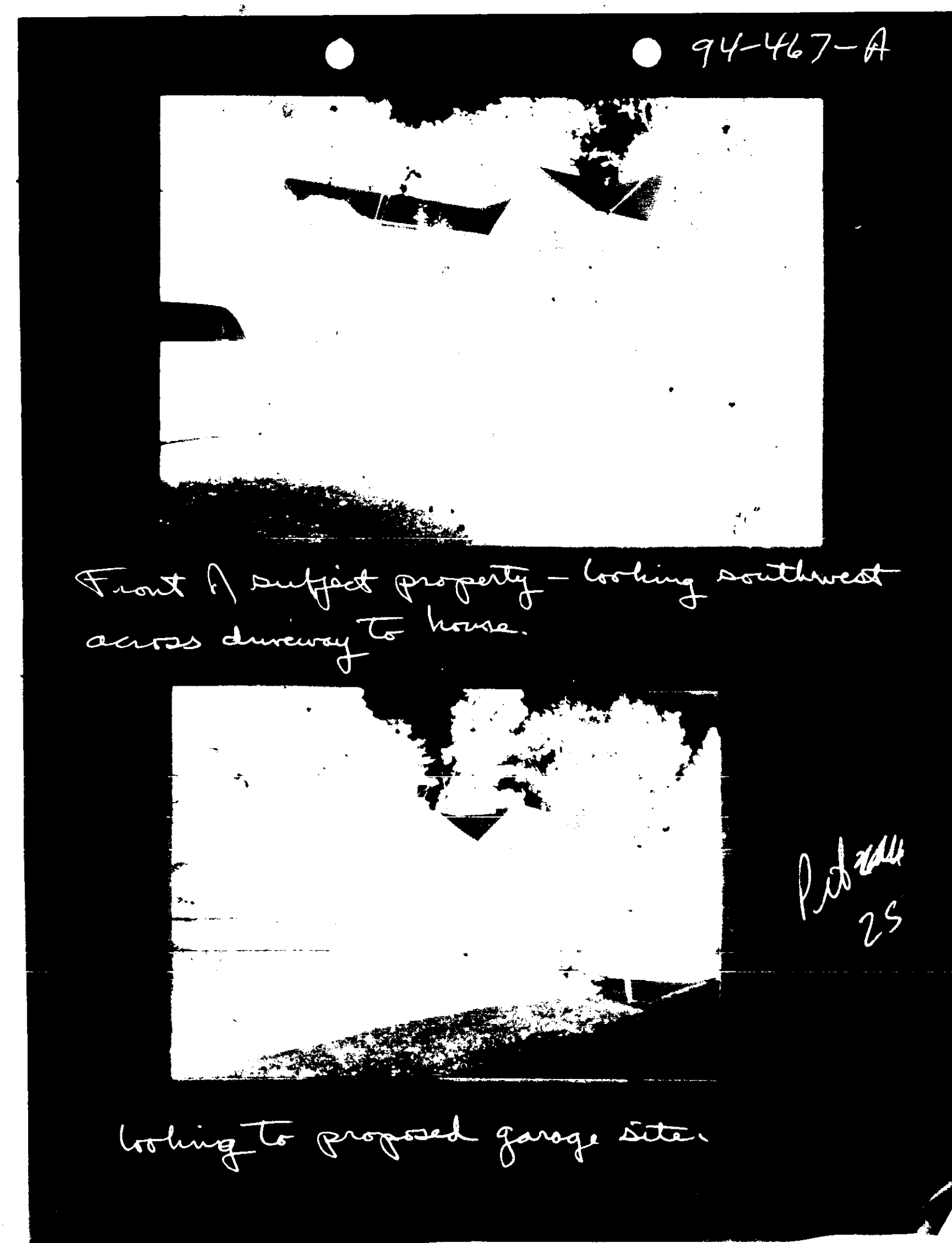
John B. Alexander
 # 94-467-A





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

3 photographs
Phot. 1A-1C



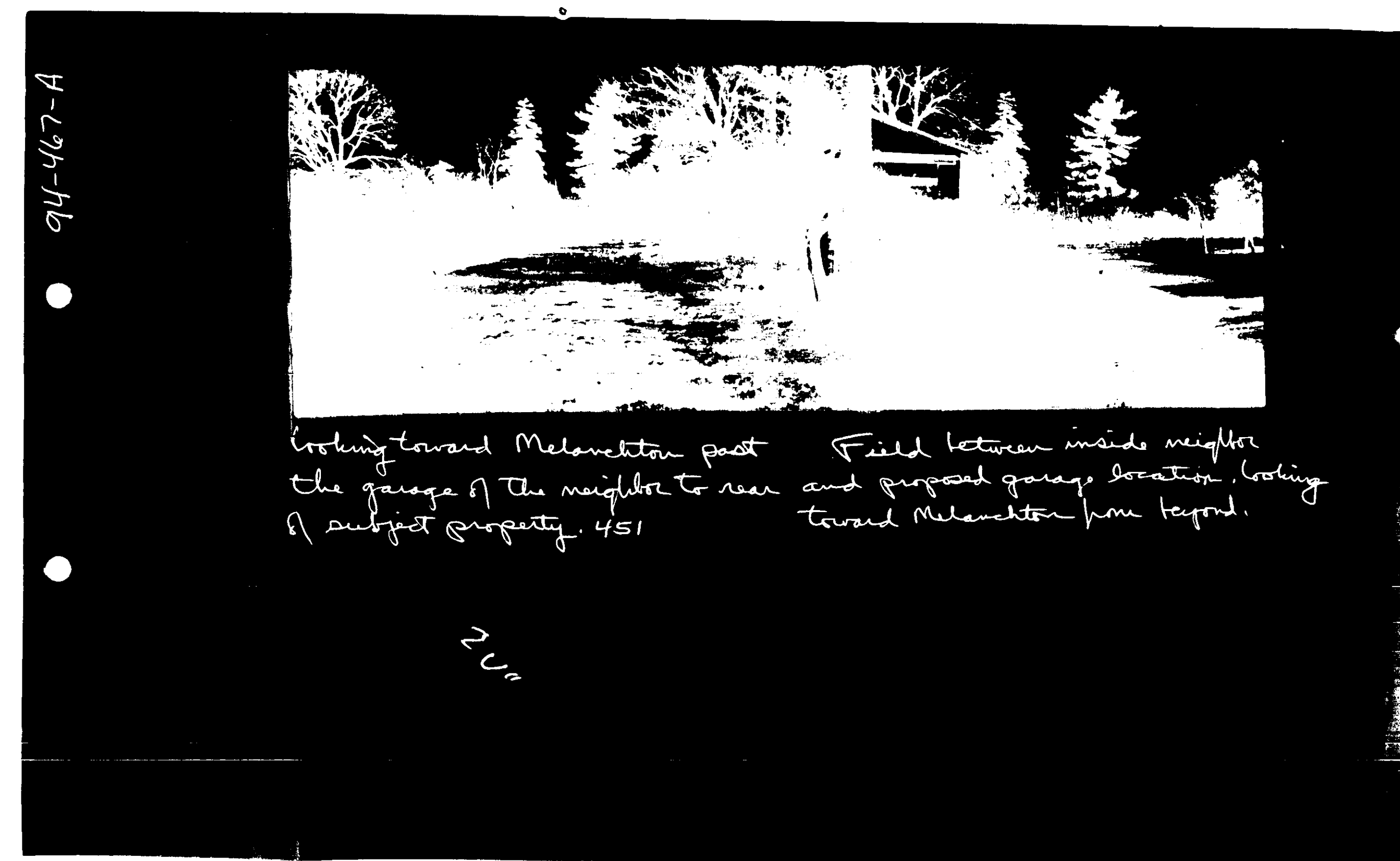
94-467-A

Front of subject property - looking southwest
across driveway to house.



looking to proposed garage site.

Phot 25



94-467-A

looking toward Melancton past the garage of the neighbor to rear of subject property. 451

Field between inside neighbor and proposed garage location looking toward Melancton from beyond.

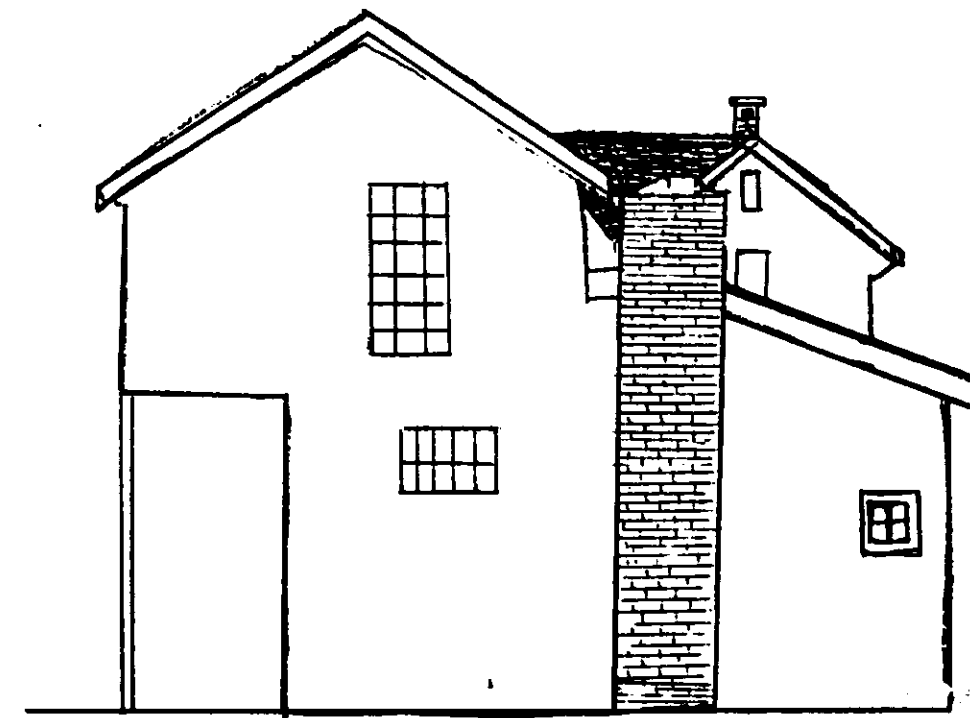
200

94-467-A

EXHIBITS

94-467-A

EXISTING



Ref No 1

The Cottage

Jonathan Sturges, original owner
Joseph Collins Wells, architect
Fairfield, Connecticut
Built 1840

These drawings and photographs of The Cottage in Fairfield, Connecticut, present an intriguing, 137-year-old history of a house and a family. The delicate rendering of the original plan and elevations was done by its architect, Joseph Collins Wells. As the plan shows, the house was spacious and comfortable with drawing room, dining room, and other common rooms on the ground floor and six bedrooms with bathing room on the second.

Meant for casual living, it was still well-built and some interesting features were employed in its construction. For example, an insulating layer of sand was used between the ground floor boards and the basement ceiling. By the time the pen and ink sketch was done in 1972, the house had proliferated to 35 rooms, 11 staircases, 13 fireplaces, and (if you count the booktower) 6 stories. Front views of The Cottage are



98

451

502.3.B SETBACK REQUIREMENTS - PLANNING COMMISSION/BOARD APPROVED SUBDIVISIONS ONLY

ZONE (1971) (1955) (1945 HOUSING TYPE)	TIME PERIOD	JAN. 2, 1945 TO JULY 1, 1955				JULY 2, 1955 TO MARCH 29, 1957				MARCH 30, 1957 TO MARCH 30, 1971				MARCH 31, 1971 TO PRESENT			
		FRONT	REAR	SIDE	CORNER	FRONT	REAR	SIDE	CORNER	FRONT	REAR	SIDE	CORNER	FRONT	REAR	SIDE	CORNER
DR 1 R 40						25	20	7	40	50	50	20	50	50	20	50	50
DR 2 R 20						25	20	7	40	40	40	15	40	40	15	40	40
DR 3.5 R 10 (1 or 2 FAMILIES)		25	15	7	15	25	20	7	40	30	30	10	30	30	10	30	30
DR 5.5 R 0 (BY COMBINATION)		25	15	7	15	25	20	7	40	25	30	8	25	25	30	10	—
DR 10.5 R 0 (D TOWN HOUSES)		25	25	10	25	25	50	15	25	25	50	15	—	10	50	10	—
DR 16 R 0 (C CAPTAINSHIPS)		55	20	7	—	25	25	7	15	25	50	15	—	10	30	25	—

FOR BLDGS. OVER 10 FT HIGH
ADD 4 INCHES PER EACH
FOOT OVER

IF ONLY FOR SUBDIVISIONS
WITH NO FPD

Downing House

Andover, Massachusetts
Built 1840

C. THOMAS FRANCIS
CT DESIGN

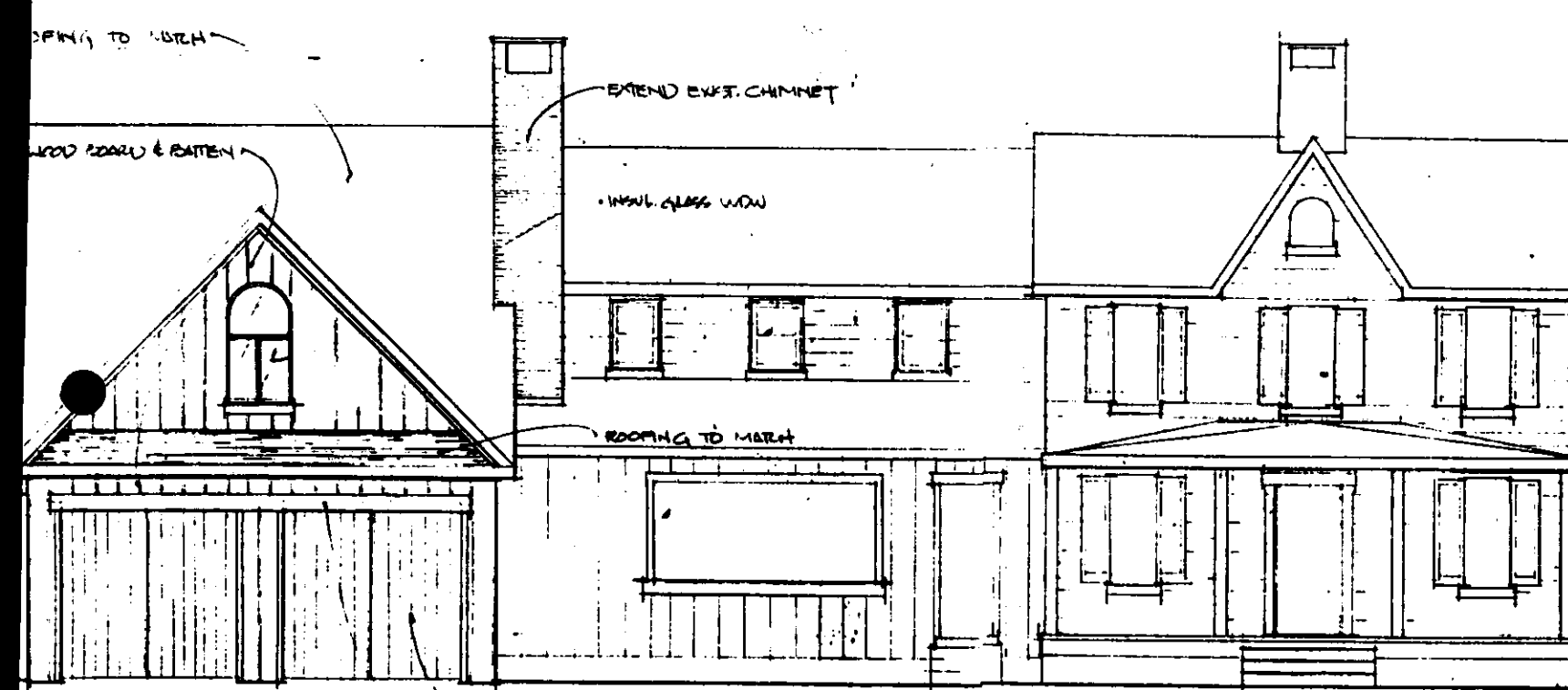


To the best of anyone's knowledge this house in Andover, Massachusetts, was built for a Boston businessman named Downing as his summer home. Andover was very rural then and the house was set in an orchard. There is no record concerning the builder, which is

unusual in the Andover area. The present owners love it, maintain it beautifully and feel most of the design is original. If so, the builder used his own free-wheeling interpretation of the current architectural mode. It doesn't matter. It is a most attractive house.

93

451



NORTH ELEVATION

451



EAST ELEVATION

451

ENTRY OF APPEARANCE

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to John R. Alexander and Marsha McLaughlin, 115 Melancthon Avenue, Lutherville, MD 21093, Petitioners.

PETER MAX ZIMMERMAN

April 14, 1924

Mr. John McGrain, Director
Baltimore County Landmarks Preservation Commission
Office of Planning and Zoning
New Courts Building/ Room 406
401 Bosley Avenue
Towson, Maryland 21204

RE: Proposed Addition
Property of Mr. and Mrs. John Alexander
115 Melancthon Avenue

Dear Mr. McGrain:

The Lutherville Advisory Committee has reviewed the final drawings for this project located within the Historic District of Lutherville and find them to be consistent with the preliminary drawings previously approved. In fact, the current drawings represent an architect-designed project that is a much-refined version of the initial concept. We are pleased with the developed design.

The IAC therefore recommends approval by the Commission

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Lutherville Advisory Committee

Robert P. Wingard AIA
Chair and Resident Architectural Advisor, IAC
214 Morris Avenue
Lutherville, Maryland 21093
(410) 252-1074 (C) 528-8600

cc: Mr. and Mrs. John Alexander
File

451

P/O Box 6
Lutherville, Maryland 21093

Mr. John Alexander
115 Melancton Avenue
Lutherville, Maryland 21093

Re: Zoning Variance

Dear Mr. Alexander:

This letter will confirm recent events concerning your plans to construct a two story garage on the east side of your home. I have discussed this matter with two of your neighbors, both of whom expressed no objections, as well as a reliance these plans to the Board of Directors of the Association. The Board voted to support your proposal, at least in regard to its zoning implications, and this letter will serve as its endorsement of your request for a zoning variance.

I must caution, however, that this letter does not address the issue of architectural compatibility, which must be cleared through the historic district committee. Best wishes to your further endeavors on this project.

Sincerely,

Eric Rockel
Eric Rockel
Zoning Committee

451

June 23, 1991

To Whom It May Concern:

On June 20, 1991, Mr. John R. Alexander met with the Lutherville Advisory Committee to the Baltimore County Landmarks Preservation Commission to discuss plans for an addition to his house which will involve a variance to the applicable sideyard setback requirements. Insofar as it affects the Lutherville Historic District, we have no objection to the variance.

Sincerely,

Robert P. Wingard
Robert P. Wingard AIA
Chairman, Lutherville Advisory Committee to the
Baltimore County Landmarks Preservation Commission

451

PLEASE PRINT CLEARLY

PROTESTANT'S
~~CITIZEN~~ SIGN-IN SHEET

NAME	ADDRESS
John S. Stock / Jean Stock	112 MECHANTON AVE LUTHERVILLE MD
John M. Thomas	107 MECHANTON AVE " "

PLEASE PRINT CLEARLY

~~SECRET~~ SHEET

NAME	ADDRESS
L. J. Link Jr. Architect.	6727 Brookland 210 82.
Scout Ranch, Ind.	115 Glen Arch Ave. Lexington, Ind. 46102

Plot to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: LUTHERVILLE
plot book # _____ folio _____ lot# _____ section# _____

OWNER: JENNY ALEXANDER & MARSHA McLAUGHLIN.

DR-2
OR-5

The site map shows a large rectangular plot bounded by Melancton Ave. to the north, Division St. to the west, and a 74-foot house line to the south. The plot contains several features:

- Melancton Ave.**: 150 feet wide at the top boundary.
- Division St.**: 100 feet wide at the left boundary.
- Existing Structures**:
 - DOGWOODS (top left)
 - FRUIT TREES (middle left)
 - EXISTING HOUSE (center)
 - EXISTING PATIO (bottom center)
- Proposed Features**:
 - PROPOSED GARAGE (top right, adjacent to driveway)
 - CONCRETE BLACK SHED (bottom right)
 - 2nd FLOOR (indicated near the shed)
- Other Labels**:
 - 18' x 10' TABLE (near dogwoods)
 - 2nd SCREEN PINES (left side)
 - CHERRY (bottom left)
 - 2nd WALKWAY (bottom left)
 - 2nd DRIVE (bottom left)
 - 74 FT TO HOUSE (south boundary)

PAVING: IN (NO RIGHT OF WAY)
107 FT x HOUSE

SANDRA McLEROY
109 MELANCTON
O 812069350

LEWIS E. WOOLF
1601 DIVISION AVE.
O 808001450

Neighbors Garage.

DR-2
OR-5

94-467-A

LOCATION INFORMATION

Councilmanic District: 04
Election District: 08

1"-200' scale map: NW 12-A

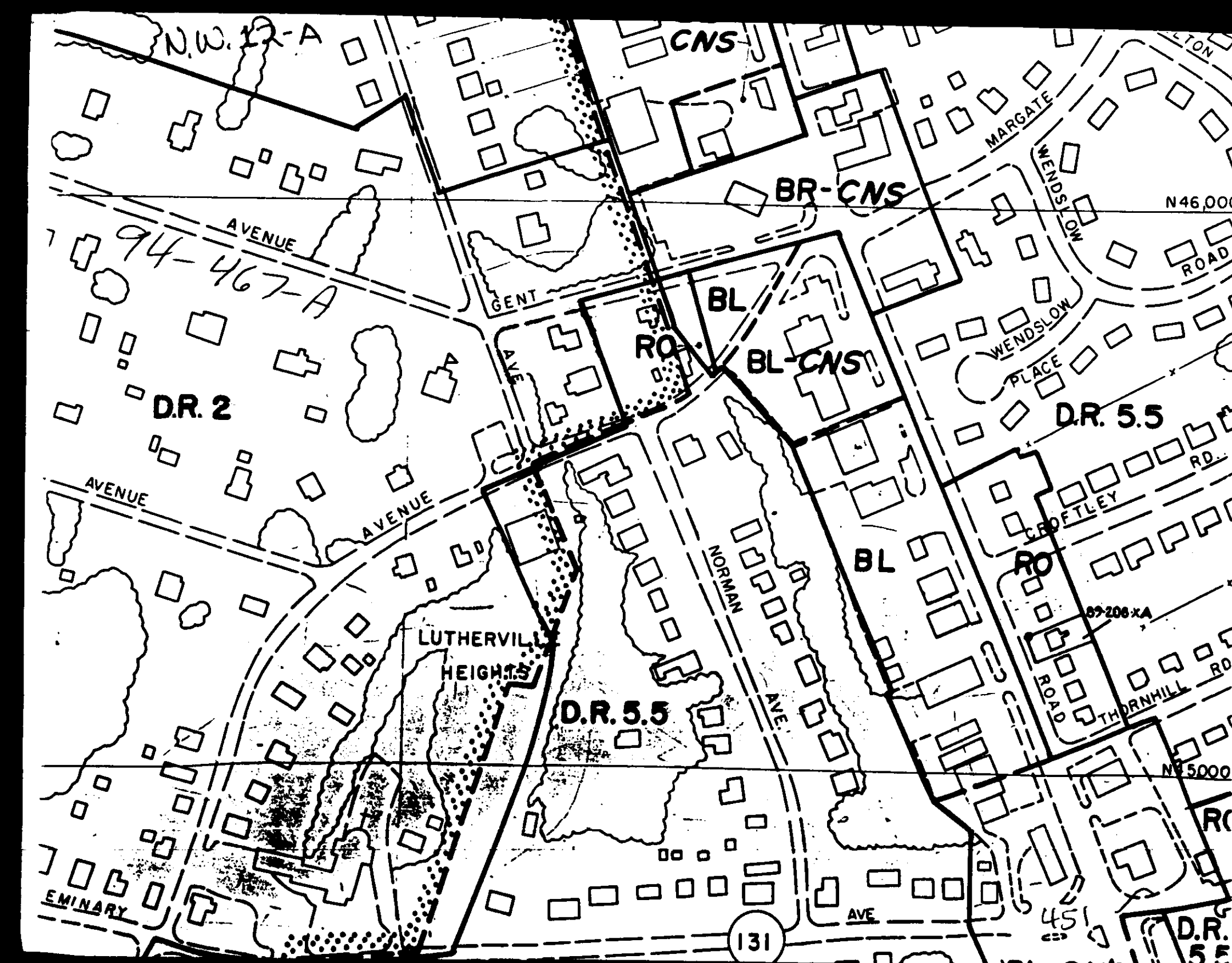
Zoning: DR 2
Lot size: .32 acreage 14,100 square feet

SEWER:	☒	☐
WATER:	☒	☐
Chesapeake Bay Critical Area:	☐	☒
Prior Zoning Hearings:	NONE	

Zoning Office USE ONLY!

reviewed by: ITEM #: CASEB:

CAM | 451



9/06/94 -Notice of Assignment for hearing scheduled for Tuesday, November 29, 1994 at 10:00 a.m. sent to following:

Mr. John R. Alexander and
Ms. Marsha McLaughlin
Ms. Sandra L. McElroy
Mr. & Mrs. John Storck
Mr. Harry M. Thomas
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

11/29/94 -T/C from Michael Tanczyn, Esquire (will be entering appearance as Counsel for Appellant). Circuit Court conflict with scheduled start time; requesting start time of 11:00 a.m.

- T/C to J. Lipowitz (Acting Chairman for 11/29/94 hearing); case can begin at 11:00 a.m.; will notify Board members, M. Tanczyn, and also H. Alderman, Esquire (will enter appearance as Counsel for Petitioner).

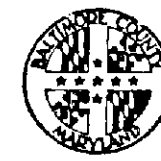
Attempted to reach Mr. Alderman; not available this date; will contact on Monday, 11/28/94; also, Mr. Tanczyn to provide Board with letter detailing above request on 11/28/94.

11/28/94 -T/C from M. Tanczyn; will NOT be entering appearance in this matter; contacted H. Alderman; advised that case will proceed on 11/29/94 at scheduled start time of 10:00 a.m.; also contact J. Lipowitz and advised him of 10:00 a.m. start time. No other Board members had been contacted regarding any change in time. This case will be heard Tuesday, 11/29/94 at 10:00 a.m.

11/29/94 -Hearing concluded before Board; matter to be scheduled for public deliberation and notices sent. (L.B.R.)

11/30/94 -Notice of Deliberation sent to parties; deliberation scheduled for December 8, 1994 at 9:00 a.m.

12/08/94 -Public deliberation held; Granted by Lipowitz & Buchheister; Schuetz dissented. Majority Opinion/Order to be issued (A & B); Dissenting Opinion to be prepared by R.



County Board of Appeals of Baltimore County

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

November 30, 1994

NOTICE OF DELIBERATION

Having concluded this case on November 29, 1994, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

JOHN B. ALEXANDER, ET AL - Petitioner
CASE NO. 94-467-A

DATE AND TIME : Thursday, December 8, 1994 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: Howard L. Alderman, Jr., Esquire Counsel for Petitioners
Mr. John R. Alexander and Ms. Marsha McLaughlin Petitioners

Ms. Sandra L. McElroy Appellant /Protestant

Mr. & Mrs. John Storck

Mr. Harry M. Thomas

People's Counsel for Baltimore County

Pat Keller

Lawrence E. Schmidt

Timothy H. Kotroco

W. Carl Richards, Jr. /ZADM

Docket Clerk /ZADM

Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

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on Recycled Paper

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: John B. Alexander, et al -Petitioner
Case No. 94-467-A

DATE : December 8, 1994 at 9:00 a.m.

BOARD /PANEL : Judson H. Lipowitz (JHL)
Robert O. Schuetz (ROS)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Those present included Howard L. Alderman, Jr., Esquire, Counsel for Petitioner; John Alexander, Petitioner; and Sandra McElroy, Appellant /Protestant.

PURPOSE --to deliberate issues and matter of petition for zoning variance presented to the Board; testimony and evidence taken November 29, 1994. Opinion and Order to be issued by Board setting forth written findings of fact.

JHL: Opening comments as to case name and number being deliberation this date.

ROS: Unusual case because of involvement of Landmarks Preservation Commission (LPC) and area of Lutherville; burden of proof for undue hardship /practical difficulty rests with Petitioner; corner property; substantial lot to accomplish what Petitioner wants; referenced testimony received from Mr. Link and his design /attempt at meeting spirit and intent of BZCR is very clear; Petitioner has gone to great lengths to satisfy needs of LPC, but that is not the end of one's burden. Easy for LPC to insist that garage go on east side of property; however, addition could easily go on the west side from physical standpoint, compatibility with area; architect could have been just as easily respective to the community; physical constraints of site are not that great; only commentary regarding location were trees and Division Street; no expert testimony regarding traffic, some expert testimony from architect who indicated it was not the only location possible under cross; looking at Petition itself, plat which accompanied Petition indicated rectangular building; does not indicate protrusions; may or may not impact on 4-foot setback applied for; does not indicate whether or not that protrusion actually comes closer to the property line (second floor window) so it's unclear about whether or not 4-foot setback

Deliberation /JOHN B. ALEXANDER /94-467-A

would apply to the building edge at the foundation or to other protrusions. From technical standpoint, must decline it. As finding of fact, will find that the Petitioner did not exhaust all opportunities for construction of the garage on the west side; nor did he exhaust other opportunities for access to that; absolutely no grades shown to buttress any argument that there is too great a fall; my contention that those types of physical constraints are minor at best on west side of property; find no practical difficulty peculiar to the site; Petitioner has not met burden of proof under 307; will find in favor of the appellant, Ms. McElroy.

Summary: Petition should be denied.

HEB: Went out to visit Lutherville for the first time recently; became very familiar with the situation now being deliberated; interesting her reasons for opposing this variance are most commendable; Mr. Storck's testimony was impressive; at same time, is my opinion Mr. Alexander has been endeavoring to find solution to various ways in which he might put addition on house; much time and thought has gone into it; concurs with ROS regarding misunderstanding in the actual drawing; setback situation is a little troubling; dimension from Petitioner's west side of house to Division Street was equally a great distance as from Ms. McElroy's home to the property line; lot of land on the west side; distance from property line on east side to existing building seems to be about the same as distance from west side to the large tree; garage could be placed in that space on the west side of the house and not interfere with tree. Another consideration is the 4-foot setback; could it be more; protestants feel his addition could be placed on west; testimony of Mr. Link stressed internal room layout of the house that presents serious problems; numerous windows on the west; west side of house is attractive; would create practical difficulty and hardship to alter that west side with addition; also testimony that there are topographic problems with the large tree and other trees in the area between house and Division Street; more costly grading, etc. LPC feels that plans will enhance present house and property aesthetically, and will complement the neighborhood; Protestant is concerned about construction of garage regarding building equipment, materials, etc.; but will be handled. To improve appearance of total property, concrete block garage will be removed; 2-1/2 ft. from property line; closer than 4 feet being requested; LPC approves of plan; with regard to section 307, variance should be granted; no injurious to health, safety or general welfare; this historical location, improved in the manner that plans

2

Deliberation /JOHN B. ALEXANDER /94-467-A

indicate, with some changes, is going to brighten up entrance to Lutherville; requested variance should be granted; reserves thoughts on the 4-foot setback; size of garage has been reduced, per testimony received; no longer two-car garage; will accommodate compact car and larger car; overhead protrusion of the dormer /whether this design of the garage could be reduced and require less setback; as situation stands, inclined to say that requested variance should be granted.

Summary: Petition should be granted.

JHL: Role as members of the Board is to hear facts and make decision based on the evidence; testimony from both sides was thorough and accurate, and well taken by the Board; able to understand relevant issues in case; 30-foot setbacks have not been discussed but is in favor of granting those; 4-foot side setback is a bit problematic; Section 307 requires Board to find from the evidence practical difficulty if variance request were denied; consider circumstances peculiar to the land; in this case, there is testimony from Mr. Link that form and function of house would be negatively affected if Petitioner was required to build on west side rather than east side; testimony that building garage on west side would require removal of tree or trees; testimony that construction of garage on west side would block windows that are already on the house on west side; testimony about grading on west side (not overly convinced with that, but there was testimony); testimony that if constructed on west side, would be more impervious surface and the opposite of that if constructed on the east side; all these factors independently, and definitely collectively, support a finding of practical difficulty under Section 307; also under 307, we are to find that the variance, as requested, would not be detrimental to the surrounding locale. First fact as shown on plat is that Ms. McElroy's house at 109 Melancton is 107 ft. away from Petitioner's property line; if house were closer, might be more problem; but since so far away, having problem seeing actual negative impact on neighboring property. To buttress my position, I'm finding facts in the record, specifically, the improvements were designed and redesigned to comply with Baltimore County LPC; improvements would not be detrimental to surrounding locale; existing garage is falling down; razing existing garage would be enhancement; construction process is temporary; meets spirit and intent of zoning regulations; protestants not opposed to garage but rather location 4 feet from property line; subject to conditions, I am inclined to grant the Petition for Variance.

Summary: Would grant Petition for Variance.

3

Deliberation /JOHN B. ALEXANDER /94-467-A

ROS: Interjected that couple of things remain open, particularly aspects of the second floor and protrusion.

Board members discussed these various aspects of second floor; protrusion and how it relates to 4-foot setback requested; no dimension on drawing.

At this point, Howard Alderman, Mr. Alexander and Ms. McElroy then approached the Bench to clarify distance from property line of protrusion on second story.

Board members then continued discussion of actual distance, plan submitted, etc.

JHL: At this point, Board will reach consensus that no part of the east side of this garage can go closer than 4 feet to the property line /true 4-foot setback. Will create work and problems for the Petitioners; but will also give some relief to the Protestants.

ROS: Cannot agree with that; must dissent.

JHL: A written opinion and order will follow. Any appeal from our decision must be taken within 30 days of the opinion and order, and not from today's date.

Respectfully submitted,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

304.7--The director of zoning administration shall establish appropriate fee schedules. (Bill No. 47, 1992.)

Section 305--REPLACEMENT OF DESTROYED OR DAMAGED DWELLINGS [B.C.Z.R., 1955; repealed by Bill No. 124, 1991; re-enacted by Bill No. 214, 1991.]

In case of complete or partial casualty loss by fire, windstorm, flood, or otherwise of an existing dwelling that does not comply with height or area requirements of the zone in which it is located, such dwelling may be restored provided area or height deficiencies of the dwellings before the casualty are not increased in any respect, and such restoration is subject to the limitations imposed by Section 104.2 of the Baltimore County Zoning Regulations.

Section 306--MINOR PUBLIC UTILITY STRUCTURES [B.C.Z.R., 1955.]

Minimum lot area regulations in any zone shall not apply to repeater, booster, or transformer stations, or small community dial offices. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

Section 307--VARIANCES [B.C.Z.R., 1955; Bill No. 107, 1963.]

307.1--The zoning commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations and from sign regulations, only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the zoning commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the zoning commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance. (B.C.Z.R., 1955; Bill No. 107, 1963; No. 32, 1988; Bill No. 2, 1992.)

307.2--In addition to the authority and limitations set forth in Section 307.1 above, within the Chesapeake Bay Critical Area, the zoning commissioner, or upon appeal, the Board of Appeals of Baltimore County, shall have the power to authorize the expansion

REV 2/92

3-38

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1991, LEGISLATIVE DAY NO. 3

RESOLUTION NO. 7-91

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, FEBRUARY 4, 1991

A RESOLUTION concerning the public disclosure of John Alexander, an employee of the Baltimore County Office of Planning and Zoning.

WHEREAS, John Alexander intends to file a request for a zoning variance for the construction of a garage addition on an existing home located in the Fourth Councilmanic District of Baltimore County; and

WHEREAS, this Resolution is intended to provide full public disclosure of his interest in the proceeding before the Zoning Commissioner under Section 22-11(d) of the Baltimore County Code.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland that the filing of a zoning variance and related requests in connection therewith by John Alexander does not contravene the public welfare and is hereby authorized.

451

IN THE MATTER OF
THE APPLICATION OF
JOHN R. ALEXANDER, ET AL
FOR A ZONING VARIANCE ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
MELANCHTON AVENUE, AT SOUTHEAST
COR MELANCHTON & DIVISION AVENUES
(115 MELANCHTON AVENUE)
8TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO: 94-467-A

DISSENTING OPINION

This case hinges on the Petitioner's ability to meet the burden of proof of physical constraints peculiar to the land or structure which, in conforming to the Baltimore County Zoning Regulations, would create undue hardship or practical difficulty for the Petitioner. The Petitioner presented a design by architect Lawrence Link which is most responsive to the historic nature and style of the surrounding area and instant existing building. However, the issues related to features of the site which may or may not be unique to the structure or site were ostensibly left unaddressed by the Petitioner.

The existing house rests approximately 26 feet from the east property line, common with the Appellant, Sandra McElroy. The Plat to Accompany the Petition for Zoning Variance does not indicate the distance between the west property line and the existing home, nor any distances between the house and any of the trees near the west side of the house. Neither the Plat nor the architectural drawings entered as Petitioner's Exhibit No. 1 show any contours of the land which would support a claim of engineering difficulty in constructing the garage on the west side of the house as a matter of right. In fact, on recross-examination, the architect stated

Case No. 94-467-A /John R. Alexander, et al /Dissent

that the only practical difficulty in building the garage on the west side of the house is one of aesthetics and possible loss of trees.

The architectural drawings for the proposed garage, Sheets A7 of 7, A5 of 7, A3 of 7 and A2 of 7, collectively known as Petitioner's Exhibit No. 1, are inadequate in relating the design to several design issues in this case. According to the drawing sheets A2 and A3 of 7, access to the proposed addition will be via a second floor room in the existing house, as well as through an exterior door on the first floor. The plans provided do not indicate the rooms in the existing house through which access to the proposed addition is gained; therefore, no evidence regarding adjacency needs is even available for consideration of rationale for the proposed placement of the addition. Further, the Plat indicates a very regular, rectangular addition which would have an edge at four (4) feet from the east property line; however, the elevation drawings and the Second Floor Plan from Petitioner's Exhibit No. 1 indicate a significant protrusion on the second floor. Thus, the Petition, the Plat and the accompanying drawings are not in accord with one another as they relate to the supposed 4-foot setback dimension. The dimensions shown on the architectural drawings lead me to the conclusion that the second floor protrusion would rest at a point 18 inches from the east property line.

Turning again to the issues of the west side of the house as

2

Case No. 94-467-A /John R. Alexander, et al /Dissent

a possible location for the addition, the Petitioner failed to address his own allegations about access to the site. He said that the stretch of Division Street by his home had traffic which moved too fast; however, he failed to produce testimony and/or evidence to support what should be considered too fast. He also was unable to discredit the Appellant's assertion that, by her family's long-time residency in the area and in the Petitioner's home, she asserts that the west side was once used as a driveway.

Finally, I realize the Petitioner dealt extensively with the Landmarks Preservation Commission (LPC) in getting to this point. However, the burden of the Petitioner does not end with the blessing of LPC. In fact, the LPC approval is in addition to, not in lieu of, meeting the burden for a variance before this Board. The LPC position, in this case, must be discounted to some extent, as the impact of the granting of the variance is felt outside the area under LPC purview; the Appellant's property is not part of historic Lutherville.

I find as a fact that the Petition, Plat and accompanying documents are not in accord with one another. Further, the Petitioner failed to prove that conditions elsewhere on the site are of a quality which would create a practical difficulty or undue hardship. I would assert the obvious talents of the architect could be just as responsive to the area in a design on the west side as the east, and possibly more so. Also, I have seen no evidence or testimony which would indicate the Petition is in the

3

Case No. 94-467-A /John R. Alexander, et al /Dissent

spirit and intent of the Baltimore County Zoning Regulations. In fact, I find that the extreme closeness of the proposed addition to the east property line is in contravention to the intent of the instant D.R. 2 zone and may have a negative impact on the developable value of the Appellant's property, which is zoned D.R. 5.5. The instant Petition should be denied.

Robert O. Schuetz
Robert O. Schuetz

DATE: January 27, 1995

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IN THE MATTER OF THE
PETITION OF
JOHN R. ALEXANDER, ET AL
FOR VARIANCES ON PROPERTY
LOCATED ON THE SOUTH SIDE
OF MELANCHTON AVENUE AT
SOUTHEAST CORNER MELANCHTON
AND DIVISION AVENUES
(115 MELANCHTON AVENUE)
8TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 94-467-A

OPINION

This case comes before the Board on appeal from a decision of the Zoning Commissioner, dated July 29, 1994, granting variances permitting front and rear yard setbacks of 30 feet (both existing) in lieu of the required 40 feet and a side yard setback of 4 feet in lieu of the required 15 feet for a structure containing a 2 car garage. The Board hearing in this case was de novo.

The Petitioners presented the testimony of John R. Alexander, who owns the property with his wife, and Lawrence J. Link, Jr., a registered architect with experience in designing structures in historic communities. Fourteen exhibits were offered into evidence by the Petitioners.

The Appellants presented the testimony of Sandra L. McElroy, the next door neighbor to the east at 109 Melanchton Avenue, and John Storck, the son of Jean Drach Storck. Jean Drach Storck lives across the street from the property at 112 Melanchton Avenue. Six exhibits were collectively offered into evidence by the Appellants.

From the testimony, evidence and exhibits, the Board finds the following facts:

1

Case No.: 94-467-A John R. Alexander, et al

The subject dwelling is located in the Lutherville Historic District and was constructed in approximately 1860. The property, 115 Melanchton Avenue, is approximately one-third of an acre in size and is zoned D.R. 2. An existing detached concrete block shed presently serves as a garage towards the rear of the property. The house owned by Appellant, Sandra L. McElroy is approximately 107 feet to the east of Petitioners' house.

The Petitioners desire to raze the existing shed and construct on the east side of the dwelling a 22 feet wide, two-story 1300 square foot addition containing a 2 car garage on the first floor and habitable space on the second floor. The first floor of the proposed addition will be within 4 feet of the property line and, in fact, certain proposed structures, i.e., windows are proposed to be within 2 feet of the property line.

The proposed improvements were designed and re-designed to comply with the requirements of the Baltimore County Landmarks Preservation Commission. Ultimately, said Commission approved the addition as proposed.

The variances are requested pursuant to Section 307.1 of the BCZR. The Board reviewed the criteria set forth in said Section and applied the facts of this case to the law. Additionally, the Board reviewed the test for practical difficulty set forth in the case of McLean v. Soley, 270 Md. 208 (1973).

The Petitioners maintain that strict compliance with the BCZR will result in practical difficulty. The Appellants urge the Board

2

Case No.: 94-467-A John R. Alexander, et al

to find from the facts that the existing setback requirements are not unnecessarily burdensome.

From the evidence presented, the Board concludes that Petitioners have established that strict compliance with the BCZR will result in practical difficulty. Specifically, the Board finds, as a fact, the following:

1. Due to the existing layout of the Petitioners' house, the denial of a side yard variance would unnecessarily burden the flow, form and function of the house;
2. Due to circumstances peculiar to the land, i.e., the grading of the property on the west side and the orientation of the house, the denial of a side yard variance would unnecessarily require the removal of trees on the west side of the house;
3. Due to the location of the existing windows on the west side of the house, the denial of a side yard variance would unnecessarily cause windows on the west side of the house to be blocked by the construction of a similar garage addition on the west side of the dwelling; and
4. Due to the grading on the west side of the property and the orientation of the Petitioners' house, the construction of a garage addition on the west side of the dwelling would unnecessarily require additional paving. In fact, locating the proposed addition on the east side of the house will actually result in a reduction of existing impervious surfaces.

All four of the above findings are based primarily on the unrebutted expert testimony of the Petitioners' architect, Lawrence J. Link, Jr., whose testimony the Board found to be very thorough and accurate.

3

Case No.: 94-467-A John R. Alexander, et al

The Board also finds that granting the variances will not be detrimental to the surrounding locale. Specifically, the Board finds as follows:

1. The improvements were designed and re-designed to comply with the Baltimore County Landmarks Preservation Commission's requirements. Said Commission ultimately approved the proposed addition as shown on Petitioners' Exhibit 4;
2. The improvements will be an enhancement to the streetscape particularly because the old dilapidated garage/shed will be razed; and
3. Any nuisance created by the construction of the proposed addition will be temporary in nature.

Furthermore, the Board finds from the facts that relief can be granted in strict harmony with the spirit and intent of the BCZR without causing injury to the health, safety or general welfare of the locality involved. In making this finding, the Board notes the following:

1. An attached 2 car garage is permitted as of right in a DR 2 Zone;
2. The cars will be garaged inside rather than outside; and
3. The neighboring house to the east is approximately 107 feet away from the addition as proposed.

In regard to practical difficulty, the Board finds that allowing windows within 2 feet of the east side property line is not the minimum variance needed to afford the Petitioners' appropriate relief under Section 307.1 of the BCZR. In other words, the Board finds that the granting of a lesser variance, i.e., a 4 foot setback, will give the Petitioners appropriate

4

Baltimore County Government
Fire Department



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

(410) 887-4500

DATE: 06/06/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
DATE: 06/06/94

RE: Property Owner

LOCATION: SEE BELOW

Item No.: SEE BELOW

Settlement:

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.

B. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 457, 458, 461, 462, 463, 464, 466, 467, 468, 469 AND 470.

RECEIVED
JUN 8 1994
ZADM

REVIEWER: L.T. ROBERT P. SAUERHOLD
Fire Marshal Office, PHONE 887-4001, MS-1102F

cc: File

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on Recycled Paper

Baltimore County Government
Fire Department



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

(410) 887-4500

DATE: 06/06/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
DATE: 06/06/94

RE: Property Owner

LOCATION: SEE BELOW

Item No.: SEE BELOW

Settlement:

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.

B. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 457, 458, 461, 462, 463, 464, 466, 467, 468, 469 AND 470.

RECEIVED
JUN 8 1994
ZADM

REVIEWER: L.T. ROBERT P. SAUERHOLD
Fire Marshal Office, PHONE 887-4001, MS-1102F

cc: File

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: June 14, 1994

SUBJECT: 115 Melancton Avenue

INFORMATION:

Item Number: 451

Petitioner: Alexander Property

Property Size:

Zoning: D.R. 2

Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

The applicant's property is located within the Baltimore County Historic District and the National Register District of Lutherville. The Baltimore County Landmarks Commission has reviewed architectural drawings and the site plan for the proposed two car garage. To date, a certificate of appropriateness has not been issued, and concerns have been expressed regarding the design and setbacks for the addition. While revised architectural drawings were submitted, no resolution has been reached.

No building permit may be issued without a certificate of appropriateness. In the event that the Landmark Preservation Commission disapproves the building permit application, an appeal may be taken pursuant to Section 26-553 of the Baltimore County Code.

Prepared by: Jeffrey M. Long

Division Chief: Gary L. Kern

PK/JL:lw

ZAC-451/PZONE/ZAC1

Pg. 1

Arnold Jablon
ZADM
Room 109, 111 W. Chesapeake Avenue
Towson, MD 21204

In reference to:

Petition for Zoning Variance
S/S Melancton Ave., at SEC
Melancton & Division Ave.
115 Melancton Ave.
8th Election District
4th Councilmanic District
John Alexander, et al
Petitioners
Case No. 94-467-A

I am appealing this decision.

Sandra L. McElroy
109 Melancton Ave.
Lutherville, MD 21093

RECEIVED
JUN 14 1994
ZONING OFFICE

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

August 29, 1994

Mr. John R. Alexander
Ms. Marsha McLaughlin
115 Melancton Avenue
Lutherville, MD 21093

RE: Petition for Variance
S/S Melancton Ave., at SEC
Melancton & Division Avenues
(115 Melancton Avenue)
8th Election District
4th Councilmanic District
John R. Alexander, et al-Petitioner
Case No. 94-467-A

Dear Mr. Alexander and Ms. McLaughlin:

Please be advised that an appeal of the above-referenced case was filed in this Office on August 25, 1994 by Sandra L. McElroy. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

Arnold Jablon
Director

AJ:jaw

cc: Mr. & Mrs. John Storck
Mr. Harry M. Thomas
People's Counsel

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on Recycled Paper

APPEAL

Petition for Variance
S/S Melancton Ave., at SEC Melancton & Division Avenues
115 Melancton Avenue
8th Election District - 4th Councilmanic District
John R. Alexander, et al-PETITIONER
Case No. 94-467-A

Petition(s) for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

County Council Resolution

Plat to Accompany Petition for Variance

Package marked "Other Examples of Design"

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: 1 - Existing sketch of home

2A-2W Twenty-eight photographs

Protestant's Exhibits: 1A-1C Three photographs

Three miscellaneous letters of support

Zoning Commissioner's Order dated July 29, 1994 (Granted)

Notice of Appeal received on August 25, 1994 from Sandra L. McElroy

cc: Mr. John R. Alexander and Ms. Marsha McLaughlin, 115 Melancton Avenue, Lutherville, MD 21093
Ms. Sandra L. McElroy, 109 Melancton Avenue, Lutherville, 21093
Mr. & Mrs. John Storck, 112 Melancton Avenue, Lutherville, 21093
Mr. Harry M. Thomas, 107 Melancton Avenue, Lutherville, 21093
People's Counsel of Baltimore County, M.S. 2010

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

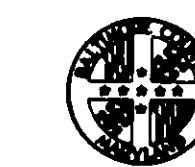
DATE: May 16, 1995

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: Case No. 94-467-A
JOHN B ALEXANDER, ET AL
8th E; 4th C

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

Attachment



County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

September 6, 1994

NOTICE OF ASSIGNMENT

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

CASE NO. 94-467-A

JOHN B. ALEXANDER, ET AL
S/S Melancton Avenue, at SEC Melancton &
Division Avenues (115 Melancton Avenue)
8th Election District
4th Councilmanic District

VAR -To permit front & rear yard setbacks of 30' (both existing) in lieu of required 40'; side yard setback of 4' in lieu of required 15' (2-car garage).

7/29/94 -Z.C.'s Order in which Petition for Variance was GRANTED.

ASSIGNED FOR: TUESDAY, NOVEMBER 29, 1994 at 10:00 a.m.

cc: Mr. John R. Alexander and
Ms. Marsha McLaughlin

Petitioners

Ms. Sandra L. McElroy

Appellant /Protestant

Mr. & Mrs. John Storck
Mr. Harry M. Thomas

People's Counsel for Baltimore County

Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink
on Recycled Paper

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th Date of Posting: 9/1/94
 Posted for: John R. Alexander et al.
 Petitioner: 115 Melancton Ave. Hy 75
 Location of property: 115 Melancton Ave. Hy 75
 Location of Sign: 115 Melancton Ave. Hy 75
 Remarks: None
 Posted by: Michelle Date of return: 9/1/94
 Number of Signs: 1

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 9/1/94 ACCOUNT: 94-467-A
 AMOUNT: \$ 210.00
 RECEIVED FROM: John R. Alexander et al.
 FOR: 115 Melancton Ave. Hy 75
 \$210.00
 VALIDATION OR SIGNATURE OF CARRIER

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Date: 5-19-94 Receipt
John R. Alexander 115 Melancton Ave CAN.
Marsha McLaughlin Lutherville, MD 21093
010 Rte. 467 SC
CSC SIGN \$35
TECH \$85
 Account: R-001-6190
 Number: 451
 Please Make Checks Payable To Baltimore County
 Cashier Validation

TO: POTTERY PUBLISHING COMPANY
 June 2, 1994 Issue - Jeffersonian
 Please forward billing to:
 John R. Alexander
 115 Melancton Avenue
 Lutherville, Maryland 21093
 887-8121

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: 94-467-A (Item 451)
 115 Melancton Avenue
 S/S Melancton Avenue, at SEC Melancton and Division Avenues
 8th Election District - 4th Councilmanic
 Legal Owner: John R. Alexander and Marsha McLaughlin
 HEARING: WEDNESDAY, JUNE 29, 1994 at 9:00 a.m., Rm. 118 Old Courthouse
 Variance to allow a front yard setback and rear yard setback of 30 feet (both existing) in lieu of the required 40 feet and a side yard setback of 4 feet in lieu of the required 15 feet for a two-car garage.

LAWRENCE E. SCHWIDY
 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.

Item Number: 451
 Planner: CAM
 Date Filed: 5-18-94

PETITION PROCESSING FLAG

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

Need an attorney
☒ The following information is missing:
 Descriptions, including accurate beginning point
 Actual address of property
 Zoning
 Acreage
 Plats (need 12, only submitted)
 200 scale zoning map with property outlined
 Election district
 Councilmanic district
 BCZR section information and/or wording
 Hardship/practical difficulty information
☒ Owner's signature (need original signature) and/or
 printed name and/or address and/or telephone number
 Contract purchaser's signature (need minimum 1 original
 signature) and/or printed name and/or address
 Signature (need minimum 1 original signature) and/or
 printed name and/or title of person signing for legal
 owner/contract purchaser
 Power of attorney or authorization for person signing for
 legal owner and/or contract purchaser
 Attorney's signature (need minimum 1 original signature)
 and/or printed name and/or address and/or telephone number
 Notary Public's section is incomplete and/or incorrect
 and/or commission has expired

PET-FLAG (TXTSOPH)
 11/17/93

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353
 May 26, 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: 94-467-A (Item 451)
 115 Melancton Avenue
 S/S Melancton Avenue, at SEC Melancton and Division Avenues
 8th Election District - 4th Councilmanic
 Legal Owner: John R. Alexander and Marsha McLaughlin
 HEARING: WEDNESDAY, JUNE 29, 1994 at 9:00 a.m., Rm. 118 Old Courthouse

Variance to allow a front yard setback and rear yard setback of 30 feet (both existing) in lieu of the required 40 feet and a side yard setback of 4 feet in lieu of the required 15 feet for a two-car garage.

Arnold Jablon
 Director

cc: John R. Alexander and Marsha McLaughlin

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.

Baltimore County Government
 Office of Zoning Administration
 and Development Management

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353
 June 10, 1994

Mr. and Mrs. William A. Baumgartner
 2 Melview Court
 Ruxton, Maryland 21204

RE: Case No. 94-474-A, Item No. 467
 Petitioner: William A. Baumgartner, et ux.
 Petition for Administrative Variance

Dear Mr. and Mrs. Baumgartner:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on May 27, 1994 and scheduled for a hearing accordingly. Any attached comments from a 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.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

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.

Zoning Plans Advisory Committee Comments
 Mr. and Mrs. William A. Baumgartner
 Date: June 10, 1994
 Page 2

2. Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the zoning commissioner will deny the petition due to errors or incompleteness.
 3. Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 887-3391 or the commenting agency.

Sincerely,

W. Carl Richards Jr.
 W. Carl Richards, Jr.
 Zoning Supervisor

WCR:cm
 Enclosures

SFA Maryland Department of Transportation
 State Highway Administration

O. James Lighthizer
 Secretary
 Hal Kassoff
 Administrator

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

Re: Baltimore County
 Item No. 467 (JTS)

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. RAHSEY, ACTING CHIEF*
 John Contestabile, Chief
 Engineering Access Permits
 Division

BS/

My telephone number is _____
 Maryland Relay Service for Impaired Hearing or Speech
 1-800-735-2268 Statewide Toll Free
 Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
 Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

ing locale. Third, the variance request must be compatible with the spirit and intent of the zoning regulations.

As to the practical difficulty test, clearly the proposed garage is a permitted use/structure in this zone. The garage will be used to support the residential dwelling. Moreover, I am persuaded by Mr. Alexander's arguments that the proposed location is the only site feasible. It would not be proper to destroy the mature trees on the west side of the property. Moreover, the slope on that side of the site imposes conditions which would prevent construction on that side. Thus, I believe that the Petitioner has offered reasons to support a finding of practical difficulty as to the garage location.

As to the second test, I, likewise, find that the proposed garage will not be detrimental to the surrounding locale. The testimony of Mr. Link was persuasive on this issue as well as the correspondence received from the Lutherville Community Association and the Lutherville Advisory Committee. It is also to be noted that the Landmarks Preservation Commission must issue a certificate of appropriateness in order for a building permit to be issued. Thus, irrespective of my decision on this variance, the Petitioner will need to obtain their approval before construction can commence. However, in my view, Mr. Alexander's efforts to ensure compatibility with the historic and architectural character of the community have been appropriate. For these reasons, I, likewise, find that the proposed use and subject variance is consistent with the spirit and intent of the BCZR.

For these reasons, I will approve the variances requested. However, certain restrictions will condition my approval so as to ensure no adverse impact on the surrounding locale. The proposed garage cannot be used for

any commercial purpose or to support any business venture. Also, there shall be no apartment type use of the garage. Moreover, the garage shall be constructed so as to ensure that an increased flow of water runoff does not result from the construction.

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.

THREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27th day of July, 1994 that a variance from 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a front yard setback and rear yard setback of 30 ft. (both existing), in lieu of the required 40 ft., and also a side yard setback of 4 ft., in lieu of the required 15 ft., for a two car garage, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioners shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

3. The garage shall not be used for any commercial purposes or to support any business operation. The use of the garage shall be incidental and accessory to the residential use of the property.

4. The garage shall be designed in construction so as to prevent any additional storm water runoff from the subject property to adjacent properties.

5. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

6. Upon request and reasonable notice, the Petitioners 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
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mnn

ORDER RECEIVED FOR FILING
Date 7/27/94
By Mr. [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

July 28, 1994

Mr. John R. Alexander
Mrs. Marsha McLaughlin
115 Melancton Avenue
Lutherville, Maryland 21093

RE: Case No. 94-467-A
Petition for Variance
Property: 115 Melancton Avenue

Dear Mr. Alexander and Mrs. McLaughlin:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, with restrictions, 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
Lawrence E. Schmidt
Zoning Commissioner

LES/mnn
att.
cc: Ms. Sandra L. McElroy
cc: Mr. John Storck/Mrs. Jean Storck
cc: Mr. Harry M. Thomas

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 115 Melancton Ave
which is presently zoned DR-2

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) 1802.3.C.1 to allow a TRUCK AND TRAILER TRAIL OF 30 FT. (EXISTING) AND REAR YARD SETBACK OF 30 FT. (EXISTING) AND A SIDE YARD SETBACK OF 4 FT. IN LIEU OF THE REQUIRED 15 FT. FOR A 2 CAR GARAGE in accordance with the Zoning Regulations of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

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.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City State Zipcode

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

Legal Owner(s):

John R. Alexander

(Type or Print Name)

Signature

Marsha McLaughlin

(Type or Print Name)

Signature

John R. Alexander

(Type or Print Name)

Signature

Marsha McLaughlin

(Type or Print Name)

Signature

John R. Alexander

(Type or Print Name)

Signature

Marsha McLaughlin

(Type or Print Name)

Signature

John R. Alexander

(Type or Print Name)

Signature

Marsha McLaughlin

(Type or Print Name)

Signature

John R. Alexander

(Type or Print Name)

Signature

Marsha McLaughlin

(Type or Print Name)

Signature

John R. Alexander

(Type or Print Name)

Signature

Marsha McLaughlin

REASONS FOR VARIANCE:

Personal Hardship:

1. Need to protect two cars from weather, vandalism, and theft.
2. Provide storage - the current house has none. Basement floods with every rain. There is no attic storage. This is a very old house with very little closet space.
3. There is no work space.
4. Safety at night and during foul weather requires that the garage be attached.
5. Access to storage and work area require that the addition be attached.

Practical Difficulty:

1. The layout of the house makes attaching the garage at some other point impractical. This is the only side of the house that would not block windows (light and air) or an entrance into the house.
2. Placing the proposed garage on the east side of the house over the existing driveway would minimize impact on the site. Anywhere else on the property substantial cutting of large old trees would be required.
3. There is a practical difficulty in having storage areas and work areas that would normally be in a house, separated across a yard, particularly at night and in bad weather.

Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR 115 Melancton Ave

Election District 8 (address) Councilmanic District 4

Beginning at a point on the South side of Melancton Ave (north, south, east or west) which is 25 FT. PAVING (NO RIGHT-OF-WAY) (number of feet of right-of-way width)

wide at a distance of 0' EAST of the (number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street Division Ave (name of street)

which is 19 FT. OF PAVING (NO RIGHT-OF-WAY) wide. *Being Lot # (number of feet of right-of-way width)

Block , Section # in the subdivision of Lutherville (name of subdivision)

as recorded in Baltimore County Plat Book # 5791, Folio # 875, containing

14100 SQ. FT. ± 32 ACRES (square feet and acres)

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber , Folio " and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N.87. 12' 13" E. 321.1 ft., S.18 27' 03" E.87.2 ft., S.62 19' 00" W. 318 ft., and N.08 15' 22" W. 80 ft. to the place of beginning.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8A Date of Posting 6/18/94

Posted for: Variance

Petitioner: John & Marsha McLaughlin

Location of property: 115 Melancton Ave, P.

Location of Sign: Along road way on property being zoned

Remarks:

Posted by: Date of return: 6/18/94

Number of Signs: 7

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 3, 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 June 3, 1994.

THE JEFFERSONIAN,

A. Henickson
LEGAL AD. - TOWSON

Case No.: 94-467-A John R. Alexander, et al.

relief without causing practical difficulty under the law.

For these reasons, the Board will grant the petition for variances, subject to the terms and conditions contained in the following Order and with deference to the dissenting opinion.

ORDER

IT IS THEREFORE this 27th day of January, 1995 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variances seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to permit front and rear yard setbacks of 30 feet (both existing) in lieu of the required 40 feet and, in accordance with Petitioners' Exhibit 4, be and are hereby GRANTED, and

FURTHER ORDERED that the Petition for Variances seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to permit a side yard setback of 4 feet in lieu of the required 15 feet for a 2 car garage, be and hereby is GRANTED subject to the following restrictions and conditions:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as any judicial review of 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. No part of any addition shall extend into the 4 foot side yard setback area.

3. The Petitioners shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

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Case No.: 94-467-A John R. Alexander, et al.

4. The garage shall not be used for any commercial purposes or to support any business operation. The use of the garage shall be incidental and accessory to the residential use of the property.

5. The garage shall be designed in construction so as to prevent any additional storm water runoff from the subject property to adjacent properties.

6. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

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

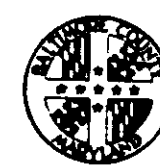
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Judson H. Lipowitz, Acting Chairman

Harry E. Buchheister, Jr.

JHL.DOC\ALEXANDR.OPN

6



County Board of Appeals of Baltimore County

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

January 27, 1995

Ms. Sandra McElroy
109 Melancton Avenue
Lutherville, MD 21093

RE: Case No. 94-467-A
John R. Alexander, et al

Dear Ms. McElroy:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. Also enclosed is a copy of the Dissenting Opinion written of Mr. Schuetz.

Very truly yours,

Charlotte E. Riedel, for
Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Howard L. Alderman, Jr., Esquire
John R. Alexander /Marsha McLaughlin
Mr. & Mrs. John Storck
Mr. Harry M. Thomas
Pat Keller
People's Counsel for Baltimore County
Lawrence E. Schmidt
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Printed with Soybean Ink
on Recycled Paper

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Melancton Ave., at SEC * ZONING COMMISSIONER
Melancton & Division Avenues *
115 Melancton Avenue *
8th Election District * OF BALTIMORE COUNTY
4th Councilmanic District *
John R. Alexander, et al * Case No. 94-467-A
Petitioners * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 115 Melancton Avenue in the Lutherville section of Baltimore County. The Petition is filed by John R. Alexander and Marsha McLaughlin, his wife, property owners. Variance relief is requested from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a front yard setback and rear yard setback of 30 ft. (both existing) in lieu of the required 40 ft., and also a side yard setback of 4 ft. in lieu of the required 15 ft., for a two car garage. The subject property and proposed relief are more particularly shown on the plat to accompany the Petition for Zoning Variance.

Appearing at the public hearing held for this case was the property owner John R. Alexander. Also present on his behalf was L.J. Link, Jr., an Architect who has prepared plans for the proposed garage/addition. Three individuals from the surrounding community appeared in opposition. They included Sandra L. McElroy, an immediate next door neighbor, at 109 Melancton Avenue, and Harry M. Thomas, who lives next to Ms. McElroy and two doors down from Mr. Alexander at 107 Melancton Avenue. Also present was John Storck, son of Jean Storck. Mrs. Storck is elderly and resides across the street from Mr. Alexander's property at 112 Melancton Avenue.

At the public hearing held, there was some preliminary comments about the public notice given for this hearing. The file shows that, as re-

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

quired, notice of advertising in a newspaper of general circulation, The Jeffersonian, was provided on June 3, 1994. Moreover, a sign advertising the hearing was posted on the front of the property facing Melancton Avenue. Although there was some dispute as to the orientation of the sign, photographs presented show that same was not obstructed by landscaping and would be clearly visible to all travelers who passed by the subject property. Thus, I am persuaded that proper public notice was afforded. Moreover, the hearing began later than originally scheduled on June 29, 1994 to accommodate the Zoning Commissioner's schedule. All parties were present at the hearing and were afforded full opportunity to testify and present evidence at that time.

At the public hearing, Mr. Alexander testified and presented his site plan. He stated that he and his wife have owned the property and resided therein since 1984. This is an older dwelling in the Lutherville Historic district and was constructed in approximately 1860. Mr. Alexander noted that the existing house has been enlarged over the years. In fact, 7 additions have been built into the house since the original construction, 130 years ago. The subject property is approximately one-third of an acre in size and is zoned D.R.2. Presently, the property does not feature an attached garage. Rather, there is an existing house with an open porch on the front facing Melancton Avenue and a patio to the rear. A detached concrete block shed presently serves as a garage towards the rear of the property.

As to proposed construction, Mr. Alexander testified that he requests approval to construct a two story garage/addition on the east side of the site. This addition will replace the concrete block shed which is to be razed. The first floor will be used as a two car garage and the second

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

-2-

floor will be constructed to provide living space. Mr. Alexander noted that the proposed garage will be 22 ft. wide and the building envelope for same will be within 4 ft. of his property line. Thus, the need for requested variances.

Mr. Alexander also offered extensive testimony about the proposed location of the garage. He noted that the property slopes to the west and construction of the garage on the west side of the house is not feasible. Although the side yard is greater in area on that side, it is filled with a number of mature fruit trees which are esthetically pleasing. Because of the slope of the land and the desire to preserve these trees, Mr. Alexander does not believe that construction of the garage on the west side of the house is feasible or appropriate. He also noted that since the proposed garage will replace the concrete block shed, construction, where contemplated, is proper. It is to be noted that the concrete shed presently exists even closer to the property line than the proposed garage. As shown on the site plan, the concrete block shed is but 2-1/2 ft. from the property line. Thus, although a new garage will be larger, it will be slightly farther away from the McElroy property.

Mr. Alexander testified regarding use of the garage. He noted that the existing house is old and that the basement of same frequently floods. Thus, there is very little usable storage area presently available. The garage also will be used in large part for this purpose. He also agreed that there will be no commercial enterprise or business operation in the garage and that same will be devoted to residential purposes. Also, the garage will not contain any apartment type unit and the second floor of same will be accessible from the main house.

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

-3-

Mr. Link also testified regarding the proposed improvements. He described the existing house from an architectural standpoint and the efforts which he has made to make the proposed garage architecturally compatible with the existing house. He answered all questions regarding the proposed construction appropriately and was persuasive that significant efforts have been made to make the proposed property compatible with the architectural style of the existing house.

As noted above, appearing in opposition to the request was John B. Storck. Mr. Storck was actually speaking on behalf of his elderly mother who resides across the street. In fact, Mr. Alexander indicated that he had spoken with the elder Mrs. Storck and she had orally indicated to him that his plans were acceptable. However, it was unclear whether she fully realized what was contemplated when the matter was discussed.

In any event, Mr. Storck voiced several concerns over the proposed garage addition. First, he was particularly fearful that the construction would promote increased storm water runoff. He was concerned that increased runoff might negatively impact adjacent properties. In this respect, it is noted that the proposed garage is to be constructed over an area that presently contains impervious surface. That is, the site of the garage is presently occupied by an impervious driveway. Thus, as Mr. Alexander noted, there will be no increase in impervious area and storm water runoff should not be a problem. Moreover, Mr. Alexander indicated that he would take whatever steps were necessary, including the installation of rainspouts, etc., to ensure that storm water runoff was not a problem.

Secondly, Mr. Storck is concerned about the change in the ambience of the area by this construction. As he noted, the site is located within

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

-4-

the Baltimore County Historic District and the National Register District of Lutherville. In this respect, he believes that additional construction might be incompatible with the architectural character of the area.

These sentiments were shared by Mr. Thomas, who lives up the street. Mr. Thomas expressed reservations over the project based on its potential incompatibility with the subject area.

Also testifying in opposition to the Petition was Sandra L. McElroy who lives immediately next door. She noted that her family has owned the adjacent property for many years. She is also concerned over potential storm water runoff onto her site. She also expressed fears that the proposed garage would block her view and might increase noise towards her property.

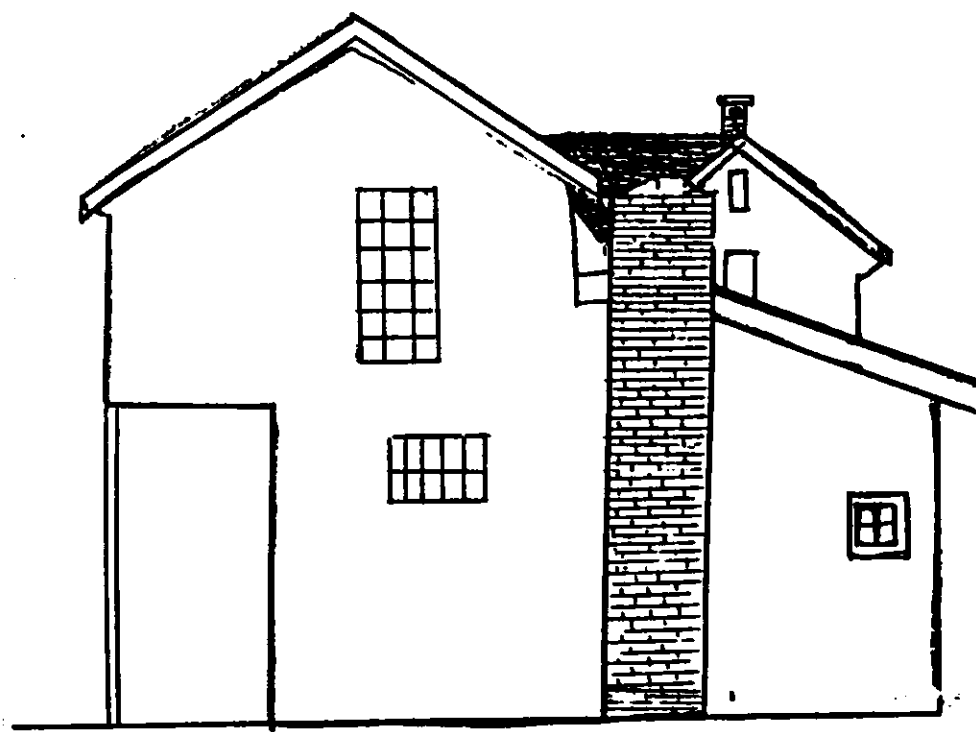
Also received into the record as evidence were numerous photographs of the subject site and correspondence from the Lutherville Community Association and the Lutherville Advisory Committee. A letter received from the Lutherville Community Association endorsed Mr. Alexander's request for zoning variance. Moreover, correspondence from the Lutherville Advisory Committee of the Baltimore County Landmarks Preservation Commission indicated that the Committee was pleased with the development design and would recommend approval of the project.

In adjudging the merits of this request, guidance is provided by Section 307 of the BCZR. Therein a three part test is offered which the Petitioner must satisfy in order for the variance to be granted. First, the Petitioner must show that the property owner would suffer a practical difficulty if the Petition for Variance is denied. Secondly, variance relief can only be granted if same will not be detrimental to the surround-

ORDER RECEIVED FOR FILING
Date 1/28/95
By [Signature]

-5-

EXISTING.



June 23, 1991

To Whom It May Concern:

On June 20, 1991, Mr. John R. Alexander met with the Lutherville Advisory Committee to the Baltimore County Landmarks Preservation Commission to discuss plans for an addition to his house which will involve a variance to the applicable sideyard setback requirements. Insofar as it affects the Lutherville Historic District, we have no objection to the variance.

Sincerely,

Robert P. Wingard
Robert P. Wingard, AIA
Chairman, Lutherville Advisory Committee to the
Baltimore County Landmarks Preservation Commission

Lutherville Advisory Committee
Baltimore County Landmarks Preservation Commission

April 14, 1994

Mr. John McGrain, Director
Baltimore County Landmarks Preservation Commission
Office of Planning and Zoning
New Courts Building/ Room 406
401 Bosley Avenue
Towson, Maryland 21204

RE: Proposed Addition
Property of Mr. and Mrs. John Alexander
115 Melancton Avenue

Dear Mr. McGrain:

The Lutherville Advisory Committee has reviewed the final drawings for this project located within the Historic District of Lutherville and find them to be consistent with the preliminary drawings previously approved. In fact, the current drawings represent an architect-designed project that is a much-refined version of the initial concept. We are pleased with the developed design.

The LAC therefore recommends approval by the Commission.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Lutherville Advisory Committee

Robert P. Wingard
Robert P. Wingard, AIA
Chair and Resident Architectural Advisor, LAC
214 Morris Avenue
Lutherville, Maryland 21093
(410) 252-1074 (O) 528-8600

cc: Mr. and Mrs. John Alexander
File

Lutherville Community Association
P/O Box 6
Lutherville, Maryland 21093

Mr. John Alexander
115 Melancton Avenue
Lutherville, Maryland 21093

Re: Zoning Variance

Dear Mr. Alexander:

This letter will confirm recent events concerning your plans to construct a two story garage on the east side of your home. I have discussed this matter with two of your neighbors, both of whom expressed no objections, as well as related these plans to the Board of Directors of the Association. The Board voted to support your proposal, at least in regard to its zoning implications, and this letter will serve as its endorsement of your request for a zoning variance.

I must caution, however, that this letter does not address the issue of architectural compatibility, which must be cleared through the historic district committee. Best wishes to your further endeavors on this project.

Sincerely,

Eric Rockel
Eric Rockel
Zoning Committee

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. Doug Swan DATE: November 14, 1994
Permits Supervisor
Department of Permits & Licenses

FROM: John McGrain
Office of Planning

SUBJECT: John R. and Marsha Alexander
115 Melancton Avenue, Lutherville
PFN #0803078080

The full membership of the Landmarks Preservation Commission reviewed and approved the Alexander house plans by L.J. Link, Jr., architect, for a garage and a residential expansion at 115 Melancton Avenue, Lutherville historic district, on November 10, 1994. These plans were agreed upon following the October 1994 monthly meeting and resulted from an on-site meeting and a follow-up meeting at the office of Jeffrey A. Lees.

John McGrain
John McGrain

JM/mjs
SWAN/PZONE/LANDMARK

cc: John R. and Marsha Alexander
115 Melancton Avenue
Lutherville, MD 21093

L.J. Link, Jr. Inc., Architect
Rockland Grist Mill
P.O. Box 236
Brooklandville, MD 21022

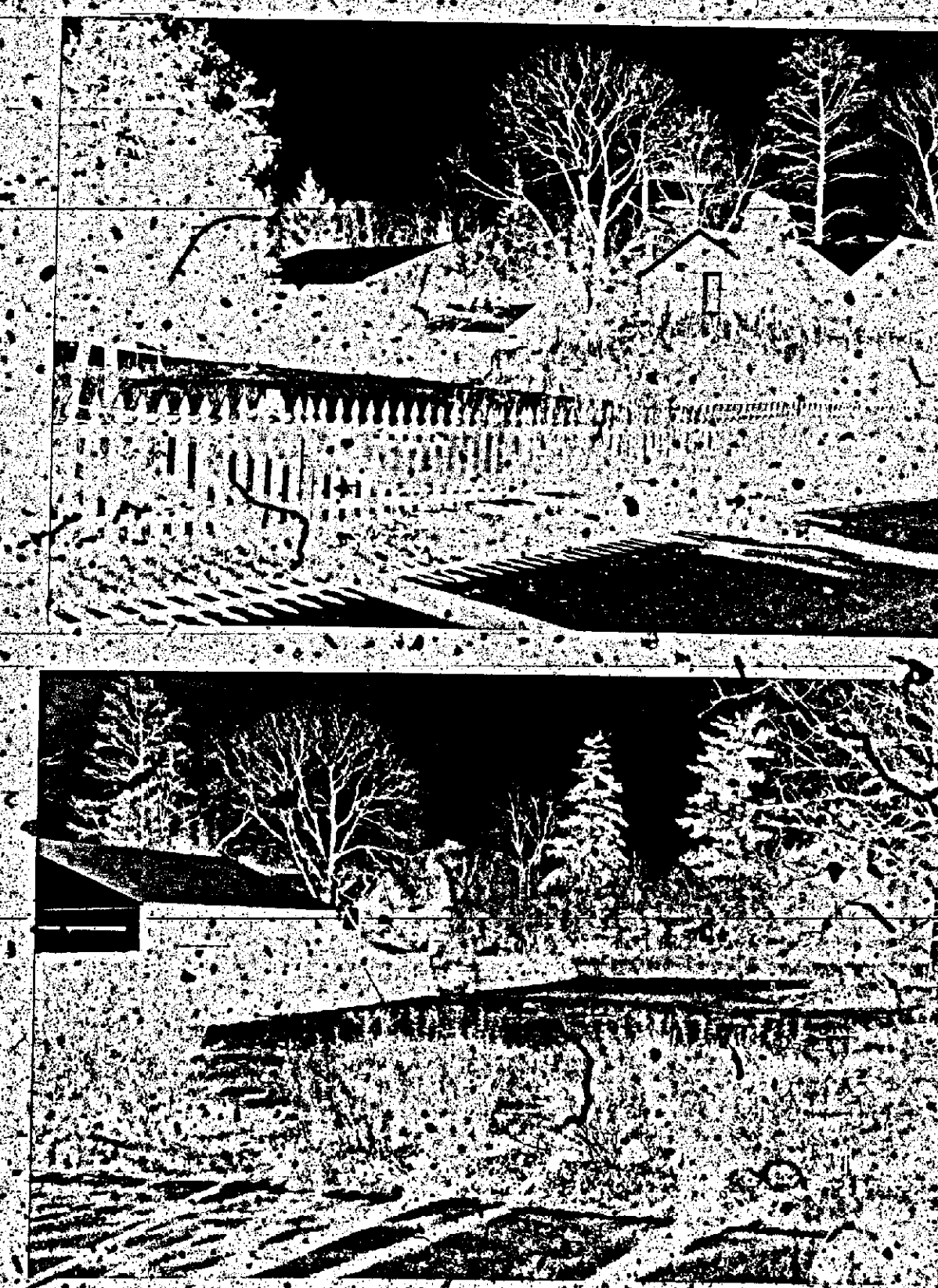
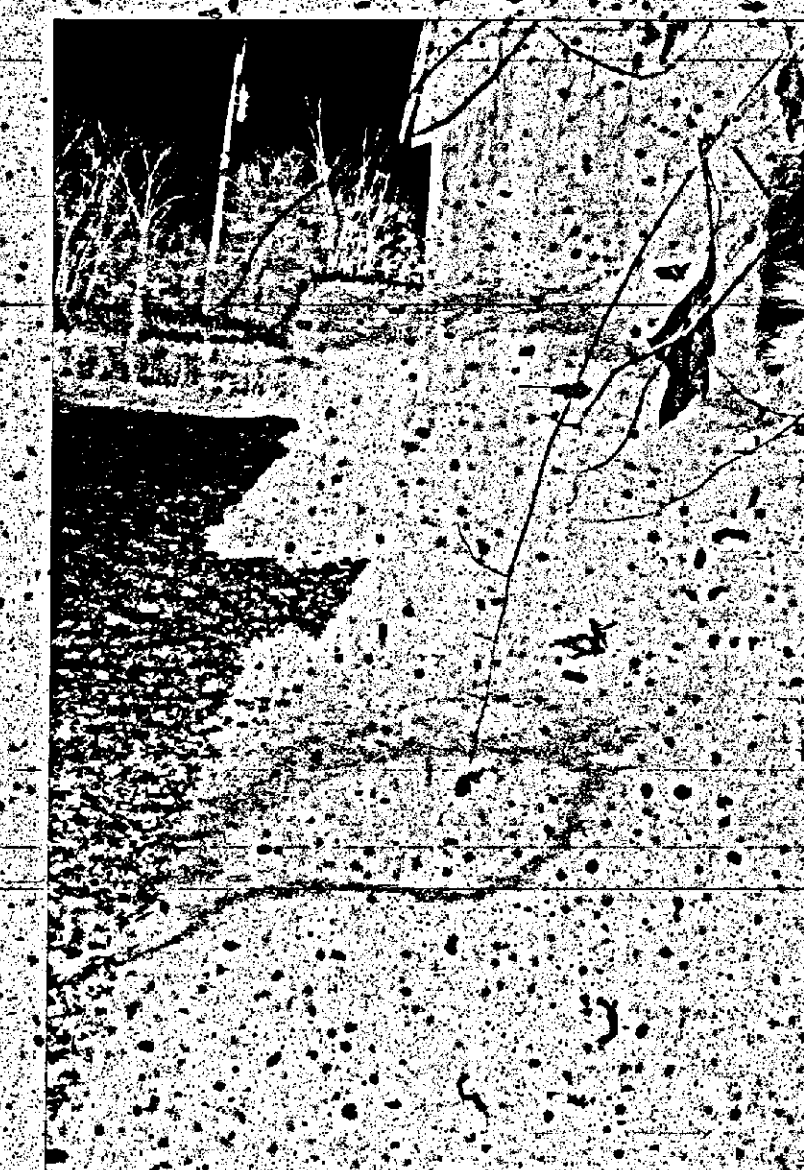
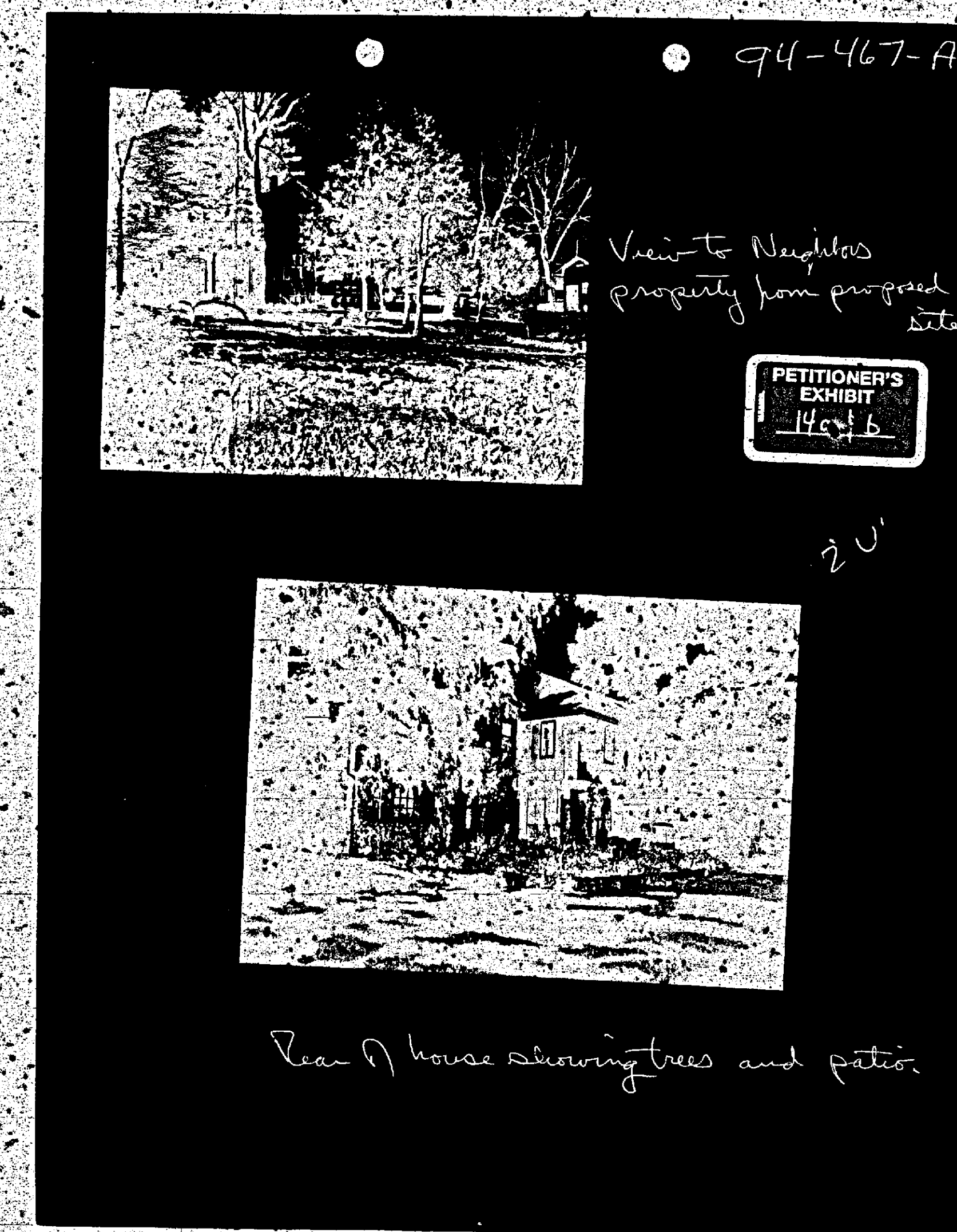
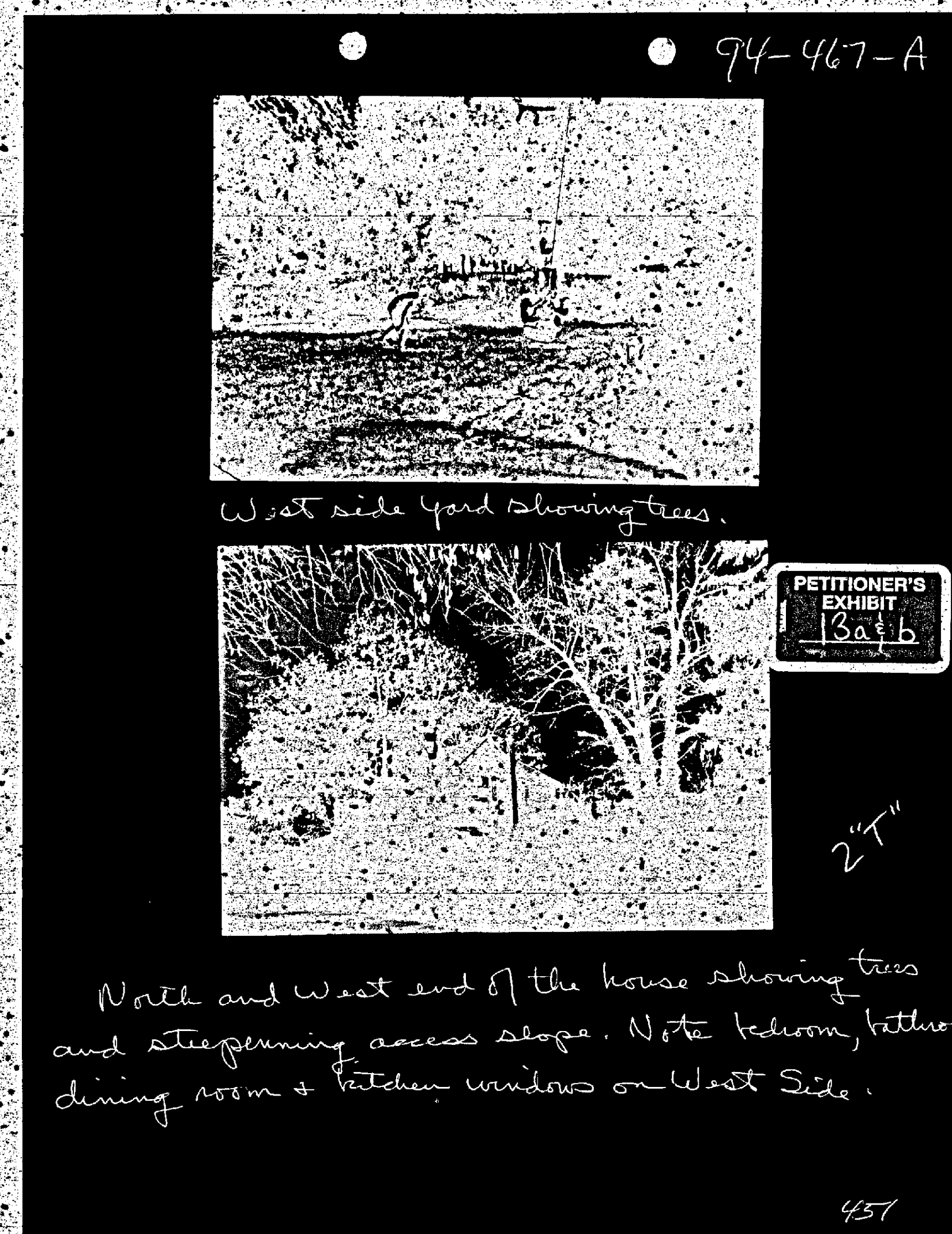
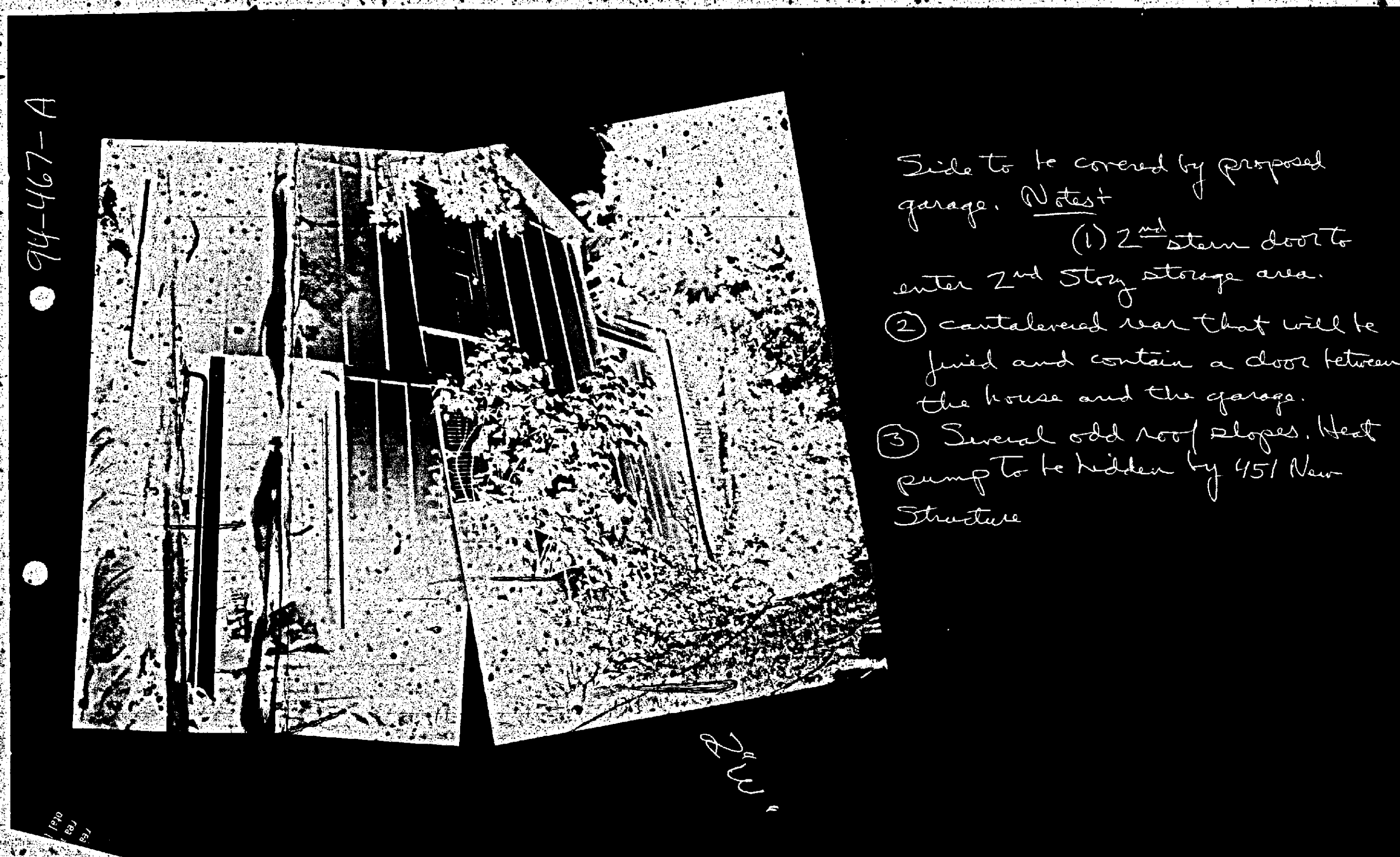
IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Melancton Ave., at SEC * ZONING COMMISSIONER
Melancton & Division Avenues *
115 Melancton Avenue *
8th Election District * OF BALTIMORE COUNTY
4th Councilmanic District *
John R. Alexander, et al * Case No. 94-467-A
Petitioners * * * * *

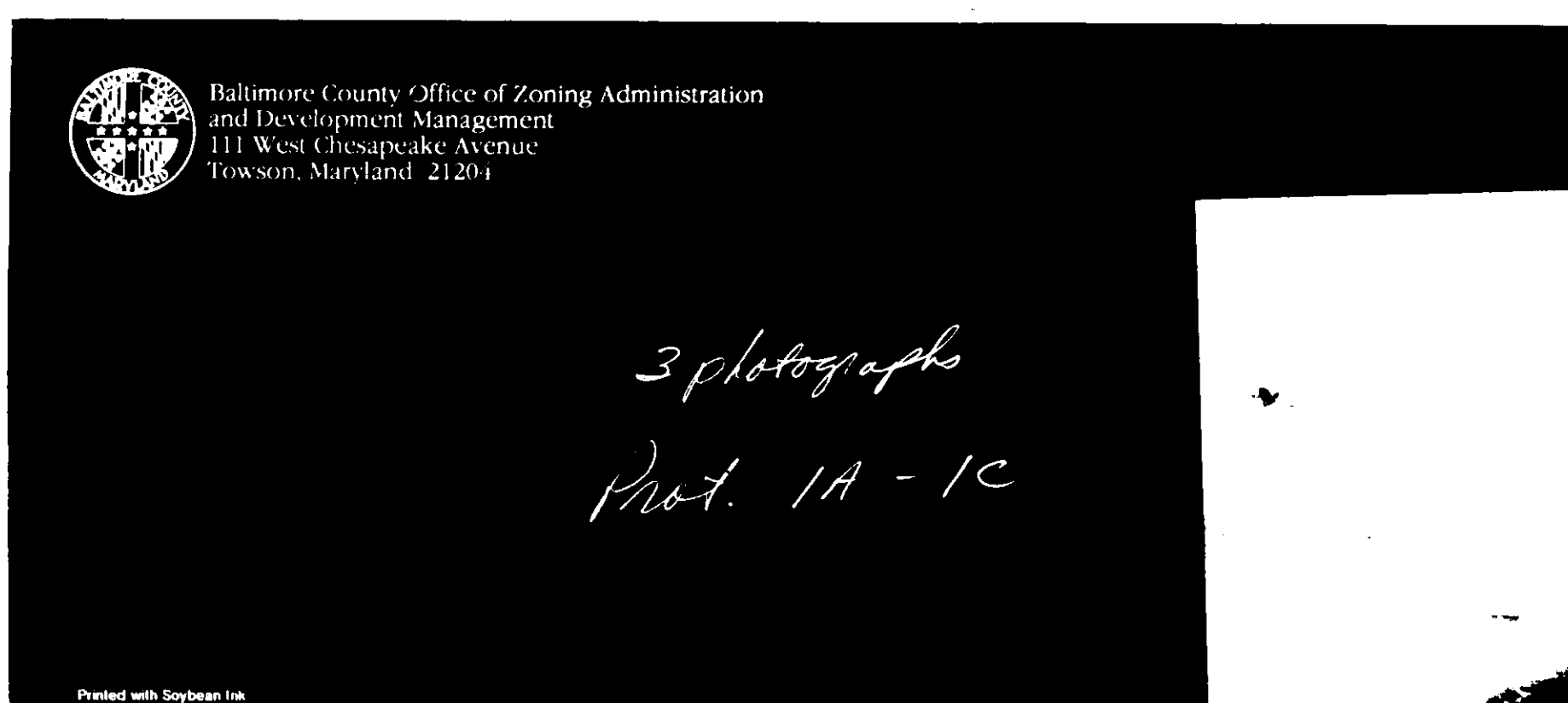
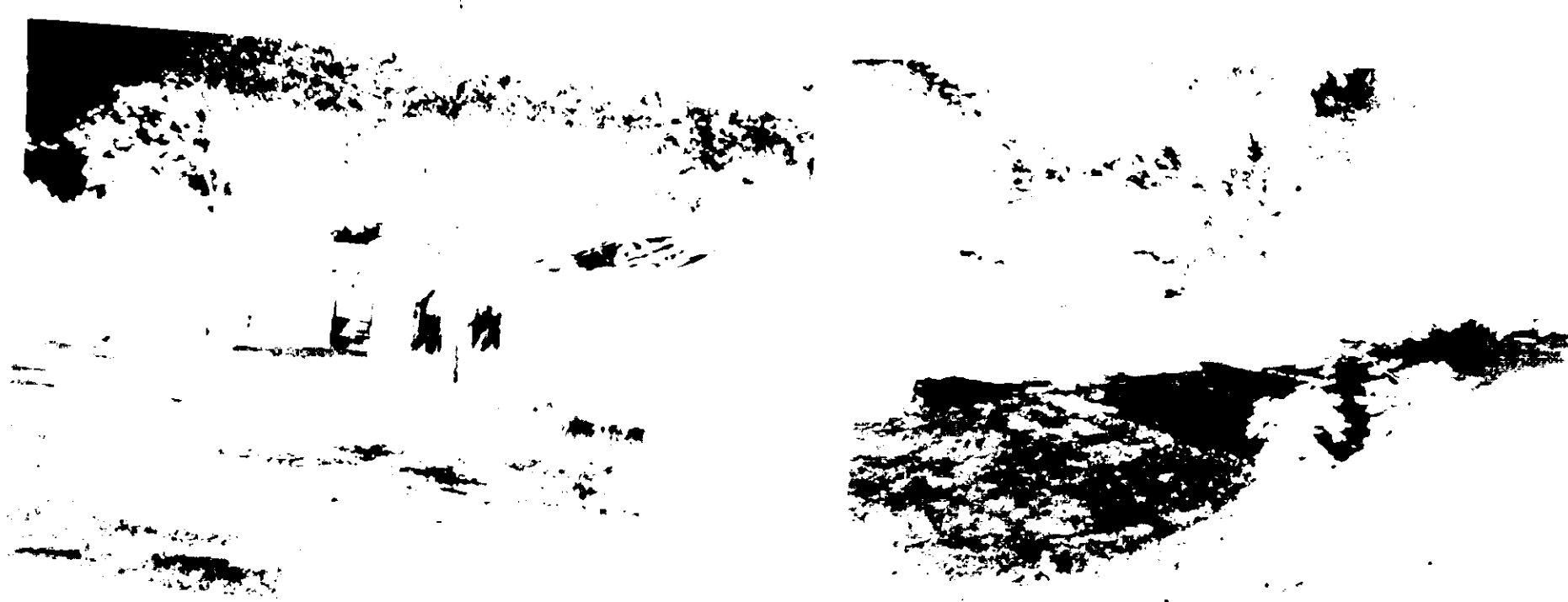
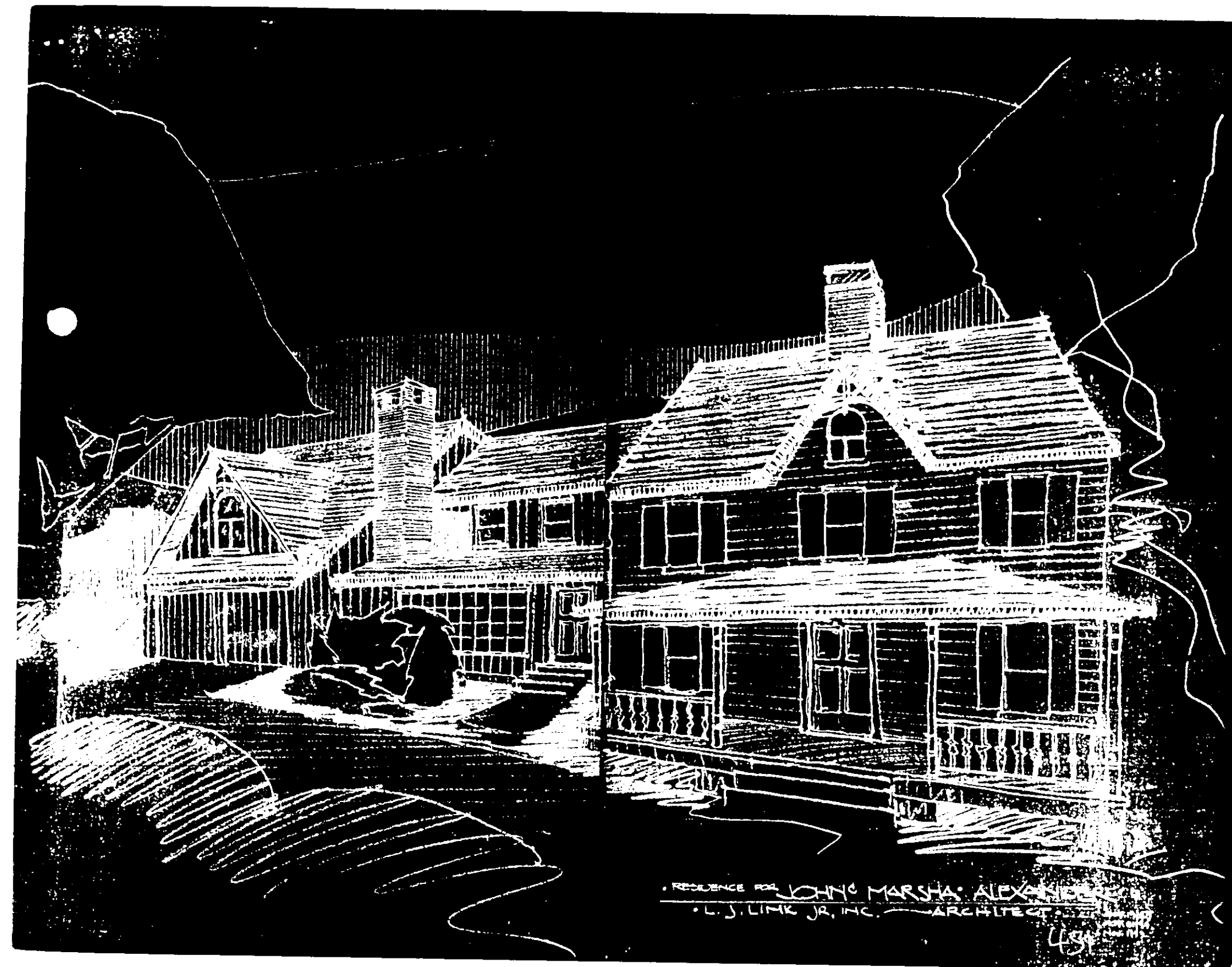
FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 115 Melancton Avenue in the Lutherville section of Baltimore County. The Petition is filed by John R. Alexander and Marsha McLaughlin, his wife, property owners. Variance relief is requested from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a front yard setback and rear yard setback of 30 ft. (both existing) in lieu of the required 40 ft., and also a side yard setback of 4 ft. in lieu of the required 15 ft., for a two car garage. The subject property and proposed relief are more particularly shown on the plat to accompany the Petition for Zoning Variance.

Appearing at the public hearing held for this case was the property owner John R. Alexander. Also present on his behalf was L.J. Link, Jr., an Architect who has prepared plans for the proposed garage/addition. Three individuals from the surrounding community appeared in opposition. They included Sandra L. McElroy, an immediate next door neighbor, at 109 Melancton Avenue, and Harry M. Thomas, who lives next to Ms. McElroy and two doors down from Mr. Alexander at 107 Melancton Avenue. Also present was John Storck, son of Jean Storck. Mrs. Storck is elderly and resides across the street from Mr. Alexander's property at 112 Melancton Avenue.

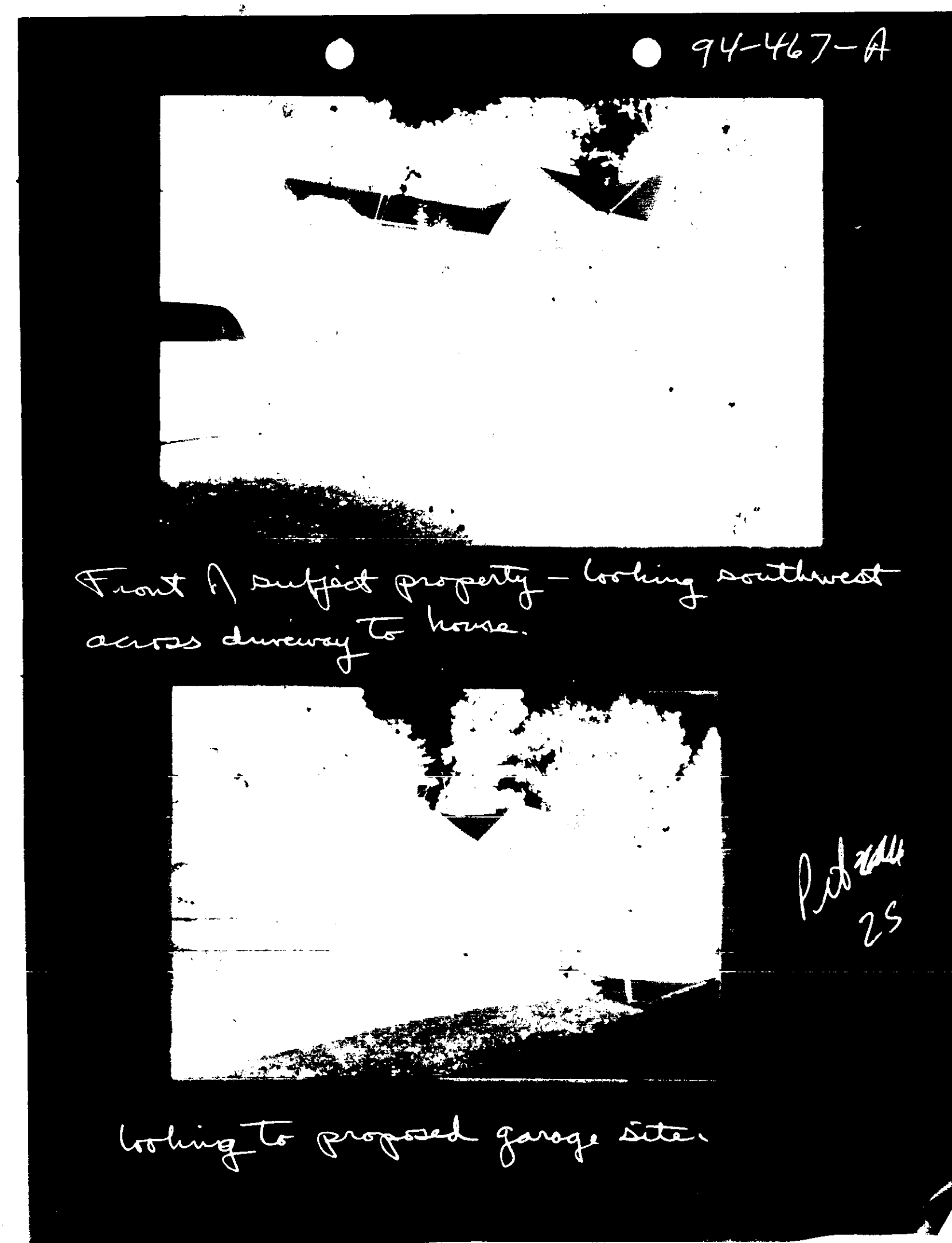
At the public hearing held, there was some preliminary comments about the public notice given for this hearing. The file shows that, as re-





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

3 photographs
Phot. 1A-1C



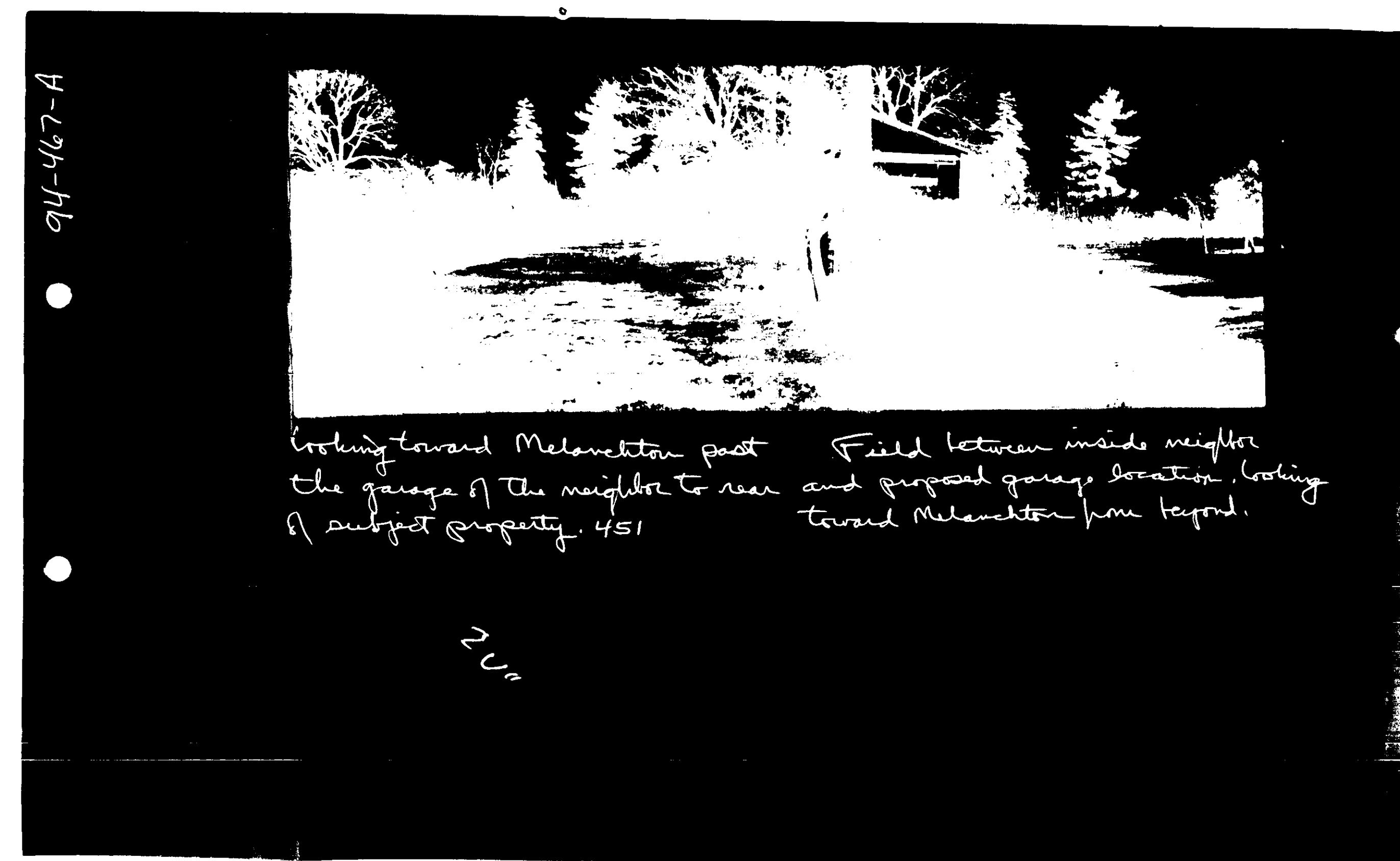
94-467-A

Front of subject property - looking southwest
across driveway to house.



looking to proposed garage site.

Phot 25



94-467-A

looking toward Melancton past the garage of the neighbor to rear of subject property. 451

Field between inside neighbor and proposed garage location looking toward Melancton from beyond.

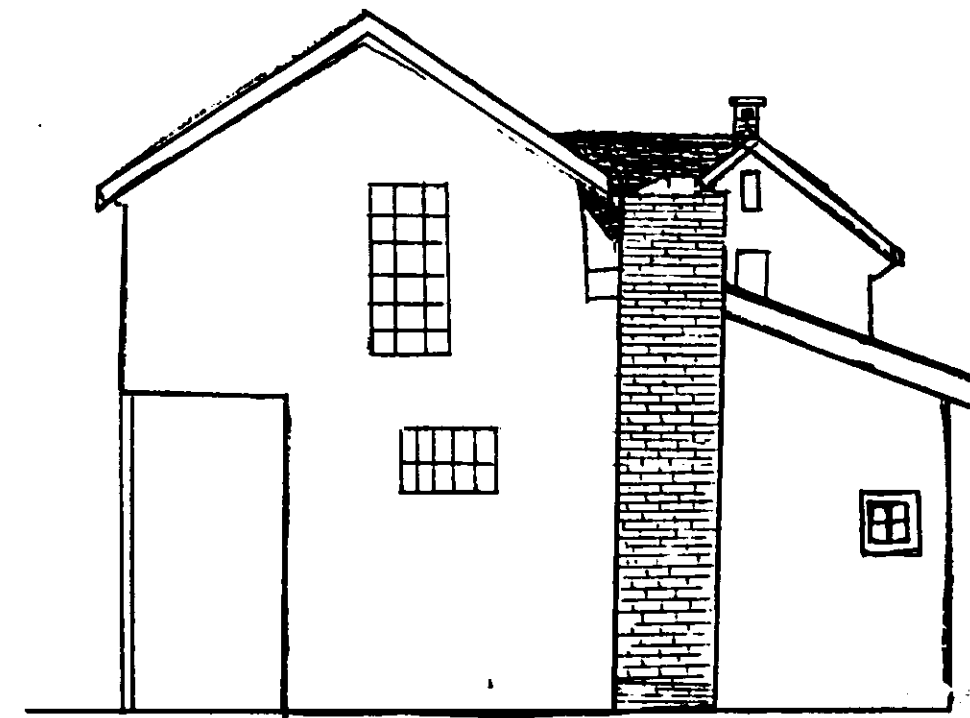
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94-467-A

EXHIBITS

94-467-A

EXISTING



Ref No 1

The Cottage

Jonathan Sturges, original owner
Joseph Collins Wells, architect
Fairfield, Connecticut
Built 1840

These drawings and photographs of The Cottage in Fairfield, Connecticut, present an intriguing, 137-year-old history of a house and a family. The delicate rendering of the original plan and elevations was done by its architect, Joseph Collins Wells. As the plan shows, the house was spacious and comfortable with drawing room, dining room, and other common rooms on the ground floor and six bedrooms with bathing room on the second.

Meant for casual living, it was still well-built and some interesting features were employed in its construction. For example, an insulating layer of sand was used between the ground floor boards and the basement ceiling. By the time the pen and ink sketch was done in 1972, the house had proliferated to 35 rooms, 11 staircases, 13 fireplaces, and (if you count the booktower) 6 stories. Front views of The Cottage are



98

451

B02.3.B SETBACK REQUIREMENTS - PLANNING COMMISSION/BOARD APPROVED SUBDIVISIONS ONLY												
ZONE PERIOD (1971) (1955) (1945 HOUSING TYPE)	JAN. 2, 1945 TO JULY 1, 1955				JULY 2, 1955 TO MARCH 29, 1957				MARCH 30, 1957 TO MARCH 30, 1971			
	FRONT	REAR	SIDE	CORNER	FRONT	REAR	SIDE	CORNER	FRONT	REAR	SIDE	CORNER
DR 1 R 40					25	20	7	40	50	50	20	50
DR 2 R 20					25	20	7	40	40	40	15	40
DR 3.5 R 10 (1 or 2 FAMILIES)	25	15	7	15	25	20	7	40	30	30	10	25
DR 5.5 R 0 (BY COMBINATION)	25	15	7	15	25	20	7	40	25	30	10	25
DR 10.5 R 0 (D TOWN HOUSES)	25	25	10	25	25	50	15	25	25	50	10	25
DR 16 R 0 (C CAPTAINSHIPS)	55	20	7	25	25	7	15	25	50	15	10	25

Downing House

Andover, Massachusetts
Built 1840

C. THOMAS FRANCIS
CT DESIGN

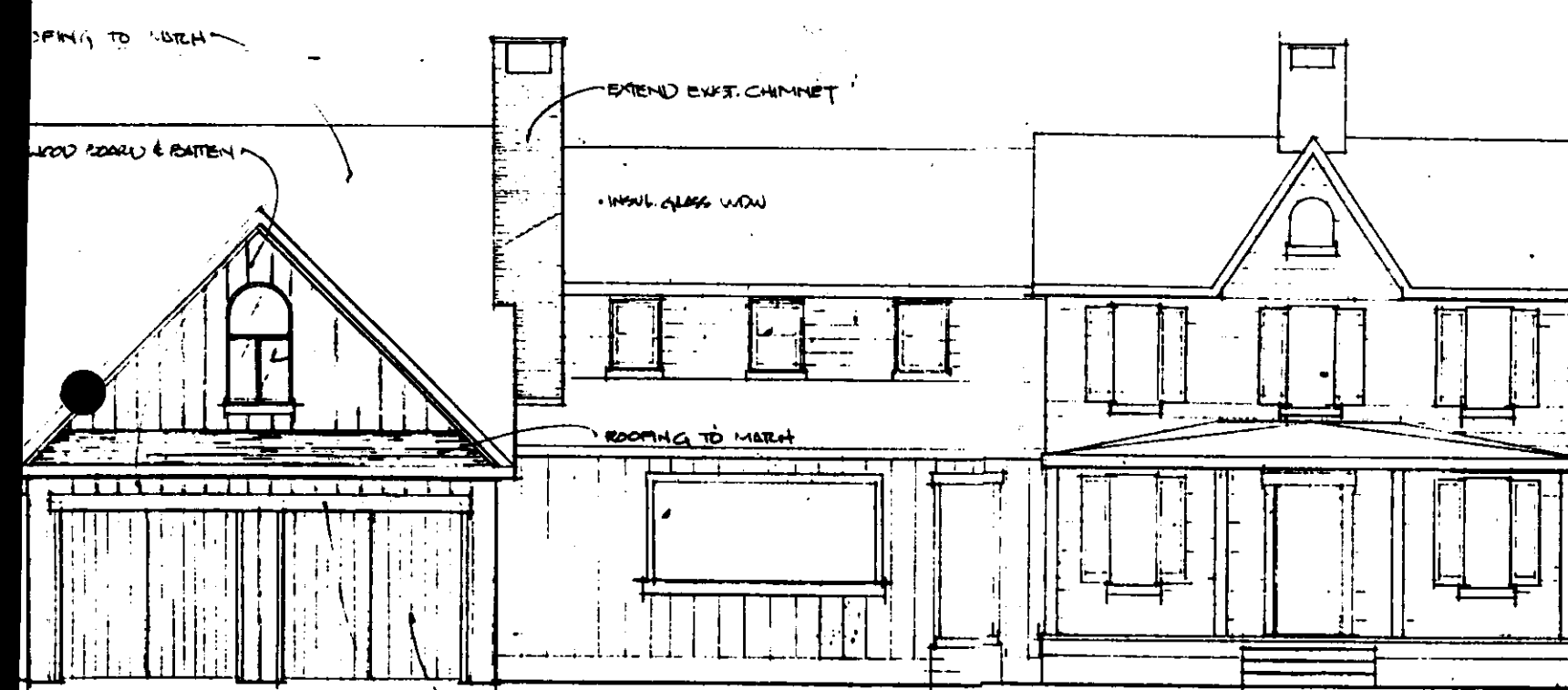


To the best of anyone's knowledge this house in Andover, Massachusetts, was built for a Boston businessman named Downing as his summer home. Andover was very rural then and the house was set in an orchard. There is no record concerning the builder, which is

unusual in the Andover area. The present owners love it, maintain it beautifully and feel most of the design is original. If so, the builder used his own free-wheeling interpretation of the current architectural mode. It doesn't matter. It is a most attractive house.

93

451



NORTH ELEVATION

451



EAST ELEVATION

451

ENTRY OF APPEARANCE

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to John R. Alexander and Marsha McLaughlin, 115 Melancthon Avenue, Lutherville, MD 21093, Petitioners.

PETER MAX ZIMMERMAN

Lutherville Advisory Committee
Baltimore County Landmarks Preservation Commission

April 14, 1924

Mr. John McGrain, Director
Baltimore County Landmarks Preservation Commission
Office of Planning and Zoning
New Courts Building/ Room 406
401 Bosley Avenue
Towson, Maryland 21204

RE: Proposed Addition
Property of Mr. and Mrs. John Alexander
115 Melancthon Avenue

Dear Mr. McGrain:

The Lutherville Advisory Committee has reviewed the final drawings for this project located within the Historic District of Lutherville and find them to be consistent with the preliminary drawings previously approved. In fact, the current drawings represent an architect-designed project that is a much-refined version of the initial concept. We are pleased with the developed design.

The LAC therefore recommends approval by the Commission

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Lutherville Advisory Committee

Robert P. Wingard AIA
Chair and Resident Architectural Advisor, IAC
214 Morris Avenue
Lutherville, Maryland 21093
(410) 252-1074 (C) 528-8600

cc: Mr. and Mrs. John Alexander
File

451

Lutherville Community Association

P/O Box 6
Lutherville, Maryland 21093

Mr. John Alexander
115 Melancton Avenue
Lutherville, Maryland 21093

Re: Zoning Variance

Dear Mr. Alexander:

This letter will confirm recent events concerning your plans to construct a two story garage on the east side of your home. I have discussed this matter with two of your neighbors, both of whom expressed no objections, as well as I have these plans to the Board of Directors of the Association. The Board voted to support your proposal, at least in regard to its zoning implications, and this letter will serve as its endorsement of your request for a zoning variance.

I must caution, however, that this letter does not address the issue of architectural compatibility, which must be cleared through the historic district committee. Best wishes to your further endeavors on this project.

Sincerely,

Eric Rockel
Eric Rockel
Zoning Committee

451

June 23, 1991

To Whom It May Concern:

On June 20, 1991, Mr. John R. Alexander met with the Lutherville Advisory Committee to the Baltimore County Landmarks Preservation Commission to discuss plans for an addition to his house which will involve a variance to the applicable sideyard setback requirements. Insofar as it affects the Lutherville Historic District, we have no objection to the variance.

Sincerely,

Robert P. Wingard
Robert P. Wingard AIA
Chairman, Lutherville Advisory Committee to the
Baltimore County Landmarks Preservation Commission

451

PLEASE PRINT CLEARLY

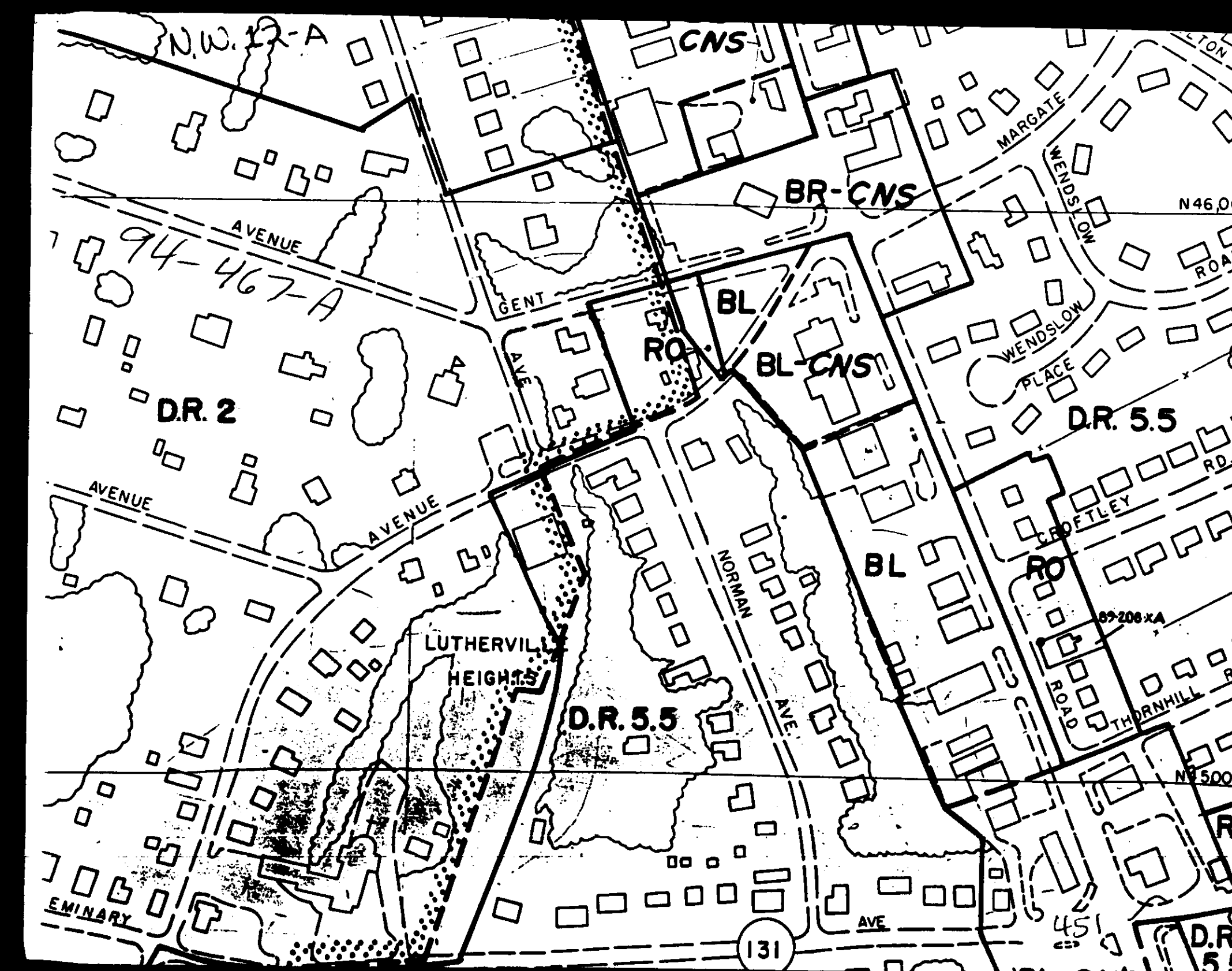
PROTESTANT'S
~~CITIZEN~~ SIGN-IN SHEET

NAME	ADDRESS
John Stock / Fern Stock	112 Melanchton Ave Lutherville MD
Ap. 100 M. Pl. 3332	107 Melanchton Ave " "

PLEASE PRINT CLEARLY

~~SECRET~~ SHEET

NAME	ADDRESS
L. J. Link Jr. Architect. SOUTH RIVER AVENUE.	6727 Brookland U 210 82. 115 PLEASANT CIRCLE 710 82

[illegible]

9/06/94 -Notice of Assignment for hearing scheduled for Tuesday, November 29, 1994 at 10:00 a.m. sent to following:

Mr. John R. Alexander and
Ms. Marsha McLaughlin
Ms. Sandra L. McElroy
Mr. & Mrs. John Storck
Mr. Harry M. Thomas
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

11/29/94 -T/C from Michael Tanczyn, Esquire (will be entering appearance as Counsel for Appellant). Circuit Court conflict with scheduled start time; requesting start time of 11:00 a.m.

- T/C to J. Lipowitz (Acting Chairman for 11/29/94 hearing); case can begin at 11:00 a.m.; will notify Board members, M. Tanczyn, and also H. Alderman, Esquire (will enter appearance as Counsel for Petitioner).

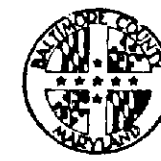
Attempted to reach Mr. Alderman; not available this date; will contact on Monday, 11/28/94; also, Mr. Tanczyn to provide Board with letter detailing above request on 11/28/94.

11/28/94 -T/C from M. Tanczyn; will NOT be entering appearance in this matter; contacted H. Alderman; advised that case will proceed on 11/29/94 at scheduled start time of 10:00 a.m.; also contact J. Lipowitz and advised him of 10:00 a.m. start time. No other Board members had been contacted regarding any change in time. This case will be heard Tuesday, 11/29/94 at 10:00 a.m.

11/29/94 -Hearing concluded before Board; matter to be scheduled for public deliberation and notices sent. (L.B.R.)

11/30/94 -Notice of Deliberation sent to parties; deliberation scheduled for December 8, 1994 at 9:00 a.m.

12/08/94 -Public deliberation held; Granted by Lipowitz & Buchheister; Schuetz dissented. Majority Opinion/Order to be issued (L & B); Dissenting Opinion to be prepared by R.



County Board of Appeals of Baltimore County

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

November 30, 1994

NOTICE OF DELIBERATION

Having concluded this case on November 29, 1994, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

JOHN B. ALEXANDER, ET AL - Petitioner
CASE NO. 94-467-A

DATE AND TIME : Thursday, December 8, 1994 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: Howard L. Alderman, Jr., Esquire Counsel for Petitioners
Mr. John R. Alexander and Ms. Marsha McLaughlin Petitioners

Ms. Sandra L. McElroy Appellant /Protestant

Mr. & Mrs. John Storck

Mr. Harry M. Thomas

People's Counsel for Baltimore County

Pat Keller

Lawrence E. Schmidt

Timothy H. Kotroco

W. Carl Richards, Jr. /ZADM

Docket Clerk /ZADM

Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Printed with Soybean Ink
on Recycled Paper

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: John B. Alexander, et al -Petitioner
Case No. 94-467-A

DATE : December 8, 1994 at 9:00 a.m.

BOARD /PANEL : Judson H. Lipowitz (JHL)
Robert O. Schuetz (ROS)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Those present included Howard L. Alderman, Jr., Esquire, Counsel for Petitioner; John Alexander, Petitioner; and Sandra McElroy, Appellant /Protestant.

PURPOSE --to deliberate issues and matter of petition for zoning variance presented to the Board; testimony and evidence taken November 29, 1994. Opinion and Order to be issued by Board setting forth written findings of fact.

JHL: Opening comments as to case name and number being deliberation this date.

ROS: Unusual case because of involvement of Landmarks Preservation Commission (LPC) and area of Lutherville; burden of proof for undue hardship /practical difficulty rests with Petitioner; corner property; substantial lot to accomplish what Petitioner wants; referenced testimony received from Mr. Link and his design /attempt at meeting spirit and intent of BZC is very clear; Petitioner has gone to great lengths to satisfy needs of LPC, but that is not the end of one's burden. Easy for LPC to insist that garage go on east side of property; however, addition could easily go on the west side from physical standpoint, compatibility with area; architect could have been just as easily respective to the community; physical constraints of site are not that great; only commentary regarding location were trees and Division Street; no expert testimony regarding traffic, some expert testimony from architect who indicated it was not the only location possible under cross; looking at Petition itself, plat which accompanied Petition indicated rectangular building; does not indicate protrusions; may or may not impact on 4-foot setback applied for; does not indicate whether or not that protrusion actually comes closer to the property line (second floor window) so it's unclear about whether or not 4-foot setback

Deliberation /JOHN B. ALEXANDER /94-467-A

would apply to the building edge at the foundation or to other protrusions. From technical standpoint, must decline it. As finding of fact, will find that the Petitioner did not exhaust all opportunities for construction of the garage on the west side; nor did he exhaust other opportunities for access to that; absolutely no grades shown to buttress any argument that there is too great a fall; my contention that those types of physical constraints are minor at best on west side of property; find no practical difficulty peculiar to the site; Petitioner has not met burden of proof under 307; will find in favor of the appellant, Ms. McElroy.

Summary: Petition should be denied.

HEB: Went out to visit Lutherville for the first time recently; became very familiar with the situation now being deliberated; interesting her reasons for opposing this variance are most commendable; Mr. Storck's testimony was impressive; at same time, is my opinion Mr. Alexander has been endeavoring to find solution to various ways in which he might put addition on house; much time and thought has gone into it; concurs with ROS regarding misunderstanding in the actual drawing; setback situation is a little troubling; dimension from Petitioner's west side of house to Division Street was equally a great distance as from Ms. McElroy's home to the property line; lot of land on the west side; distance from property line on east side to existing building seems to be about the same as distance from west side to the large tree; garage could be placed in that space on the west side of the house and not interfere with tree. Another consideration is the 4-foot setback; could it be more; protestants feel his addition could be placed on west; testimony of Mr. Link stressed internal room layout of the house that presents serious problems; numerous windows on the west; west side of house is attractive; would create practical difficulty and hardship to alter that west side with addition; also testimony that there are topographic problems with the large tree and other trees in the area between house and Division Street; more costly grading, etc. LPC feels that plans will enhance present house and property aesthetically, and will complement the neighborhood; Protestant is concerned about construction of garage regarding building equipment, materials, etc.; but will be handled. To improve appearance of total property, concrete block garage will be removed; 2-1/2 ft. from property line; closer than 4 feet being requested; LPC approves of plan; with regard to section 307, variance should be granted; no injurious to health, safety or general welfare; this historical location, improved in the manner that plans

2

Deliberation /JOHN B. ALEXANDER /94-467-A

indicate, with some changes, is going to brighten up entrance to Lutherville; requested variance should be granted; reserves thoughts on the 4-foot setback; size of garage has been reduced, per testimony received; no longer two-car garage; will accommodate compact car and larger car; overhead protrusion of the dormer /whether this design of the garage could be reduced and require less setback; as situation stands, inclined to say that requested variance should be granted.

Summary: Petition should be granted.

JHL: Role as members of the Board is to hear facts and make decision based on the evidence; testimony from both sides was thorough and accurate, and well taken by the Board; able to understand relevant issues in case; 30-foot setbacks have not been discussed but is in favor of granting those; 4-foot side setback is a bit problematic; Section 307 requires Board to find from the evidence practical difficulty if variance request were denied; consider circumstances peculiar to the land; in this case, there is testimony from Mr. Link that form and function of house would be negatively affected if Petitioner was required to build on west side rather than east side; testimony that building garage on west side would require removal of tree or trees; testimony that construction of garage on west side would block windows that are already on the house on west side; testimony about grading on west side (not overly convinced with that, but there was testimony); testimony that if constructed on west side, would be more impervious surface and the opposite of that if constructed on the east side; all these factors independently, and definitely collectively, support a finding of practical difficulty under Section 307; also under 307, we are to find that the variance, as requested, would not be detrimental to the surrounding locale. First fact as shown on plat is that Ms. McElroy's house at 109 Melancton is 107 ft. away from Petitioner's property line; if house were closer, might be more problem; but since so far away, having problem seeing actual negative impact on neighboring property. To buttress my position, I'm finding facts in the record, specifically, the improvements were designed and redesigned to comply with Baltimore County LPC; improvements would not be detrimental to surrounding locale; existing garage is falling down; razing existing garage would be enhancement; construction process is temporary; meets spirit and intent of zoning regulations; protestants not opposed to garage but rather location 4 feet from property line; subject to conditions, I am inclined to grant the Petition for Variance.

Summary: Would grant Petition for Variance.

3

Deliberation /JOHN B. ALEXANDER /94-467-A

ROS: Interjected that couple of things remain open, particularly aspects of the second floor and protrusion.

Board members discussed these various aspects of second floor; protrusion and how it relates to 4-foot setback requested; no dimension on drawing.

At this point, Howard Alderman, Mr. Alexander and Ms. McElroy then approached the Bench to clarify distance from property line of protrusion on second story.

Board members then continued discussion of actual distance, plan submitted, etc.

JHL: At this point, Board will reach consensus that no part of the east side of this garage can go closer than 4 feet to the property line /true 4-foot setback. Will create work and problems for the Petitioners; but will also give some relief to the Protestants.

ROS: Cannot agree with that; must dissent.

JHL: A written opinion and order will follow. Any appeal from our decision must be taken within 30 days of the opinion and order, and not from today's date.

Respectfully submitted,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

304.7--The director of zoning administration shall establish appropriate fee schedules. (Bill No. 47, 1992.)

Section 305--REPLACEMENT OF DESTROYED OR DAMAGED DWELLINGS [B.C.Z.R., 1955; repealed by Bill No. 124, 1991; re-enacted by Bill No. 214, 1991.]

In case of complete or partial casualty loss by fire, windstorm, flood, or otherwise of an existing dwelling that does not comply with height or area requirements of the zone in which it is located, such dwelling may be restored provided area or height deficiencies of the dwellings before the casualty are not increased in any respect, and such restoration is subject to the limitations imposed by Section 104.2 of the Baltimore County Zoning Regulations.

Section 306--MINOR PUBLIC UTILITY STRUCTURES [B.C.Z.R., 1955.]

Minimum lot area regulations in any zone shall not apply to repeater, booster, or transformer stations, or small community dial offices. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

Section 307--VARIANCES [B.C.Z.R., 1955; Bill No. 107, 1963.]

307.1--The zoning commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations and from sign regulations, only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the zoning commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the zoning commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance. (B.C.Z.R., 1955; Bill No. 107, 1963; No. 32, 1988; Bill No. 2, 1992.)

307.2--In addition to the authority and limitations set forth in Section 307.1 above, within the Chesapeake Bay Critical Area, the zoning commissioner, or upon appeal, the Board of Appeals of Baltimore County, shall have the power to authorize the expansion

REV 2/92

3-38

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1991, LEGISLATIVE DAY NO. 3

RESOLUTION NO. 7-91

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, FEBRUARY 4, 1991

A RESOLUTION concerning the public disclosure of John Alexander, an employee of the Baltimore County Office of Planning and Zoning.

WHEREAS, John Alexander intends to file a request for a zoning variance for the construction of a garage addition on an existing home located in the Fourth Councilmanic District of Baltimore County; and

WHEREAS, this Resolution is intended to provide full public disclosure of his interest in the proceeding before the Zoning Commissioner under Section 22-11(d) of the Baltimore County Code.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland that the filing of a zoning variance and related requests in connection therewith by John Alexander does not contravene the public welfare and is hereby authorized.

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IN THE MATTER OF
THE APPLICATION OF
JOHN R. ALEXANDER, ET AL
FOR A ZONING VARIANCE ON PROPERTY
LOCATED ON THE SOUTH SIDE OF
MELANCHTON AVENUE, AT SOUTHEAST
COR MELANCHTON & DIVISION AVENUES
(115 MELANCHTON AVENUE)
8TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO: 94-467-A

DISSENTING OPINION

This case hinges on the Petitioner's ability to meet the burden of proof of physical constraints peculiar to the land or structure which, in conforming to the Baltimore County Zoning Regulations, would create undue hardship or practical difficulty for the Petitioner. The Petitioner presented a design by architect Lawrence Link which is most responsive to the historic nature and style of the surrounding area and instant existing building. However, the issues related to features of the site which may or may not be unique to the structure or site were ostensibly left unaddressed by the Petitioner.

The existing house rests approximately 26 feet from the east property line, common with the Appellant, Sandra McElroy. The Plat to Accompany the Petition for Zoning Variance does not indicate the distance between the west property line and the existing home, nor any distances between the house and any of the trees near the west side of the house. Neither the Plat nor the architectural drawings entered as Petitioner's Exhibit No. 1 show any contours of the land which would support a claim of engineering difficulty in constructing the garage on the west side of the house as a matter of right. In fact, on recross-examination, the architect stated

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that the only practical difficulty in building the garage on the west side of the house is one of aesthetics and possible loss of trees.

The architectural drawings for the proposed garage, Sheets A7 of 7, A5 of 7, A3 of 7 and A2 of 7, collectively known as Petitioner's Exhibit No. 1, are inadequate in relating the design to several design issues in this case. According to the drawing sheets A2 and A3 of 7, access to the proposed addition will be via a second floor room in the existing house, as well as through an exterior door on the first floor. The plans provided do not indicate the rooms in the existing house through which access to the proposed addition is gained; therefore, no evidence regarding adjacency needs is even available for consideration of rationale for the proposed placement of the addition. Further, the Plat indicates a very regular, rectangular addition which would have an edge at four (4) feet from the east property line; however, the elevation drawings and the Second Floor Plan from Petitioner's Exhibit No. 1 indicate a significant protrusion on the second floor. Thus, the Petition, the Plat and the accompanying drawings are not in accord with one another as they relate to the supposed 4-foot setback dimension. The dimensions shown on the architectural drawings lead me to the conclusion that the second floor protrusion would rest at a point 18 inches from the east property line.

Turning again to the issues of the west side of the house as

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a possible location for the addition, the Petitioner failed to address his own allegations about access to the site. He said that the stretch of Division Street by his home had traffic which moved too fast; however, he failed to produce testimony and/or evidence to support what should be considered too fast. He also was unable to discredit the Appellant's assertion that, by her family's long-time residency in the area and in the Petitioner's home, she asserts that the west side was once used as a driveway.

Finally, I realize the Petitioner dealt extensively with the Landmarks Preservation Commission (LPC) in getting to this point. However, the burden of the Petitioner does not end with the blessing of LPC. In fact, the LPC approval is in addition to, not in lieu of, meeting the burden for a variance before this Board. The LPC position, in this case, must be discounted to some extent, as the impact of the granting of the variance is felt outside the area under LPC purview; the Appellant's property is not part of historic Lutherville.

I find as a fact that the Petition, Plat and accompanying documents are not in accord with one another. Further, the Petitioner failed to prove that conditions elsewhere on the site are of a quality which would create a practical difficulty or undue hardship. I would assert the obvious talents of the architect could be just as responsive to the area in a design on the west side as the east, and possibly more so. Also, I have seen no evidence or testimony which would indicate the Petition is in the

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spirit and intent of the Baltimore County Zoning Regulations. In fact, I find that the extreme closeness of the proposed addition to the east property line is in contravention to the intent of the instant D.R. 2 zone and may have a negative impact on the developable value of the Appellant's property, which is zoned D.R. 5.5. The instant Petition should be denied.

Robert O. Schuetz
Robert O. Schuetz

DATE: January 27, 1995

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IN THE MATTER OF THE
PETITION OF
JOHN R. ALEXANDER, ET AL
FOR VARIANCES ON PROPERTY
LOCATED ON THE SOUTH SIDE
OF MELANCHTON AVENUE AT
SOUTHEAST CORNER MELANCHTON
AND DIVISION AVENUES
(115 MELANCHTON AVENUE)
8TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 94-467-A

OPINION

This case comes before the Board on appeal from a decision of the Zoning Commissioner, dated July 29, 1994, granting variances permitting front and rear yard setbacks of 30 feet (both existing) in lieu of the required 40 feet and a side yard setback of 4 feet in lieu of the required 15 feet for a structure containing a 2 car garage. The Board hearing in this case was de novo.

The Petitioners presented the testimony of John R. Alexander, who owns the property with his wife, and Lawrence J. Link, Jr., a registered architect with experience in designing structures in historic communities. Fourteen exhibits were offered into evidence by the Petitioners.

The Appellants presented the testimony of Sandra L. McElroy, the next door neighbor to the east at 109 Melanchton Avenue, and John Storck, the son of Jean Drach Storck. Jean Drach Storck lives across the street from the property at 112 Melanchton Avenue. Six exhibits were collectively offered into evidence by the Appellants.

From the testimony, evidence and exhibits, the Board finds the following facts:

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The subject dwelling is located in the Lutherville Historic District and was constructed in approximately 1860. The property, 115 Melanchton Avenue, is approximately one-third of an acre in size and is zoned D.R. 2. An existing detached concrete block shed presently serves as a garage towards the rear of the property. The house owned by Appellant, Sandra L. McElroy is approximately 107 feet to the east of Petitioners' house.

The Petitioners desire to raze the existing shed and construct on the east side of the dwelling a 22 feet wide, two-story 1300 square foot addition containing a 2 car garage on the first floor and habitable space on the second floor. The first floor of the proposed addition will be within 4 feet of the property line and, in fact, certain proposed structures, i.e., windows are proposed to be within 2 feet of the property line.

The proposed improvements were designed and re-designed to comply with the requirements of the Baltimore County Landmarks Preservation Commission. Ultimately, said Commission approved the addition as proposed.

The variances are requested pursuant to Section 307.1 of the BCZR. The Board reviewed the criteria set forth in said Section and applied the facts of this case to the law. Additionally, the Board reviewed the test for practical difficulty set forth in the case of McLean v. Soley, 270 Md. 208 (1973).

The Petitioners maintain that strict compliance with the BCZR will result in practical difficulty. The Appellants urge the Board

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to find from the facts that the existing setback requirements are not unnecessarily burdensome.

From the evidence presented, the Board concludes that Petitioners have established that strict compliance with the BCZR will result in practical difficulty. Specifically, the Board finds, as a fact, the following:

1. Due to the existing layout of the Petitioners' house, the denial of a side yard variance would unnecessarily burden the flow, form and function of the house;
2. Due to circumstances peculiar to the land, i.e., the grading of the property on the west side and the orientation of the house, the denial of a side yard variance would unnecessarily require the removal of trees on the west side of the house;
3. Due to the location of the existing windows on the west side of the house, the denial of a side yard variance would unnecessarily cause windows on the west side of the house to be blocked by the construction of a similar garage addition on the west side of the dwelling; and
4. Due to the grading on the west side of the property and the orientation of the Petitioners' house, the construction of a garage addition on the west side of the dwelling would unnecessarily require additional paving. In fact, locating the proposed addition on the east side of the house will actually result in a reduction of existing impervious surfaces.

All four of the above findings are based primarily on the unrebutted expert testimony of the Petitioners' architect, Lawrence J. Link, Jr., whose testimony the Board found to be very thorough and accurate.

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The Board also finds that granting the variances will not be detrimental to the surrounding locale. Specifically, the Board finds as follows:

1. The improvements were designed and re-designed to comply with the Baltimore County Landmarks Preservation Commission's requirements. Said Commission ultimately approved the proposed addition as shown on Petitioners' Exhibit 4;
2. The improvements will be an enhancement to the streetscape particularly because the old dilapidated garage/shed will be razed; and
3. Any nuisance created by the construction of the proposed addition will be temporary in nature.

Furthermore, the Board finds from the facts that relief can be granted in strict harmony with the spirit and intent of the BCZR without causing injury to the health, safety or general welfare of the locality involved. In making this finding, the Board notes the following:

1. An attached 2 car garage is permitted as of right in a DR 2 Zone;
2. The cars will be garaged inside rather than outside; and
3. The neighboring house to the east is approximately 107 feet away from the addition as proposed.

In regard to practical difficulty, the Board finds that allowing windows within 2 feet of the east side property line is not the minimum variance needed to afford the Petitioners' appropriate relief under Section 307.1 of the BCZR. In other words, the Board finds that the granting of a lesser variance, i.e., a 4 foot setback, will give the Petitioners appropriate

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