

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
GORDON L. HARRISON, ET UX	*	
FOR A SPECIAL EXCEPTION AND	*	OF
VARIANCES ON PROPERTY LOCATED	*	
ON THE NORTH SIDE OLD EASTERN	*	BALTIMORE COUNTY
AVENUE, 25' E OF CENTERLINE	*	
OF EYRING AVENUE	*	
(1300 OLD EASTERN AVENUE)	*	CASE NO. 95-280-XA
15TH ELECTION DISTRICT	*	
5TH COUNCILMANIC DISTRICT	*	
* * * *	*	* * * *

O P I N I O N

This matter comes to the Board on appeal by People's Counsel from the March 20, 1995 decision of the Deputy Zoning Commissioner wherein Petitioners' special exception and variances were granted. Petitioners presently own a Class A Group Child Care Center on the subject property which is located in a Residential Transition Area (RTA). They sought a special exception to operate a Class B Group Child Care Center and variances for various setback, buffer and lot size requirements.

John B. Gontrum appeared on behalf of the Petitioners, and Peter Max Zimmerman, People's Counsel for Baltimore County, participated in the proceedings. Gordon L. Harrison, Petitioner; and Donna Copp, a neighbor, testified on behalf of Petitioners. Neighbors Carville Lauenstein, Ferdinand R. Hock, Mary Hock and Pearl Puchalski testified as Protestants.

From the testimony and exhibits, the Board finds that Petitioners operate a child care center at the subject property and live directly across the street therefrom. Mr. Harrison intended to and has, in fact, maintained the property as a residence for his mother-in-law. Petitioners are seeking to expand to a Class B facility and thus be able to accept more children at the center. They are willing to limit the permissible amount of children to 24

given the limited square footage of the building. The subject lot is substantially less than 1 acre in size and located in a heavily trafficked area. It is very similar in size and shape to most neighboring lots which sit on 1/4 to 1/3 of an acre.

Class B Group Child Care Centers as a whole are not permissive uses in a D.R. zone absent statute. In RTA's such as this, petitioners must proceed by special exception. Baltimore County Zoning Regulations (BCZR) Section 1B01.1B.1.g.(10a), while allowing special exceptions, nonetheless requires compliance with the bulk standards of Section 424.7. Class B Group Child Care Centers are permitted therein by special exception "provided that the Zoning Commissioner determines, during the special exception process, that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained...." (Emphasis added.) The fact that compliance with the bulk standards will not be maintained precludes the Board from granting the special exception.

Variances may be granted under Cromwell v. Ward, 102 Md.App. 691, 651 A.2d 424 (1995) only if strict application of the regulation, due to unique circumstances affecting the property, would result in peculiar and exceptional practical difficulties. The subject property is a parcel similar in shape, size and appearance to many other parcels in the area. Were this Board permitted, therefore, to consider the variance requests on their merits, it does not believe that Petitioners have demonstrated the requisite uniqueness sufficient for the granting of a variance. Further, Section 307.1 of the BCZR permits variances for unique sites where strict compliance with the zoning regulations would

result in practical difficulty or undue hardship. This property does have a use. Denying the variance thus does not result in practical difficulty or undue hardship within the contemplation of Section 307.1.

The Board, having so ruled, is not unmindful of the plight of citizens in need of day care. Rather, it does not believe it is at liberty to ignore what is clearly set forth in the law, even to further a noble end. If this ruling disserves the needs of the citizens in the Essex region, however, change must come from the legislative body.

O R D E R

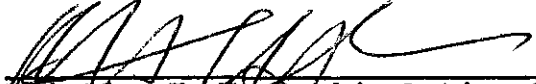
THEREFORE, IT IS this 28th day of September, 1995 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Exception to permit a Class B Group Child Care Center on the subject property where there is an RTA be and is hereby DENIED; and it is further

ORDERED that the requested variances seeking relief from the Baltimore County Zoning Regulations pertaining to setback, lot size and buffer requirements be and are hereby DENIED.

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

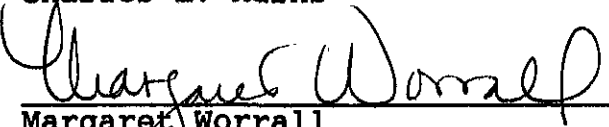
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Kristine K. Howanski, Acting Chairman



Charles L. Marks



Margaret Worrall



County Board of Appeals of Baltimore County

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

September 28, 1995

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Case No. 95-280-XA
Gordon L. Harrison, et ux

Dear Mr. Zimmerman:

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.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlottesville E. Radcliffe for
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: John B. Gontrum, Esquire
Mr. & Mrs. Gordon L. Harrison
Pat Keller, Planning Director
Lawrence S. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE - N/S Old Eastern Ave.,
25' E of the c/l of Eyring Ave. * DEPUTY ZONING COMMISSIONER
(1300 Old Eastern Avenue)
15th Election District * OF BALTIMORE COUNTY
5th Councilmanic District * Case No. 95-280-XA
Gordon L. Harrison, et ux
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 1300 Old Eastern Avenue, located in the vicinity of Back River/Stemmers Run in Essex. The Petitions were filed by the owners of the property, Gordon L. and Deborah J. Harrison. The Petitioners seek a special exception to permit a Class "B" Group Child Care Center on the subject property where there is a Residential Transition Area (RTA), and variances from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 424.1.B to permit a chain link fence of 42 inches in height with a setback of 0 feet in lieu of the required stockade fence of 5 feet in height with a 20-foot setback; from Section 424.7.A to permit a lot size of .283 acres in lieu of the minimum required 1.00 acre; and from Section 424.7.B to permit a front setback of 19 feet, a side setback of 14 feet, and a rear setback of 21 feet, with buffers of 0 feet each, in lieu of the required 25-foot front and 50-foot side and rear setbacks, with 20-foot buffers. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Gordon and Deborah Harrison, legal owners of the property. There were no Protestants present.

ORDER RECEIVED FOR FILING

Date

By

2/20/95
JOP

Testimony and evidence offered revealed that the subject property consists of 0.283 acres, more or less, zoned D.R. 5.5, and is improved with a two-story dwelling, a detached garage, and a paved parking area. The Petitioners have operated a child day care center on the subject property for the past two years. Presently, they provide day care services for up to 12 children. The Petitioners are desirous of expanding their operation to provide day care services for up to 40 children. Testimony indicated that their day care center has been very successful and due to the many requests the Petitioners have received from parents in the area, they are desirous of expanding their operation to include as many children as would be permitted under the State's regulations. Mr. & Mrs. Harrison testified that they have spoken with all of their neighbors and that no one objects to their request to increase the number of children at the site. Due to the size of the lot and the location of existing improvements thereon, the requested variances are necessary in order to proceed as proposed.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any ad-

ORDER RECEIVED FOR FILING

Date

By

verse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

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

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

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

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

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare and meets the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of March, 1995 that the Petition for Special Exception to permit a Class "B" Group Child Care Center on the subject property where there is a Residential Transition Area (RTA), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 424.1.B to permit a chain link fence of 42 inches in height with a setback of 0 feet in lieu of the required stockade fence of 5 feet in height with a 20-foot setback; from Section 424.7.A to permit a lot size of .283 acres in lieu of the minimum required 1.00 acre; and from Section 424.7.B to permit a front setback of 19 feet, a side setback of 14 feet, and a rear setback of 21 feet, with buffers of 0 feet each, in lieu of the required 25-foot front and 50-foot side and rear setbacks, with

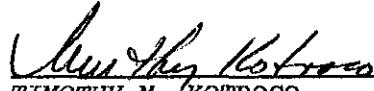
ORDER RECEIVED FOR FILING

Date

By

20-foot buffers, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

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


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 3/28/95
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 20, 1995

Mr. & Mrs. Gordon L. Harrison
1301 Old Eastern Avenue
Baltimore, Maryland 21221

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
N/S Old Eastern Ave., 25' E of the c/l of Eyring Ave.
(1300 Old Eastern Avenue)
15th Election District - 5th Councilmanic District
Gordon L. Harrison, et ux - Petitioners
Case No. 95-280-XA

Dear Mr. & Mrs. Harrison:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

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

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

✓
File



Petition for Special Exception

95-280-XA
to the Zoning Commissioner of Baltimore County

for the property located at 1300 OLD EASTERN AVE
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

To permit a Class "B" Group Child Care Center where there is RTA.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception 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.

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

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

Legal Owner(s):

GORDON & DEBORAH HARRISON
(Type or Print Name)

Gordon L. Harrison
Signature

GORDON L. HARRISON
(Type or Print Name)

Deborah J. Harrison
Signature

1301 OLD EASTERN AVE 686-0228
Address Phone No.

BALTIMORE MD 21221
City State Zipcode

Name, Address and phone number of representative to be contacted.

SAME
Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: JP DATE 2/6/95

#274



ORDER RECEIVED FOR FILING

Date 3/20/95

By JP



Petition for Variance

95-280-XA
to the Zoning Commissioner of Baltimore County

for the property located at 1300 OLD EASTERN AVE

which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 424.1.B - to permit a 42-inch chain link fence with a zero foot setback in lieu of the required 5 feet stockade fence with a 20-foot setback; 424.7.A - to permit a lot size of .283 acre in lieu of the required 1 acre; 424.7.B - to permit a front setback of 19 feet & a side setback of 14 feet & a rear setback of 21 feet, all with zero feet buffers in lieu of the** 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.

**required 25-foot front setback & the 50-foot side & rear setbacks, all with 20-feet buffers.

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

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

Legal Owner(s):

GORDON & DEBORAH HARRISON
(Type or Print Name)

Gordon & Harrison
Signature

GORDON L. HARRISON
(Type or Print Name)

Deborah Harrison
Signature

1301 OLD EASTERN AVE 6860728
Address Phone No

BALTIMORE MD. 21221
City State Zipcode

Name, Address and phone number of representative to be contacted.

SAME
Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: gf DATE 2/4/95

#274

ORDER RECEIVED FOR FILING

DATE



Printed with Soybean Ink
on Recycled Paper



95-280-XA

ZONING DESCRIPTION

Zoning Description for 1300 Old Eastern Avenue

Election District 15 Councilmanic District 5

Beginning for the same at a point on the North side of Old Eastern Avenue which is 80 feet wide at a distance of 25 feet East of the centerline of Hying Avenue which is 50 feet wide as recorded in Deed Liber 8443, Folio 137 and running thence Easterly 85 feet, Northerly 145 feet, Westerly 85 feet and Southerly 145 feet to the place of beginning.

Containing 12,325 Square Feet or 0.283 Acres of Land.



274

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Townson, Maryland

95-780-XH

District: 157A Date of Posting: 4/19/95
Posted for: Special Exception & Variance
Petitioner: Gordon & Deborah Harrison
Location of property: 1300 Old Eastern Ave, N/S
Location of Signs: Facing road way on property being zoned
Remarks: _____
Posted by: [Signature] Date of return: 7/24/95
Signature
Number of Signs: 1



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: #95-280-XA
(item 274)

1300 Old Eastern Avenue
N/S Old Eastern Avenue
25 E of c/l Eyring Avenue
15th Election District
5th Councilmanic
Legal Owner(s):

Robert J. Harrison and
Deborah J. Harrison
Hearing Friday:

March 10, 1995 at 10:00
a.m. in Room 106, County Of-
fice Building

Special Exception to permit a Class B group child care center, where there is RTA. Variance to permit a 42-inch chain link fence with a zero-foot setback in lieu of the required 6-foot stockade fence with a 20-foot setback; to permit a lot size of .289 acre in lieu of the required 1 acre; and to permit a front setback of 18 feet; a side setback of 14 feet; and a rear setback of 21 feet; all with zero foot buffers in lieu of the required 25-foot front setback and the 50-foot side and rear setbacks; all with 20-foot buffers.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handi-
capped Accessible; for special ac-
commodations Please Call
387-3353.

(2) For information concern-
ing the File and/or Hearing, Please
Call 387-3391.

2/28/ February 23

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

2/23, 1995

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 2/23, 1995.

THE JEFFERSONIAN,

A. Henrichson

LEGAL AD. - TOWSON

Publisher



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

receipt

95-280-XA

Account: R-001-6150

Number # 274

Taken by: JRF

Date Feb. 6, 1995

HARRISON -- 1300 OLD EASTERN AVE.

050 Special Exception ... \$ 300.00

020 - Variance - - - - \$ 250.00

080 - Signs (2) - - - - \$ 70.00

\$ 620.00

03A03H0110MICRC

BA C010127A02-06-95

\$620.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-280-X17

District 15th

Date of Posting 4/22/95

Posted for: Appeal

Petitioner: Gordon L. Harrison, et al.

Location of property: 1300 Old Eastern Ave.

Location of Signs: Facing road way, on property being appealed.

Remarks: _____

Posted by M. Kelly
Signature

Date of return: 7/28/95 ✓

Number of Signs: 1



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 274

Petitioner: GORDON L. HARRISON

Location: 1300 OLD EASTERN AVE

PLEASE FORWARD ADVERTISING BILL TO:

NAME: GORDON HARRISON

ADDRESS: 1301 OLD EASTERN AVE

BALTIMORE MD . 21221

PHONE NUMBER: 410-686-0228

AJ:ggs

(Revised 04/09/93)



TO: PUTUXENT PUBLISHING COMPANY
2/23/95 Issue - Jeffersonian

Please forward billing to:

Gordon Harrison
1301 Old Eastern Avenue
Baltimore MD 21221
410-686-0228

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: 95-280-XA (Item 274)
1300 Old Eastern Avenue
N/S Old Eastern Avenue, 25' E of c/l Eyring Avenue
15th Election District - 5th Councilmanic
Legal Owner(s): Gordon L. Harrison and Deborah J. Harrison
HEARING: FRIDAY, MARCH 10, 1995 at 10:00 a.m. in Room 106, County Office Building.

Special Exception to permit a Clas B group child care center where there is RTA.
Variance to permit a 42-inch chain link fence with a zero foot setback in lieu of the required 5-foot stockade fence with a 20-foot setback; to permit a lot size of .283 acre in lieu of the required 1 acre; and to permit a front setback of 19 feet, a side setback of 14 feet, and a rear setback of 21 feet, all with zero foot buffers, in lieu of the required 25-foot front setback andh the 50-foot side and rear setbacks, all with 20-foot buffers.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

FEBRUARY 23, 1995

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: 95-280-XA (Item 274)

1300 Old Eastern Avenue

N/S Old Eastern Avenue, 25' E of c/l Eyring Avenue

15th Election District - 5th Councilmanic

Legal Owner(s): Gordon L. Harrison and Deborah J. Harrison

HEARING: FRIDAY, MARCH 10, 1995 at 10:00 a.m. in Room 106, County Office Building.

Special Exception to permit a Clas B group child care center where there is RTA.

Variance to permit a 42-inch chain link fence with a zero foot setback in lieu of the required 5-foot stockade fence with a 20-foot setback; to permit a lot size of .283 acre in lieu of the required 1 acre; and to permit a front setback of 19 feet, a side setback of 14 feet, and a rear setback of 21 feet, all with zero foot buffers, in lieu of the required 25-foot front setback andh the 50-foot side and rear setbacks, all with 20-foot buffers.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Gordon and Deborah Harrison

- 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.





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

May 15, 1995

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. 95-280-XA

GORDON L. HARRISON, ET UX -Petitioners
N/s Old Eastern Avenue, 25' E of the c/l of
Eyring Avenue (1300 Old Eastern Avenue)
15th E; 5th C

SE -To permit Class B Group Child Care Center
on subject property where there is an RTA; VAR
-chain link fence of 42" with 0' setback in
lieu of stockade fence of 60" with 20'
setback; lot size; setbacks and buffers.

3/20/95 -D.Z.C.'s Order in which Petition for
Special Exception and Petition for Variances
were GRANTED.

ASSIGNED FOR

THURSDAY, JULY 13, 1995 at 10:00 a.m.

cc: People's Counsel for Baltimore County

Appellant

Mr. & Mrs. Gordon L. Harrison

Petitioners

Pat Keller

Lawrence E. Schmidt

Timothy M. Kotroco

W. Carl Richards, Jr. /ZADM

Docket Clerk /ZADM

Arnold Jablon, Director /ZADM

Entered 6/16/95:

John B. Gontrum, Esquire

Counsel for Petitioners

Kathleen C. Weidenhammer
Administrative Assistant



Case No. 95-280-XA

Gordon L. Harrison, et ux - Petitioner

N/S Old Eastern Avenue, 25' E of the
c/l of Eyring Avenue (1300 Old Eastern Avenue)

15th District

Appealed: 4/14/95

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

March 2, 1995

Mr. and Mrs. Gordon Harrison
1301 Old Eastern Avenue
Baltimore, Maryland 21221

RE: Item No.: 274
Case No.: 95-280-XA
Petitioner: Gordon Harrison, et al

Dear Mr. and Mrs. Harrison:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on February 6, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive, flowing style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)



BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: Feb. 27, 1995
Zoning Administration and Development Management

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

RE: Zoning Advisory Committee Meeting
for February 27, 1995
Item 274

The Developers Engineering Section has reviewed the subject zoning item. The ultimate layout must conform to the Landscape Manual to the extent possible. Opaque fencing is preferable to chain link.

RWB:sw

Baltimore County Government
Fire Department



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

(410) 887-4500

DATE: 02/16/95

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

RE: Property Owner: GORDON L. HARRISON & DEBORAH J. HARRISON

LOCATION: N/S OLD EASTERN AVE., ESE OF CENTERLINE EYRING AVE.
(1800 OLD EASTERN AVE.)

Item No.: 274

Zoning Agenda: SPECIAL EXCEPTION
VARIANCE

Gentlemen:

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

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

RECEIVED
FEB 21 1995
ZADM

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

cc: File





**Maryland Department of Transportation
State Highway Administration**

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

2-21-95

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

Re: Baltimore County
Item No.: +274 (JRF)

Dear Ms. Watson:

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 Ronald Burns, 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

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM

DATE: 2-21-95 3-1-95

FROM: DEPRM
Development Coordination

SUBJECT: Zoning Advisory Committee
Agenda: 2-21-95

The Department of Environmental Protection & Resource Management has (no) comments for the following Zoning Advisory Committee Items:

Item #'s: 265
274✓
275
277
279
280
281
283

Brian Seely
3-1-95

LS:sp

LETTY2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: March 1, 1995

SUBJECT: 1300 Eastern Avenue

INFORMATION:

Item Number: 274

Petitioner: Harrison Property

Property Size: 12,325 sq. ft.

Zoning: DR-5.5

Requested Action: Special Exception & Variance

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

A review of the information provided and a site visit reveal that the property is too small to accommodate up to 40 students. The need for Variances seems to confirm this conclusion. Section 424.7 A requires a lot size of 1 acre; the subject property is less than one third of an acre. In addition to this relief, the applicant is also unable to comply with several other buffer and setbacks requirements.

This office recommends that the applicant's request be denied since the proposed use would tend to overcrowd the land.

Prepared by: Jeffrey W. Long

Division Chief: Cary L. Keller

PK/JL

RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
PETITION FOR VARIANCE		
1300 Old Eastern Avenue, N/S Old Eastern	*	ZONING COMMISSIONER
venue, 25' E of c/l Eyring Avenue		
15th Election Dist., 5th Councilmanic	*	OF BALTIMORE COUNTY
Gordon L. and Deborah J. Harrison	*	CASE NO. 95-280-XA
Petitioners	*	

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of February, 1995, a copy of the foregoing Entry of Appearance was mailed to Gordon L. and Deborah J. Harrison, 1301 Old Eastern Avenue, Baltimore, MD 21221, Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

April 18, 1995

Mr. and Mrs. Gordon L. Harrison
1301 Old Eastern Avenue
Baltimore, MD 21221

RE: Petitions for Special Exception and
Variance
1300 Old Eastern Avenue
N/S Old Eastern Avenue, 25 ft. East
of the c/l of Eyring Avenue
15th Election District
5th Councilmanic District
Gordon L. Harrison, et ux-Petitioner
Case No. 95-280-XA

Dear Mr. and Mrs. Harrison:

Please be advised that an appeal of the above-referenced case was filed in this office on April 14, 1995 by Peter Max Zimmerman, People's Counsel for Baltimore County. All material 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 887-3353.

Sincerely,

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon
Director

AJ:jaw





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 13, 1995

Arnold Jablon, Director
Zoning Administration and Development
Management Office
111 W. Chesapeake Avenue
Towson, MD 21204

Re: PETITIONS FOR SPECIAL EXCEPTION
AND ZONING VARIANCE
1300 Old Eastern Avenue, N/S Old Eastern
Ave., 25' E of the c/l of Eyring Avenue
15th Election District, 5th Councilmanic
GORDON L. HARRISON, et ux, Petitioners
Case No. 95-280-XA

Dear Mr. Jablon:

Please enter an appeal of PEOPLE'S COUNSEL FOR BALTIMORE COUNTY to the County Board of Appeals from the order dated March 20, 1995 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

In this connection, please forward to this office copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: Gordon L. and Deborah J. Harrison

RECEIVED
APR 14 1995
ZADM

APPEAL

Petitions for Special Exception
and Variance

N/S Old Eastern Avenue , 25 ft. E of the

c/l of Eyring Avenue

1300 Old Eastern Avenue

15th Election District and 5th Councilmanic District

Gordon L. Harrison, et ux-Petitioner

Case No. 95-280-XA

Petition(s) for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Petitioner's Exhibits: 1 - Plat to Accompany Petitions for Zoning Variance and
Special Exception

Deputy Zoning Commissioner's Order dated March 20, 1995 (Granted)

Notice of Appeal received on April 14, 1995 from Peter Max Zimmerman, People's
Counsel for Baltimore County

cc: Peter Max Zimmerman, People's Counsel for Baltimore County, M.S. 2010
Mr. and Mrs. Gordon L. Harrison, 1301 Old Eastern Avenue, Baltimore, MD 21221

Request Notification: Patrick Keller, Director, Planning and Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of ZADM

5/15/95 -Notice of Assignment for hearing scheduled for Thursday, July 13, 1995, at 10:00 a.m. sent to the following:

People's Counsel for Baltimore County
Mr. & Mrs. Gordon L. Harrison
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

6/16/95 -Letter from John B. Gontrum, Esquire /entering appearance as Counsel for Petitioners. Copy of Notice of Assignment sent to Mr. Gontrum.

7/11/95 -Letter from People's Counsel for Baltimore County with attachments; copies sent by Mr. Zimmerman to J. Gontrum and Carvel Lauenstein.

7/13/95 -Hearing concluded before Board; deliberation scheduled for Thursday, July 27, 1995 at 9:00 a.m. Notice to all parties and to K.W.C.

7/27/95 -Deliberation concluded; Petition for Special Exception and Petition for Variance DENIED by Board; written Order to be issued; appellate period to run from date of written Order. K.W.C.



County Board of Appeals of Baltimore County

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

July 13, 1995

NOTICE OF DELIBERATION

Having concluded the hearing in this matter on July ¹³~~12~~, 1995, the Board has scheduled the following date and time for deliberation in the matter of:

GORDON L. HARRISON, ET UX
CASE NO. 95-280-XA

DATE AND TIME : Thursday, July 27, 1995 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: People's Counsel for Baltimore County Appellant

John B. Gontrum, Esquire
Mr. & Mrs. Gordon L. Harrison

Counsel for Petitioners
Petitioners

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

Copies to: K. C. W.

Kathleen C. Weidenhammer
Administrative Assistant



COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: GORDON L. HARRISON, ET UX -Petitioners
Case No. 95-280-XA

DATE : Thursday, July 27, 1995 @ 9:00 a.m.

BOARD /PANEL : Kristine K. Howanski, Acting Chairman (KKH)
Charles L. Marks (CLM)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Those present included John B. Gontrum, Esquire, Counsel for Petitioners; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole Demilio, Deputy People's Counsel.

PURPOSE --to deliberate issues and matter of petition for special exception presented to the Board; testimony and evidence received July 13, 1995. Opinion and Order to be issued by Board setting forth written findings of fact.

KKH: Opening comments: We are here on deliberation this morning having concluded the hearing in this matter on July 13, 1995; scheduled this morning for deliberation is matter of Gordon Harrison, Case No. 95-280-XA. Present - John B. Gontrum, counsel for Petitioner, along with Mr. Harrison, and Peter Max Zimmerman and Carole DeMilio, for People's Counsel.

Before we deliberate, I would like to commend everyone on this particular case because we have others going on virtually the same issue, and we have gone on for two days and have not finished them yet. I commend everyone; will proceed with deliberations.

CLM: For purpose of deliberation, let the record reflect that this Board member reviewed all the evidence and exhibits submitted and testimony offered during the hearing as reflected in this Board member's notes. Basic thrust is to allow special exception to permit Class B group child center in residential /transitional area, coupled with variance for chainlink fence with 0' setback in lieu of stockade fence. De novo hearing.

Petitioner in 1990 applied for and received Class A permit as accessory use. Class A permit permits in certain zones group care centers up to 12 children. Special exceptions are permitted as a matter of law provided the improvements and

Minutes of Deliberation /Gordon Harrison, et ux 95-280-XA

site are planned in such a way that it complements bulk standards as required by Baltimore County law. Bulk standards --minimum lot size which requires one acre for the first 40 children; 500 sf for every child beyond 40 child requirement. Establishes minimum step height and improved site requirements. Testimony and evidence submitted before Board indicates that Petitioner has had operation of Class A unit for two years. No doubt it has been successful. Has served community well. Petitioner has met all requirements by Health Department and other State agencies to perform that service through the Essex community. Evidence also was submitted by letters from Mary Emerick with Baltimore County Community Conservation in which she recites that there is desperate need in that area for Class B child care center. Also took special note of the interoffice memorandum admitted as exhibit by Jeff Long, Office of Planning; indicated that at one time that department indicated that the site was too small to accommodate Class B facility; would not support that operation. Since it consisted of less than 1/3 acre, it would not comply with buffer and setback requirements. Petitioner has indicated that, if granted, they could be satisfied with up to 24/25 children and would replace chainlink fence with board fence. Also, based on the exhibits, 63,000 people in the area; 9500 acres.

The evidence before the Board indicates that Petitioner purchased property in 1990 and was his intent to develop Class A child care center and have mother-in-law live in facility. Indicates that Petitioner lives very close by to the property which is subject of petition. November 1990, permission in same month; January 1991 by hearing was granted final approval. Building has served as Class A unit since that time. The Petitioner, I think, has argued quite well that if the Class B permit were granted that it would not seriously impact traffic; there's certainly no health or fire hazard, and that 35 sf would be dedicated to the child usable area. Class B requires minimum of 40 sf.

The basic problem here is that the site is less than one acre and the bulk standards are quite specific as adopted by Baltimore County Council that you need one acre in size to accommodate Class B facility. One person appeared before the Board in favor of Petitioner's request. Seven individuals signed petition in favor of the petition; four people on the other side appeared in opposition to the proposed variance and setback, all of whom are long-time residents in the area. They acknowledged before the Board substantial changes in the area. Individuals lived in area for 42 years; one gentleman indicated he lived there for 75 years. Basic complaint is that lot size is simply too small to accommodate the children

that a Class B permit would permit if granted.

There is no doubt in my mind that there is need in this area for Class B child care center. The area is in the midst of change. Family structure is changing; families hard-pressed to have two income families. Basic problem, however, is that the law is quite specific concerning Class B permits to operate child care center. Zoning variance requires special circumstances peculiar to land or structure that are subject of request, where strict compliance would result in practical difficulty or unusual hardship, taking into consideration factors such as health, safety and general welfare of the community. The Board needs to look at case law to assist us in our findings. We need to follow that case law in order to reach a decision and, absent the criteria established by County Council being arbitrary, discriminatory, or illegal, must follow code. Cromwell provides such guidance. Unless there is a finding that property is unique, unusual or different then process of variance stops at that point, and variance is denied before deciding practical difficulty or unreasonable hardship. Question -- is this property unique, unusual or different? We know that it is less than 1/3 acre; that the area is in a state of flux; heavily travelled road. Already licensed for Class A up to 12 children. In analyzing situation, find it is not different than other areas; the type of structure that exists, land usage, site are similar in nature to the one on which variance is being requested. In 1990, permission granted for Class A. Class B can only be granted if bulk standards are complied with.

Houses are well settled for residential use; some have been changed because of change in area where modifications have been made for semi-commercial use; in my opinion, Class A is a semi-commercial use. In such cases, such uses are permitted where land area is satisfactory. However, simply because size of lot is inadequate, cannot act as avoidance of requirements in law. Property cannot meet requirements of ordinance; is not sufficient for Board to grant variance. County Council is the legislative body that promulgates the law and makes ordinances. Uses are based upon satisfactory compliance with law and not avoidance of condition; read 200-90; Council gave considerable thought before law enacted. Felt that bulk standards required for Class B, that one acre was minimum for such permit to be granted.

I find that the site does not meet bulk standard requirements; variance and setbacks must be denied. If relief is to be granted, it needs to be done by action of the Baltimore County Council. Perhaps time has come for the Council to consider reducing number on Class B to accommodate individuals such as

Minutes of Deliberation /Gordon Harrison, et ux 95-280-XA

Petitioners. Because, again in my opinion, there is a definite need in this area and other areas of Baltimore County for this type of center. That need cannot be fulfilled if the County Council requires at least one acre minimum standard for bulk site requirements. Find that property is not unique, unusual or different and having so found, deny variance and setback.

KKH: I certainly don't have much to say after that. I do agree. And while I'm sympathetic to those in need of day care, I'm going to concur with Mr. Marks that we are not at liberty to ignore what is clearly set forth in law, even though noble agenda. If change is needed, change does need to come from the County Council. As I read the law and looked at cases, I'm persuaded and can say that child day care center would not be a permissible use; have to proceed by special exception; in this instance, I agree as well that it is clear that this petition requires variance and that alone persuades us from granting special exception. While I was very impressed with the argument Mr. Gontrum made through the law, both gentlemen in the argument -- you get back to 424.7 -- all possible relevant provisions require compliance with bulk standards which would be second impediment to granting special exception. Were we to get to merits I would again concur that Petitioner has not demonstrated uniqueness for the granting of variance. Has use and will continue to have use after today; nothing unique about the property; parcel of land similar to others in the area; would concur and would not grant special exception or variance.

MW: My conclusion is the same; the special exception and variance to establish Class B child care facility should be denied. My reasoning is almost exactly the same as my colleagues. The idea of deliberation in public as I understand it from both sides is because the public wants to know how we arrived at decision. Listened to presentation and reviewed evidence in case. As others have pointed out, there is no doubt that child care facilities are needed in Baltimore County. Nothing to indicate that the Harrisons are doing less than fine job in Class A facility; however, there was a Supreme Court case which I also reviewed that speaks to a problem of a pig in the parlor instead of the backyard. There can be a right thing in the wrong place, and the Supreme Court decided that nevertheless the zoning laws must apply to those good things as well as the not-so-good. Baltimore County Zoning Regulations pursuant to Council Bill 200-90 describe certain bulk standards and say that compliance with bulk standard of 424.7 will be maintained. Bulk standards in this case require

Minutes of Deliberation /Gordon Harrison, et ux 95-280-XA

minimum of one acre, and it's already been stated Harrison lot is less than that. I believe this essentially stops discussion right here. But also the variances were looked at; testimony was verified that Harrison lot is like all the others in the area; it's very much similar to all the others in the area. Nothing inherent in the land itself that would create need for variance. Standard of unique which must be applied and again I agree with my colleagues that, under that reasoning, the request for special exception and variance for Class B should be denied.

KKH: We appear to concur with one another. Will issue written Opinion and Order; 30 days from that date for appeal, should you desire to do so.

Respectfully submitted,


Kathleen C. Weidenhammer
Administrative Assistant

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: K. Howanski
C. Marks
M. Worrall

DATE: July 13, 1995

FROM: Kathi

SUBJECT: Case No. 95-280-XA /Gordon L. Harrison, et ux

Regarding the subject matter, scheduled for public deliberation on Thursday, July 27, 1995 at 9:00 a.m., attached for your information and review are the following:

1. Copy of appropriate legal material (9 documents)
- 2) Copy of Notice of Deliberation.

Should you have any questions regarding the above, please call me.

Attachments



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

July 11, 1995

CAROLE S. DEMILIO
Deputy People's Counsel

Mr. Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: Petitions for Special Exception
and Zoning Variance
1300 Old Eastern Ave. - 15th Election
District, 5th Councilmanic
Petitioners - GORDON L. and DEBORAH
J. HARRISON

Case No. 95-280-XA

Hearing date: July 13, 1995, 10 a.m.

Dear Chairman Schuetz:

This is the second in a series of combination special exception and variances for principal use Class B Group Child Care Centers in D.R. (density residential) zones involving Residential Transition Areas (RTA's). See BCZR 424.5A. Upon review of the applicable statutes and case law, it appears that the use cannot properly be allowed.

Bill 200-90 (enclosed) amended the child care center law. As a result, BCZR 1B01.1B1g (10a) allows such special exceptions, "provided... that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained. ..." BCZR 424.7 provides the specific bulk standards for minimum lot size, setbacks, parking, height, and impervious surface area for group child care centers in all D.R. zones.

The present special exception presents multiple variances of BCZR 424.7. Even were there no special exception, it does not appear that the requested variances meet the "uniqueness" standard of BCZR 307.1 and Cromwell v. Ward, 102 Md.App. 691 (1995) (excerpt enclosed). The presence of the combination special exception/variance is a second bar to approval. See Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County, 103 Md.App. 324 (1995).

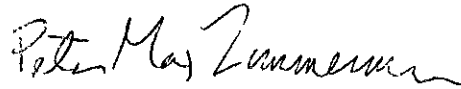
The specific statutory prerequisite under BCZR 1B01.1B1g (10a) of BCZR 424.7 compliance for group child care centers in the RTA is yet a third layer of preclusions.

Mr. Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
July 11, 1995
Page Two

This office is thus interested in the defense of the zoning maps in this case. We will participate at the hearing.

We also enclose an outline of relevant excerpts from the Cromwell and Chester Haven cases.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/caf
Enclosures

cc: John B. Gontrum, Esquire

Mr. Carvel Lauenstein

Variance Standards

Cromwell v. Ward: 651 A.2d 424

Quoting 2 Rathkopf, The Law of Zoning and Planning,

"Where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions...hardship arises...The restrictions of the ordinance taken in conjunction with the unique circumstances *affecting the property* must be the proximate cause of hardship...[T]he hardship, arising as a result of the act of the owner... will be regarded as having been self-created, barring relief." Page 431-32

Quoting Bowman v. City of York:

"[A] variance [may be granted] ... only if strict application of the regulation, because of the unusual physical characteristics of the property existing at the time of the enactment, [of the zoning ordinance] 'would result in peculiar and exceptional practical difficulties.'" Page 434-35

Quoting Shafer v. Board of Appeals:

"There was no evidence...regarding 'soil conditions, shape or topography of [the property] but not affecting generally the zoning district in which it is located'....The ...argument that the insufficient width ...constitutes a special circumstance of "shape" is unpersuasive, particularly as the deficiency is one which they themselves produced through subdivision of the land they originally owned at a time when the 125 foot width requirement pertained." Page 435.

Quoting St. Clair v. Skagit County:

"The court added that 'the 75-foot width and aggregation requirements do not put a burden on [appellant's] property which does not apply to other properties in the vicinity..."

Continuing in Cromwell: "In the case sub judice, the Baltimore County fifteen foot height limitation for accessory buildings does not affect Ward's property alone; it applies to all of the properties in the neighborhood." Page 435

Variance Standards: Cromwell v. Ward (Continued)

Quoting Xanthos v. Board of Adjustment:

"...in order to justify a variance...the applicant [must] show...that there are special conditions with regard to the property...:

'What must be shown...is that the property itself contains some special circumstance that relates to the hardship complained of...

'...The property is neither unusual topographically or by shape, nor is there anything extraordinary about the piece of property itself. Simply having an old building on land upon which a new building has been constructed does not constitute special circumstances." Page 436

Quoting Prince William County Board of Zoning Appeals v. Bond:

"...the hardship allegedly created by the ordinance must "not [be] shared generally by other properties in the same zoning district and the same vicinity.'...[It then held] "The limitation imposed by the zoning ordinance is one shared by all property owners in the A-1 district." Page 437.

Quoting McQuillin, Municipal Corporations:

"It is *fundamental* that the difficulties or hardships must be unique to justify a variance; they must be peculiar to the application of zoning restrictions *to particular property* and not general in character...[I]t is not uniqueness of the plight of the owner, but uniqueness of the land causing the plight, which is the criterion...." Page 438 (Excerpt of quotation)

Judge Cathell concludes:

"We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it always has been - a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists." Page 439

Variance: Self-Created Hardship

Cromwell v. Ward:

Quoting Ad + Soil, Inc. v. County Comm'rs:

"The essence of AD + Soil's argument .. is that the setback requirements ...would cause...unwarranted hardship because it had obtained its first state permit and constructed its transfer station before it learned of these local requirements... The Board declined to grant the variances, concluding that Ad + Soil's 'hardship' was self-inflicted...and therefore not the kind of hardship cognizable under the Zoning Ordinance." Page 439

Quoting Pollard v. Board of Zoning Appeals:

"Self-inflicted or self-created hardship ...is never considered proper grounds for a variance....[W]here the applicant creates a nonconformity, the board lacks power to grant a variance." Page 439

Judge Cathell concludes:

"Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively not only generate a plethora of such hardships, but we would also emasculate zoning ordinances. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted." 439-40.

Xanthos v. Board of Adjustment:

"...although the dwelling itself prior to the construction of the duplexes was a nonconforming use and was therefore entitled to be maintained as it was absent new construction, city ordinances and policy did not allow the structure to be made illegal or more nonconforming by additional construction."

In the Matter of Umerley Circuit Court for Baltimore County (Byrnes, J.)

"Uniqueness cannot be created by the owner." Page 6

"There is nothing unusual about the shapes of lots 2 and 5. They are rectangles." Page 9

**The Chester Haven Case: Prohibition of Special Exceptions with Variances
Discussion of Grandfathered Development**

Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County

"All of its variance requests concern what it perceives to be a necessary to meet the requirements of a change in its development plan from single family to group or cluster living necessitated by the current demand, not of zoning codes, but of environmental regulations (and economic conditions), especially the requirements of complying with the Chesapeake Bay Critical Area regulations. We are not unsympathetic to the plight of a property owner caught between local zoning codes and environmental regulations. We later herein suggest the correct method of addressing this issue. But, an offer to build below density, if a conditional use acceptable to environmental regulators changing the character of the use of the property is granted does not satisfy the requirement of variance law that the land itself be inherently unique and different from the remainder of the land in the area." Page 7

"The Board noted that, in addition to the conditional use [special exception] - or really, in order to qualify to apply for the conditional use - the applicants had to get a variance from the six unit per cluster conditions and from the provisions of the density percentages, and additional variances from the conditions for which the ordinance required satisfaction in order to be entitled to a conditional use. In other words, the Board perceived, correctly, that the subject project could not meet the requirements the ordinance established for the granting of the conditional use. Therefore, the applicants were attempting to eliminate the conditions by obtaining variances therefrom."

"The attempt to follow this procedure creates fundamental and conceptional problems with the generally accepted proposition that if the express conditions necessary to obtain a conditional use are met, it is a permitted use because the legislative body has made that policy decision. Does the legislative intent that the use be permitted remain if the conditions are not met but are eliminated by an administrative body granting a variance? Upon such an occurrence, the application for a conditional use becomes dependent upon the granting of the variances. Under those circumstances, the presumption that a conditional use is permitted may well fall by the wayside. The policy that establishes certain uses as permitted is predicated upon the satisfaction, not avoidance, of conditions. Conditions the legislative body attaches to the granting of a conditional use normally must be met in accordance with the statute - not avoided. In any event, even if such a procedure would pass muster, if the variance process fails, the entire application fails." Page 11-12 (Emphasis supplied)

RTA

The restrictions contained in sub-subparagraph a. through e. above, of this Subparagraph B.1. do not apply to: {Bill NO. 124, 1981; No. 109, 1982; No. 40, 1992.}

- (1) A proposed dwelling to be placed in a RTA containing existing dwellings of the same type, or, if two or more types of dwellings exist, a proposed dwelling of the same type as the existing dwelling with the fewest number of dwelling units. Such dwellings shall be governed by the applicable laws, zoning regulations and policies otherwise applicable. As used herein, a "dwelling of the same type" means a dwelling which has the same or lesser number of dwelling units and party walls as the existing dwelling units. {Bills No. 124, 1981; No. 109, 1982; No. 40, 1992.}
- (2) Public utility uses (except public utility service centers and storage yards). Such uses shall be governed by the provisions of Section 411, 502 and such other applicable sections of these regulations. {Bills No. 124, 1981; No. 40, 1992.}
- (3) Notwithstanding the provisions of Section 104, the reconstruction of an existing church, community building, or other structure devoted to civic, social, recreational, fraternal, or educational activity which is destroyed by fire or other casualty. However, such reconstruction may not increase the size or ground floor area of the structure or alter the location or use of the structure. {Bills No. 124, 1981; No. 40, 1992.}
- (4) An addition to an existing church or other building for religious worship, including parking areas and driveways, provided all other applicable zoning regulations including setback, parking, and screening requirements, are maintained. {Bill No. 109, 1982; No. 40, 1992.}
- (5) A new church or other building for religious worship constructed on a parcel of land large enough to provide landscaped but otherwise unimproved yard areas of 100 feet between any improvement and any property line other than street frontages. {Bills No. 109, 1982; No. 40, 1992.}

- (6) A new church or other building for religious worship, the site plan for which has been approved after a public hearing in accordance with Section 500.7. Any such hearing shall include a finding that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that said plan can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises. {Bills No. 109, 1982; No. 40, 1992.}
- (7) Shoreline fishing and shellfish facilities. Such uses shall be governed by the provisions of Section 500.4 and Subparagraphs 1A01.2C.9, 1A02.2B.10, 1A04.2B.7 and 1B01.1C.7.a. of these regulations. {Bills No. 124, 1981; No. 109, 1982; No. 40, 1992.}
- (8) An addition to an existing trailer park or mobile home park or contiguous to such park. If the park is lawfully in existence in a D.R. zone on the effective date of this act. {Bills No. 109, 1982; No. 40, 1992.}
- (9) An addition to an existing community building, or other structure devoted to civic, social, recreational, fraternal or educational activity, including parking, and screening requirements, are maintained. {Bills No. 109, 1982; No. 40, 1992.}
- (10) A new community building, or other structures devoted to civic, social, recreational, fraternal or educational activity, if the zoning commissioner determines during the special exception process that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises. {Bills No. 109, 1982; No. 40, 1992.}
- (10a) Principal use Class A and Class B group child care centers, provided that the zoning commissioner determines, during the special exception process that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained and that the special exception can other-

→ wise be expected to be compatible with the character and general welfare of the surrounding residential premises. {Bills No. 200, 1990; No. 59, 1991; No. 40, 1992.}

(11) The conversion of a dwelling to a bed and breakfast home, bed and breakfast inn, or country inn pursuant to Section 402D or 402E. {Bills No. 113, 1988; No. 40, 1992.}

(12) Notwithstanding the provisions of Section 104, the reconstruction of an existing nursing home which is destroyed by fire or other casualty. However, such reconstruction may not increase the size or ground floor area of the structure or alter the location or use of the structure. {Bills No. 37, 1988; No. 40, 1992.}

(12a) Transit facilities and rail passenger stations shall be exempt from the RTA requirements. {Bills No. 91, 1990; No. 40, 1992.}

(13) Assisted living facilities, Class A. {Bill No. 188, 1993.}

h. The provisions contained in Sub-subparagraphs a. through e. of Subparagraph B.1. shall not apply to existing developments as described in Subparagraph A.1. of Subsection 1B02.3., nor to subdivision tracts for which tentatively approved plans remain in effect as described in Subparagraph A.2. of said subsection. {Bills No. 100, 1970; No. 124, 1981; No. 40, 1992.}

2. Use regulations in existing developments. In existing developments as described in Subparagraph A.1. of Subsection 1B02.3. uses shall be limited to those now lawfully established or to those indicated in the subdivision plans on file with the office of planning and zoning, except as may otherwise be permitted under provisions adopted pursuant to the authority of Section 504. {Bill No. 100, 1970.}

3. Use regulations for existing subdivision tracts. On subdivision tracts for which tentatively approved plans remain in effect as described in Subparagraph A.2. of Subsection 1B02.3. the uses permitted shall be those indicated in the plan or, where the use is not indicated and if not inconsistent with the plan, the uses shall be those permitted under zoning regulations in effect at the time the tentative approval was granted. {Bill No. 100, 1970.}

- * 424.5-- A. All other principal use group child care centers and nursery schools in residential zones are permitted in accordance with the following schedule:

GROUP CHILD CARE CENTERS

	<u>CLASS A</u>	<u>CLASS B</u>	<u>NURSERY SCHOOLS</u>
RC 2	SE	SE	SE
RC 3	SE	SE	SE
RC 4	N	N	N
RC 5	SE	SE	SE
D.R.(ALL ZONES)			
More than 40 children	N/A	SE	SE
40 or fewer children	C	C	C
→ 40 or fewer children and RTA is applicable	SE	SE	SE
R.A.E. 1, 2	R	R	R
Within apartment buildings of 50 or more units and subject to supplemental regulations of paragraphs 200.2B and 201.2B. [Bill Nos. 200, 1990; 59-1991.]			
FREESTANDING	SE	SE	SE

- B. Group child care centers in business and manufacturing zones are permitted as a noncommercial accessory or principal use in accordance with the following schedule:

	<u>Class A</u>	<u>Class B</u>	<u>Nursery Schools</u>
R-O			
More than 40 children	N/A	SE	SE
40 or fewer children	C	C	C
O-1, O-2	R	R	R
O.T.	R	R	R
Business Zones	R	R	R
M.R., M.H., M.L. & M.L.R. Zones	R	R	R

R = Permitted as of Right
 SE - Permitted by Special Exception
 N = Not Permitted
 C = Permitted subject to additional conditions
 [Bill Nos. 200-1990; 51-1991.]

424.6--Sign and Display Regulations [Bill No. 47, 1985.]

A. Residential and R-O zones. Family child care homes, group child care centers, and nursery schools are permitted the following signs when located in any residential or R-O zone:

1. Accessory family child care homes and accessory group child care centers Class A in single-family detached structures: one sign not exceeding one square foot in surface area;
2. Group child care centers and nursery schools permitted by subsection 424.2 and by special exception, and those permitted in R.A.E. zones: one sign, not exceeding 8 square feet in surface area. [Bill No. 47, 1985.]

B. All other office, business, and industrial zones: family child care homes, group child care centers and nursery schools shall be permitted to have accessory signs in accordance with the sign regulations of the applicable zones. Group child care centers and nursery schools operating as principal uses shall not be construed as an office use or building. [Bill No. 47, 1985.]

→ 424.7--Bulk Standards for Group Centers in D.R. Zones. [Bill No. 200-1990.]

The following standards apply to group child care centers located in D.R. zones:

A. Minimum Lot Size: One (1) acre for the first 40 children plus 500 square feet per child for every child beyond 40 children [Bill No. 200-1990.]

B. Minimum Setback Requirements:

Front: 25 feet from street line or the average setback of the adjacent residential dwellings, whichever is less

Side: 50 feet from property line, with 20 feet perimeter vegetative buffer

Rear: 50 feet from property line, with 20 feet perimeter vegetative buffer [Bill No. 200-1990.]

C. Parking, drop off and delivery areas shall be located in the side or rear yards, unless the zoning commissioner, upon the recommendation of the director of Planning, determines that there will be no adverse impact by using the front yard for parking, drop off or delivery purposes. In all cases these areas shall be located outside of the required buffer area. [Bill No. 200-1990.]

D. Maximum height: 35 feet [Bill No. 200-1990.]

E. Maximum impervious surface area: 25% of gross area [Bill No. 200-1990.]

Section 425--ALCOHOLIC BEVERAGES LICENSE. [Bill No. 66, 1983.]

Any entertainment, leisure, or recreation oriented principal use provided for in Section 422(a) which holds a valid on-sale alcoholic beverages license of any class, except a special or temporary license, may have amusement devices on its premises as long as the alcoholic beverages license remains effective. All of the conditions and limitations set forth in Sections 422 and 423 are applicable to such uses, except that Sections 422(c)(4) and 423C.5. do not apply to such uses. [Bill No. 66, 1983.]

Section 426--WIRELESS TRANSMITTING OR RECEIVING STRUCTURES [Bill No. 64, 1986.]

426.1--Wireless Transmitting or Receiving Structures with a maximum height of 200 feet above grade level, including all antennas and platforms, are permitted by right in O-2 (Office Park) zones, O.T. (Office and Technology) zones, and business and manufacturing zones subject to the following restrictions: [Bill No. 64, 1986.]

A. The structure shall be enclosed within a locked, chain link fence, or comparable wall or structure, at least 8 feet high unless such structure is roof-mounted. [Bill No. 64, 1986.]

B. The minimum setback from any boundary of a residential or R-Ozone shall be 200 feet. [Bill No. 64, 1986.]

C. Environmental protection agency standards and guidelines relating to radiation emissions shall be met at all times. [Bill No. 64, 1986.]

426.2--Within O-2, O.T., business and manufacturing zones, accessory wireless transmitting or receiving structures are permitted by right; however, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure. [Bill No. 64, 1986.]

Group Child Care Center: A building or structure wherein care, protection and supervision is provided for part of all of a day, on a regular schedule, at least twice a week to at least nine children including children of the adult provider (see Section 424). [Bills No. 47, 1985; No. 7, 1991.]

Group Child Care Center, Class A: A group child care center wherein group child care is provided for no more than 12 children at one time. [Bill No. 47, 1985.]

→ Group Child Care Center, Class B: A group child care center wherein group child care is provided for more than 12 children. [Bill No. 47, 1985.]

Group House: A group of not less than three attached dwelling units which have been constructed together in a lateral row surrounded by yard space, each dwelling unit separated from another by a party wall. Group houses include town-house apartment buildings, group-house apartment buildings, back-to-back group houses, and other groups of at least three attached dwellings. A group house does not include a duplex or semi-detached dwelling. A single-family group house refers to any one dwelling within the attached group. [Bills No. 100, 1970; No. 2, 1992.]

Group House, Back-To-Back: A group house which is attached to two or more other dwelling units by a side and rear party wall. [Bill No. 2, 1992.]

Helicopter: Any rotary-wing aircraft which depends principally for its support and motion in the air on the lift generated by one or more power-driven rotors rotating on substantially vertical axes. [Bill No. 85, 1967.]

Helicopter Operation: A landing and take-off by a helicopter. [Bill No. 85, 1967.]

Heliport, Type I: Any area of land, water or structural surface which meets the design standards of the Federal Aviation Agency and has been authorized by the Maryland State Aviation Commission⁵ to be used for scheduled operations by helicopter carriers certified by the Civil Aeronautics Board. [Bill No. 85, 1967.]

Heliport, Type II: Any area of land, water or structural surface which has been authorized by the Maryland State Aviation



County Board of Appeals of Baltimore County

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

July 26, 1995

J. Carroll Holzer, P.A.
HOLZER and LEE
305 Washington Avenue, Suite 502
Towson, MD 21204

Re: Case No. 95-280-XA
Gordon L. Harrison, et ux

Dear Mr. Holzer:

I have received your letter of July 25, 1995 with regard to the above-referenced matter.

The hearing in this matter was conducted before the Board on July 13, 1995, and testimony and evidence submitted at that time. The case was then concluded on that date and the record closed.

In light of the above, I am obliged to return to you the enclosed correspondence, which cannot be placed in the subject file at this time.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Kathleen C. Weidenhammer".

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: John B. Gontrum, Esquire
People's Counsel for Baltimore County





County Board of Appeals of Baltimore County

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

July 26, 1995

Judith Berger, President
Liberty Road Community Council, Inc.
3801 Lochearn Drive
Baltimore, MD 21207-6363

Re: Case No. 95-280-XA
Gordon L. Harrison, et ux

Dear Ms. Berger:

I have received your letter of July 19, 1995 with regard to the above-referenced matter.

The hearing in this matter was conducted before the Board on July 13, 1995, and testimony and evidence submitted at that time. The case was then concluded on that date and the record closed.

In light of the above, I am obliged to return to you the enclosed correspondence, which cannot be placed in the subject file at this time.

Very truly yours,


Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: John B. Gontrum, Esquire
People's Counsel for Baltimore County



LAW FIRM

Romadka, Gontrum & McLaughlin, P.A.

814 EASTERN BOULEVARD

ESSEX, MARYLAND 21221

TELEPHONE: (410) 686-8274

FAX # 686-0118

ROBERT J. ROMADKA

JOHN B. GONTRUM

J. MICHAEL McLAUGHLIN, JR.*

ELIZABETH A. VANNI

*Also admitted in District of Columbia

June 15, 1995

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Md 21204

Attn: Kathleen C. Weidenhammer
Administrative Assistant

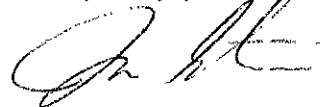
Re: Gordon L. Harrison, et ux - Petitioners
Case No.: 95-280-XA
Hearing date: 7/13/95 @ 10:00 a.m.

Dear Ms. Weidenhammer:

Please enter my appearance on behalf of the Petitioners in the referenced matter.

If you require anything further, please do not hesitate to contact me.

Very truly yours,



John B. Gontrum

JBG/bjb

cc: Mr. & Mrs. Gordon Harrison

18:18 113 91 JUN 96

113 113 113 113

file notes
Attorney
JBG



Corner Care Child Care Center

DEAR MR HACKETT:

I AM SENDING THIS LETTER TO ADDRESS AN APPEAL ENTERED BY THE PEOPLES COUNSEL DIRECTED TO THE EXPANSION OF OUR MUCH NEEDED DAYCARE CENTER. THE CENTER HAS PROCEEDED WITH EVERY INCH OF RESPECT FOR ZONING AND DAYCARE LAWS. NOW AFTER GOING THRU PROPER CHANNELS AND PAYING PROPER FEES, WE HAVE BEEN TOLD 2 DAYS BEFORE COMMISSIONER KOTROCOS GRANTING BECAME FINAL, THAT A LAW FORBIDS A GROUP B CHILD CARE IN A RESIDENTIAL AREA BY MR, ZIMMERMAN.

ACCORDING TO MR, ZIMMERMAN THERE ARE 2 CASES WITH SIMILAR CIRCUMSTANCES SINCE 1995.

WE HAD PROCEEDED AFTER THE HEARING TO NOTIFY D.H.R. OF EXPANSION AND RELICENSING. WE HAVE A WAITING LIST OF CLIENTS THAT WOULD LIKE TO ENROLL, BUT WE CAN NOT EXCEPT THEM. I ASK IF YOU COULD POSSIBLY MOVE OUR CASE A LITTLE SOONER.

THANK YOU CORNER CARE

Gordon L. Harrison 4-24-95

GORDON L. HARRISON OWNER

Copy to P. Zimmerman 4/25/95

95 APR 25 PM 4:35

274

Plat to Accompany Petition
for
Zoning Variance and Special Exception
for
Class B Group Child Care Center

Purpose : To increase the Number of Children in an Existing Family Day Care Center from 12 Children as now zoned to 40 Children with staggered "Drop-offs" and "Pick-ups". No other Child Care Uses are adjacent to Property.

Variance : Section 424.1.B :
To permit a 42' Chain Link Fence with a 0' Setback in lieu of the Required 5' Stockade Fence with a 20' Setback.

Section 424.7.A :
To permit a Lot Size of 0.283 Acres in lieu of the Required 1 Acre.

Section 424.7.B :
To permit a Front Setback of 19' and a Side Setback of 14' and a Rear Setback of 21' - all with 0' Buffers in lieu of the Required 25' Front Setback and the 50' Side and Rear Setbacks, all with 20' Buffers.

Property Address : 1300 Old Eastern Avenue
Baltimore County, Md. 21221

Tax Account Number : 15-1521850000

Deed Reference : Liber 8443, Folio 137

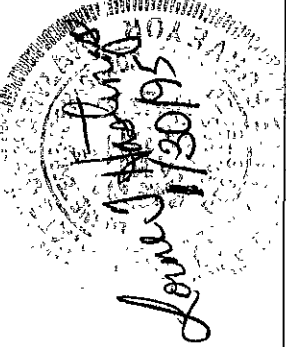
Property Owner : Gordon L. & Deborah J. Harrison

Mailing Address : Same as Above

LEGEND

	Property Corner		Paving
	Overhead Utility Line		Gravel
	Utility Pole		Wood
	Drainage Inlet		Fenced Play Area
	Manhole Cover		Fence Line
	Utility Meter		Sign (See Detail)
	Fire Hydrant		

A Boundary Survey was not Performed



License Number 505

Ruxton Design Corporation
8422 Bellona Lane
Towson, Maryland 21204
(410) 823-5000
Fax (410) 823-0115
Scale 1" = 50'

DORSEY AVENUE
40' R/W
30' Paved

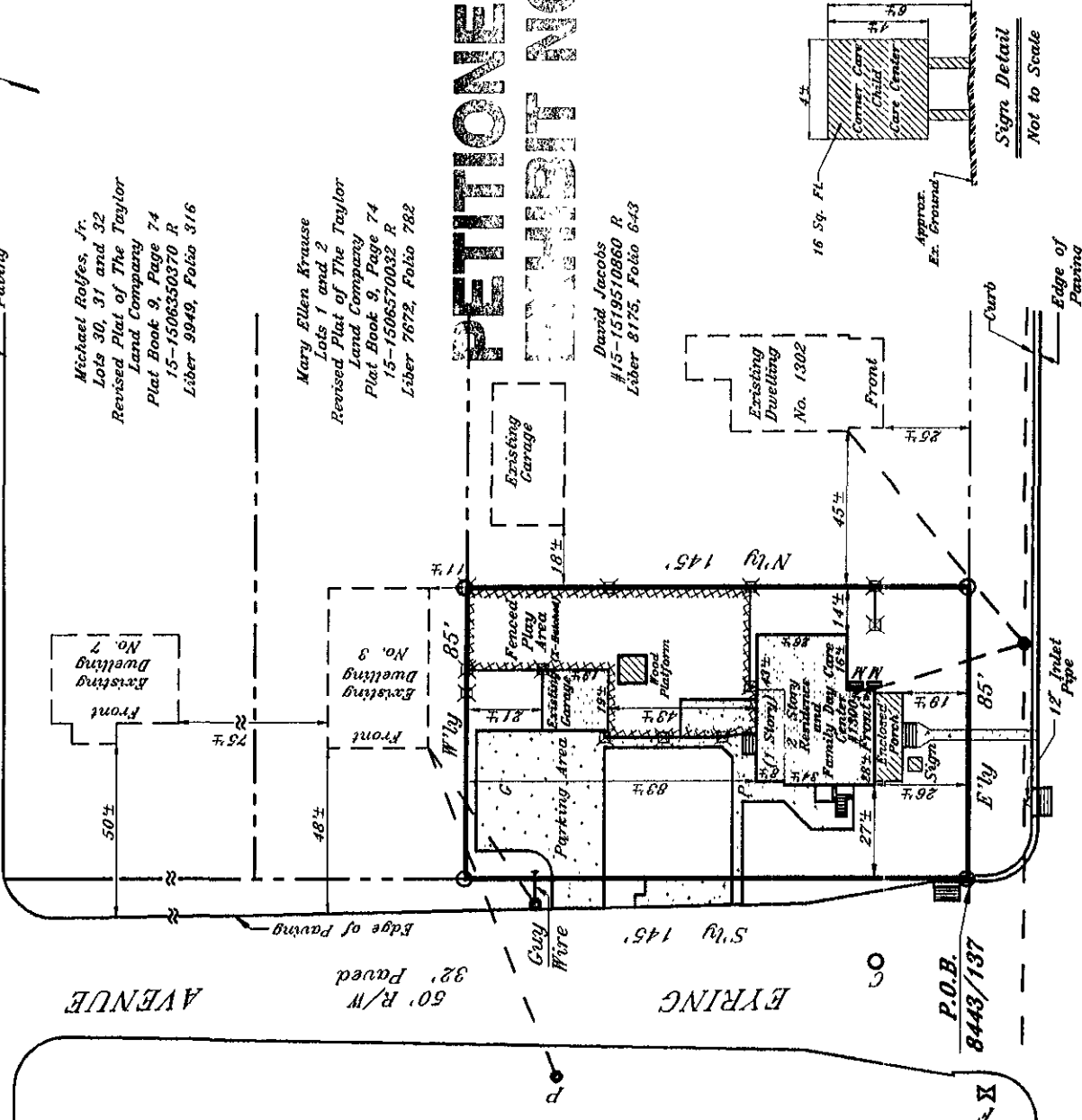
AVENUE

EYRING AVENUE

P.O.B.
8443/137

OLD

EASTERN AVENUE
80' R/W
48' Paved

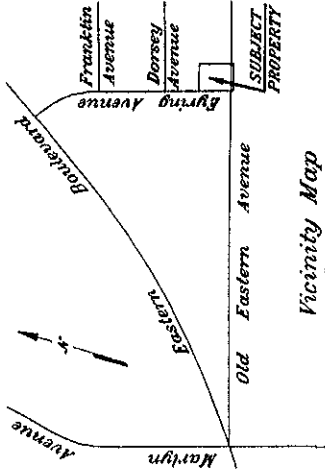


Michael Rolfe, Jr.
Lots 30, 31 and 32
Revised Plat of The Taylor
Land Company
Plat Book 9, Page 74
15-1506350370 R
Liber 9949, Folio 316

Mary Ellen Krause
Lots 1 and 2
Revised Plat of The Taylor
Land Company
Plat Book 9, Page 74
15-1506570332 R
Liber 7672, Folio 782

David Jacobs
#15-1519510860 R
Liber 8175, Folio 643

Sign Detail
Not to Scale



LOCATION INFORMATION

Election District : 15
Counincmanic District : 5

1" = 200' Scale Map # : N.E.
2-H

: D.R. 5.5
Lot Size : 0.283
Acres : 12.325
Sq. Ft.

Public Private

Sewer : ☒ ☐

Water : ☒ ☐

Chesapeake Bay : Yes ☐ No ☒

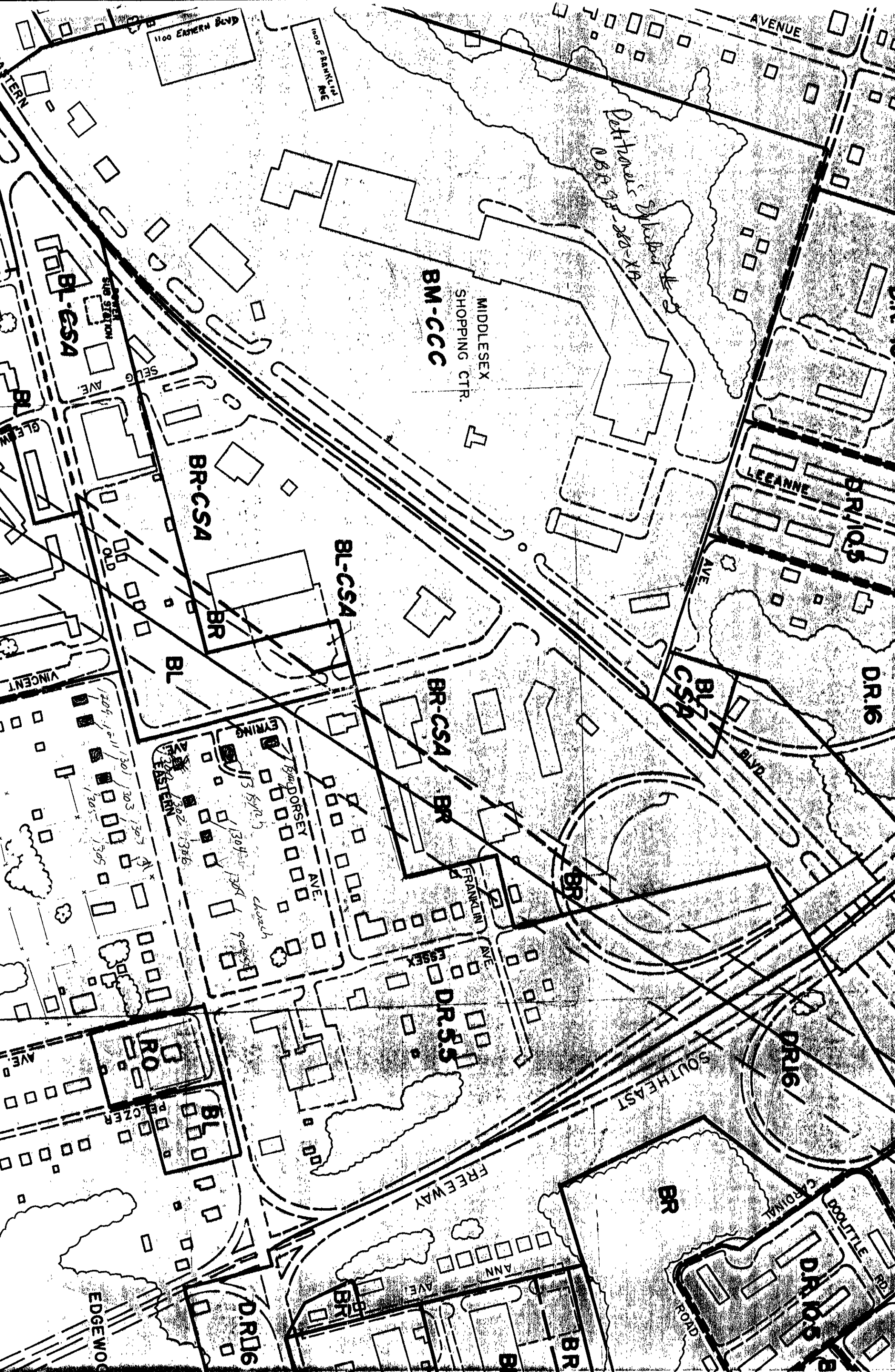
Critical Area : ☐

Prior Zoning : No. 4087 in 1957.
Hearings : Request denied to
change Zoning
from R-6 to BL.

ZONING OFFICE USE ONLY

Reviewed By : Item Number : Case Number

274



1100 EASTERN BLVD

1000 FRANKLIN

AVENUE

Peterson's Shop 280-XA

MIDDLESEX
SHOPPING CTR.
BM-CCC

BL-CSA

SUB STATION

SELG AVE

BR-CSA

BL-CSA

LEEANNE

DR.10.5

DR.6

BL7
CSA

BR-CSA
BR

RYRING

BROAD DORSEY AVE.

1301 1302 1303 1304 1305 1306
EASTERN

FRANKLIN AVE

MIDDLESEX

DR.3.5

SOUTHEAST

DR.6

FREEWAY

BR

CARDINAL

DOUBTLE

DR.10.5

ANN AVE

DR.6

EDGEWOOD

NE 2-4
Q4
13/4
J 5

Petitioner's Exhibit
3A

IN RE: CLASS A CHILD CARE USE PERMIT * BEFORE THE
1301 Old Eastern Avenue *
15th Election District * ZONING COMMISSIONER

Gordon L. Harrison, et ux ~ * OF BALTIMORE COUNTY
Applicants *
* * * * * Case No. CACC-91/1/6
* * * * *

ORDER

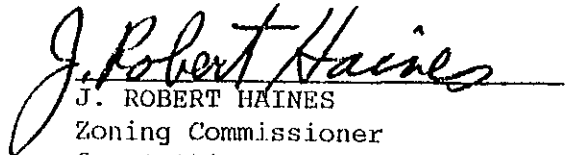
The Applicant has requested a use permit for a Class A Child Care Center at the above-captioned address, pursuant to Sections 424.4A, 424.5A and 500.4 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The subject property has been posted and there being no requests for public hearing, a decision shall be rendered based upon the documentation presented.

The Applicant has filed the supporting affidavits as required by Sections 424.4A and 500.4 of the B.C.Z.R. In the opinion of the Zoning Commissioner, the information, pictures, and affidavits submitted provide sufficient facts that comply with the requirements of Sections 424.4A, 424.5A and 500.4 of the B.C.Z.R.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the B.C.Z.R. having been met, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of November, 1990 that a Use Permit for a Class A Child Care Center at the above-captioned location be and is hereby GRANTED.


J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs
cc: Mr. & Mrs. Gordon L. Harrison
1300 Old Eastern Avenue, Baltimore, Md. 21221

Case File

Petitioner's Exh.
3B

IN RE: CLASS A CHILD CARE USE PERMIT * BEFORE THE
1301 Old Eastern Avenue * ZONING COMMISSIONER
15th Election District *
Gordon L. Harrison, et ux - * OF BALTIMORE COUNTY
Applicants *
* * * * * Case No. CACC-91/1/6
* * * * *

AMENDED ORDER

WHEREAS, the Applicant requested a use permit for a Class A Child Care Center at the above-captioned address, pursuant to Sections 424.4A, 424.5A and 500.4 of the Baltimore County Zoning Regulations (B.C.Z.R.).

WHEREAS, the relief requested was prematurely granted by Order issued November 20, 1990;

WHEREAS, subsequent to the issuance of said Order, this Office received a letter of opposition from an adjoining property owner within the specified time frame, thereby requiring a public hearing;

IT IS ORDERED by the Zoning Commissioner for Baltimore County this 26th day of November, 1990 that the Order issued November 20, 1990 be and the same is hereby AMENDED to rescind the Use Permit for a Class A Child Care Center on the subject property until such time as a public hearing is held to determine the appropriateness of same; and,

IT IS FURTHER ORDERED that this matter be set in for a hearing as docketing permits and that the property be posted and advertised accordingly, the cost of same to be borne by Petitioners.


J. ROBERT HAYNES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Mr. & Mrs. Gordon L. Harrison
1300 Old Eastern Avenue, Baltimore, Md. 21221

Case File

Petitioner's Ex,
3C

BETH SCHUMAN 887 3353
887-3355
Charlotte RAOUFF 887-3391

IN RE: CLASS A CHILD CARE USE PERMIT * BEFORE THE
1300 Old Eastern Avenue * DEPUTY ZONING COMMISSIONER
15th Election District *

Gordon L. Harrison, et ux - * OF BALTIMORE COUNTY
Applicants * Case No. CACC-91-6

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicants herein request a use permit for a Class A Child Care Center on the subject property, pursuant to Sections 424.4A, 424.5A and 500.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1.

The Applicants, by Gordon L. Harrison, appeared and testified. Also appearing on behalf of the Applicants were Marie Sadler, mother-in-law, and Donna Copp and Pat Pakaski, nearby residents. There were no Protestants at the hearing, however, Carville A. Lauenstein voiced his concerns by letter dated January 16, 1991. Said letter has been incorporated into the case file.

The Applicants originally requested and were prematurely granted a use permit for a Class A Child Care Center at the above-captioned address by the Zoning Commissioner on November 20, 1990. Following the issuance of said Order, the Zoning Office received a letter of opposition from an adjoining property owner within the required time frame. The Zoning Commissioner subsequently rescinded the use permit by Amended Order issued November 26, 1990 and required that the matter be set in for a public hearing. Said hearing was held on January 18, 1991.

Testimony indicated that the subject property, known as 1300 Old Eastern Avenue, zoned D.R. 5.5, is improved with a two-story single family dwelling and has been the residence of his mother-in-law, Marie Sadler,

for the past year. Mr. Harrison testified that his wife and Mrs. Sadler are desirous of opening a child day care center on the subject property. He testified that he has spoken to various neighbors who indicated they have no objections. To support his testimony, Mr. Harrison introduced Petitioner's Exhibit 4 which is a signed Petition from several nearby property owners indicating they have no objections to the use proposed.

Mr. Harrison testified concerning the requirements of Section 424.4A of the B.C.Z.R. He indicated that there would be 2 employees on the site, that the hours of operation for the center would be 6:00 AM to 6:00 PM, Monday through Friday, and that no more than 12 children would be enrolled at any given time. Pursuant to the requirements of Section 424.1, Mr. Harrison testified he understood that he must be registered, licensed and certified by all applicable State and Local agencies; however, he indicated he was advised that the application process could not be completed until zoning requirements were resolved. He further testified that the subject property will be fenced at a minimum as set forth in Petitioner's Exhibit 1 and outlined in blue to provide an adequate play area for the children. Mr. Harrison reviewed the requirements of Section 502.1 of the B.C.Z.R. and testified that the proposed use would not in any way conflict with any of the requirements set forth therein.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the requirements set forth in Sections 424.1, 424.4A, 424.5A, 424.6A, 500.4 and 502.1 of the B.C.Z.R. have been met and that the relief requested should be granted with certain restrictions as more fully described below.

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.

IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of January, 1991 that a Use Permit for a Class A Child Care Center on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their 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 relief granted herein shall be rescinded.

2) Prior to the use and occupancy of the Class A Child Care Center, Applicants shall submit copies of all registrations, licenses, and certifications issued by all applicable State and Local agencies.

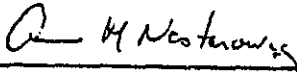
3) Prior to the operation of the Class A Child Care Center, Applicants shall install a fence around the property at a minimum as depicted on Petitioner's Exhibit 1. Applicants shall contact this Office upon completion of said fence installation and permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

4) No more than 12 children shall be enrolled in the Day Care Center at any given time.

5) The hours of operation of the Day Care Center shall be limited to 6:00 AM to 6:00 PM, Monday through Friday.

6) When applying for a use 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, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.


ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Mr. & Mrs. Gordon L. Harrison
1301 Old Eastern Avenue, Baltimore, Md. 21221

Mr. Carville Lauenstein
1308 Eastern Avenue, Baltimore, Md. 21221

People's Counsel
Case File

CHILD CARE ADMINISTRATION
REGION III

STEPS IN OBTAINING A GROUP DAY CARE LICENSE IN BALTIMORE COUNTY

1. Attend Child Care Administration (CCA) orientation. Complete Information Form.
2. Make preliminary decisions re: proposed center, number and ages of children to be served; type of program, hours of operation, type of food service to be provided, desired date of opening.
3. Find a site: Call CCA to arrange for consultation and/or preliminary inspection.
4. Determine Zoning status.
 - a. Consult Zoning maps, Zoning Office (111 West Chesapeake Avenue, Towson, Maryland) to determine Zoning classification of property.
 - b. File Use Permit or Special Exception application if necessary.
 - c. Call CCA when Zoning approval is obtained.
5. Contact Plans Review (Department of Permits and Licenses) at 887-3987 for information on permits needed for new construction, alterations or additions, and change of occupancy. Notify CCA regarding permit information.
6. Obtain Lead Paint Survey if applicable. Information on testing procedures available from CCA.
7. Refer to Planning Activities for Establishing a Group Day Care Center. Consultation on all aspects of planning the center is available from CCA.
8. Submit Maryland State Department of Human Resources Application for Group Day Care Center License to CCA. Be sure to indicate on the application the correct legal name of the person, organization or corporation to be named as licensee of the center. Keep a copy for your records.
9. See attached Check List. This indicates information that must be submitted to CCA before the license application can be considered complete.
10. An application investigation by a Licensing Specialist from CCA will be scheduled after the required information is submitted and all applicable zoning and building approvals are obtained. Equipment and the required number of staff for the center's opening enrollment should be in place, before the application investigation. A fire inspection will also be requested by CCA.
11. Based on the information submitted and inspections, the license will be issued, or the application will be denied. (see Appeal procedures). The center may not legally operate until the license form CCA is issued.

Submit the license application and all required information:

Betty Botsko
Child Care Administration
Suite LL8
409 Washington Avenue
Baltimore, Maryland 21204



People's Council Exhibit #1 CBA 95-280-XA



BR-CNS

BM-CNS

DR

RD

HOMBERG

AVE.

BR

D.R. 16

EDGEWOOD PARK

D.R. 5.5

BL

FREEWAY

D.R. 5.5

ESSEX

BL

PELCZER

RO

AVE.

AVE.

AVE.

DORSEY

EASTERN

EYRING

D.R. 5.5

BR-CSA

BL-CSA

BR

BR-CSA

BL

VINCENT

AVE.

D.R. 5.5

MAPLE

NORTH

GLENWOOD

BL

SELIG AVE.

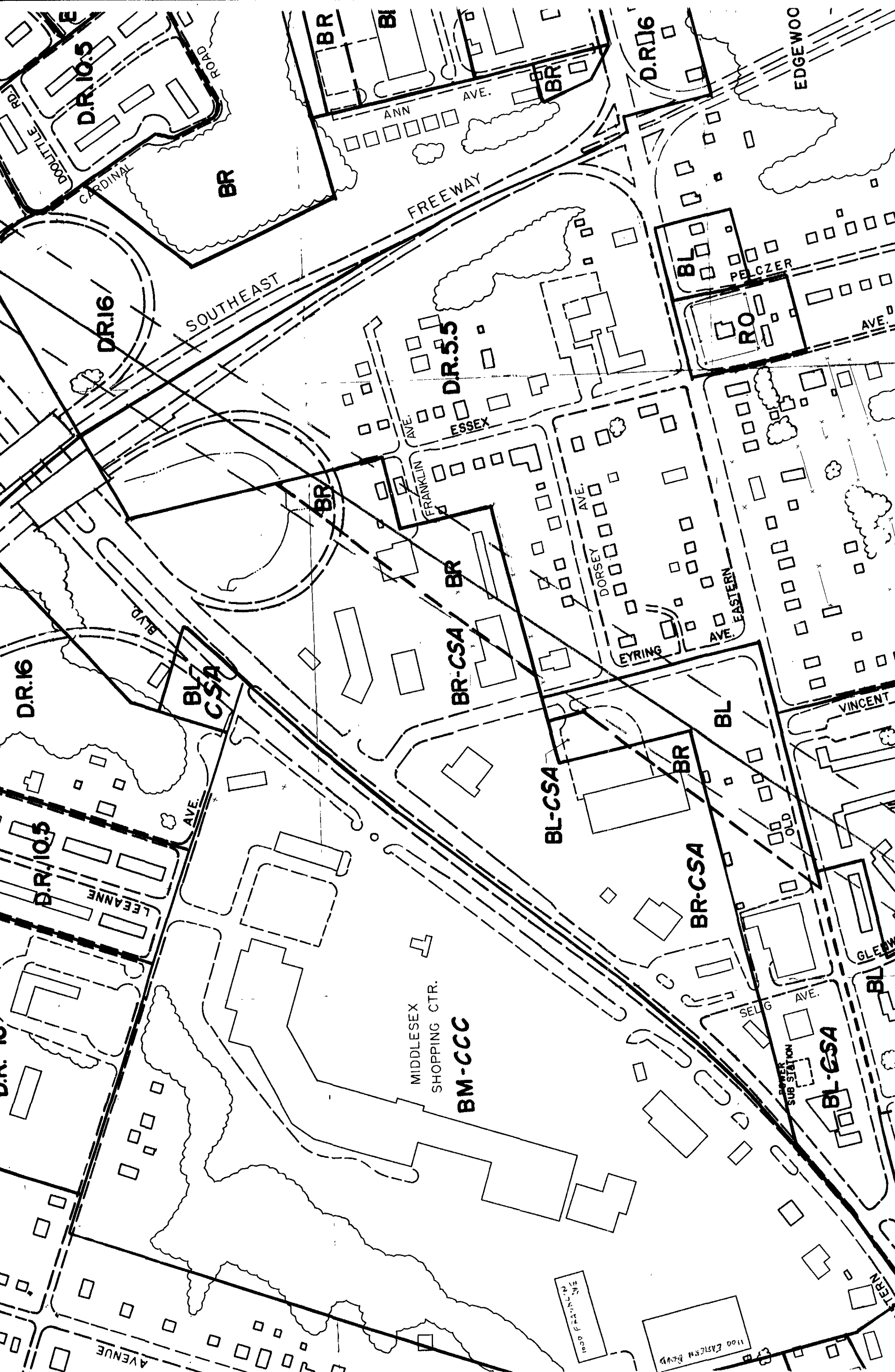
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HOMBERG

AVE.

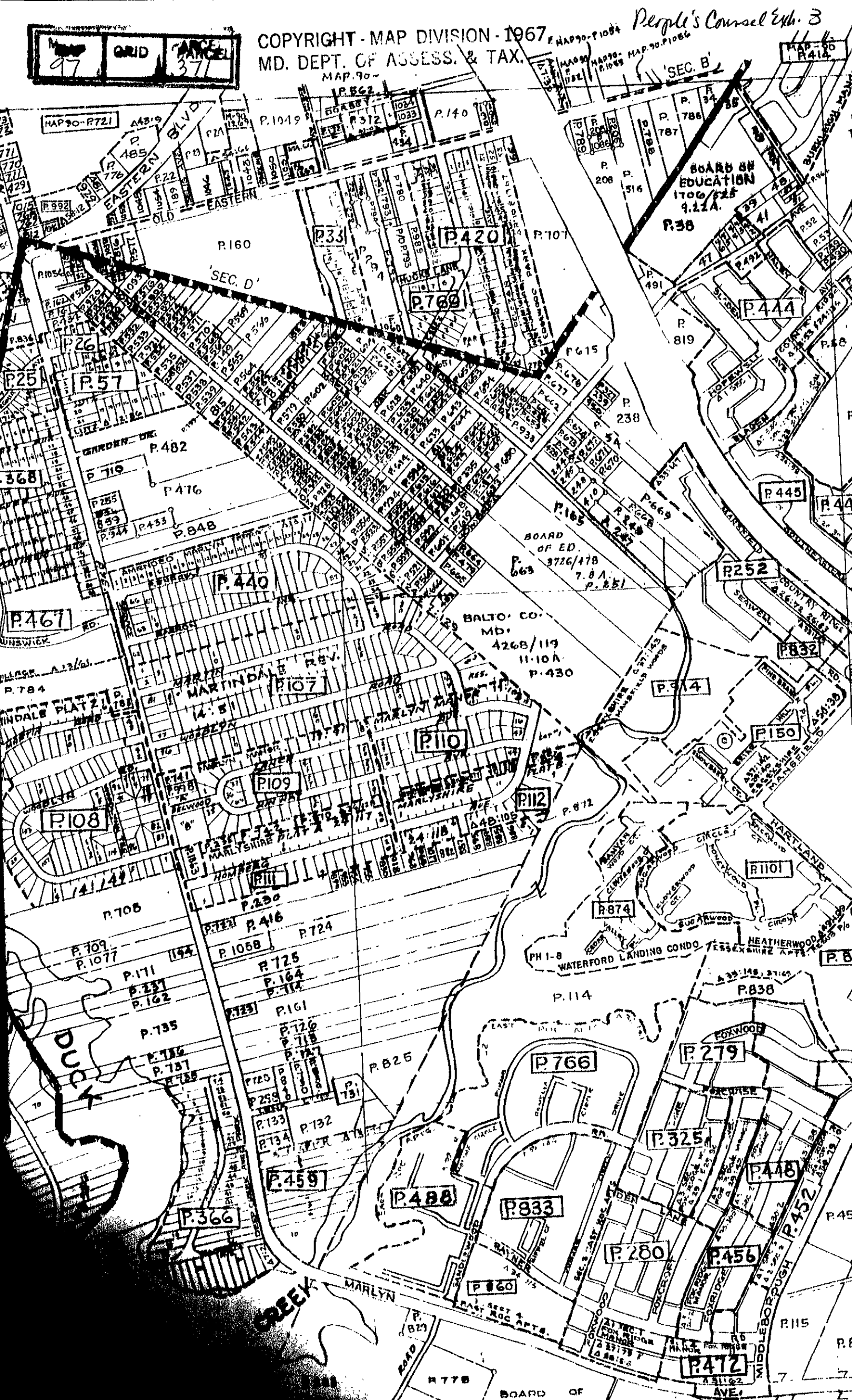
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93-373-A



MAP 97 GRID 377

COPYRIGHT - MAP DIVISION - 1967
MD. DEPT. OF ASSESS. & TAX.
MAP 90-

People's Counsel Exh. 3



People's Counsel *exh. #4*

MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION
REAL PROPERTY SYSTEM
BALTIMORE COUNTY

06/30/95

PRIMARY SCREEN

DISTRICT: 15 ACCT NO: 1521850000

SUBDIST:

OWNER NAME / MAILING ADDRESS
HARRISON GORDON LEE
HARRISON DEBORAH J
1300 EASTERN AV
BALTIMORE MD 21221

DEED REF 1) / 8443/ 137
2)
PLAT REF 1) 9/ 74

EXEMPT STATUS/CLASS
0 000

PRINCIPAL
RESIDENCE
YES

PREMISE ADDRESS
1300 EASTERN AVE

TOWN CODE	GEO CODE	ADVAL CODE	TAX CLASS	LAND USE	COUNTY USE
000	B2	000		R	04

LEGAL DESCRIPTION
LT 8 PT 9

MAP	GRID	PARCEL	SUB-DIV	PLAT	SECT	BLOCK	LOT
97	2	371				C	F

ESSEX
TRANSFERRED FROM: WALL CHARLINE B

04/03/90 \$69,900

PRESS: <F1> VALUES SCRIN

<F3> SELECT NEXT PROPERTY

MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION
REAL PROPERTY SYSTEM
BALTIMORE COUNTY

06/30/95

VALUES SCREEN

DISTRICT: 15 ACCT NO: 1521850000

SUBDIST:

OWNER NAME: HARRISON GORDON LEE

TOWN CODE: 000

	BASE VALUE	CURRENT VALUE AS OF 01/01/94	PHASE-IN VALUE AS OF 07/01/95	PHASE-IN ASSESSMENTS AS OF 07/01/94	PHASE-IN ASSESSMENTS AS OF 07/01/95
LAND	28,960	28,330			
IMPT	42,300	52,380			
TOTAL	71,260	80,710	77,560	29,760	31,020

PREF LAND: 0 0 0 0 0

PRIMARY STRUCTURE DATA
YEAR BUILT 1920
ENCLOSED AREA 1,456 SF

PARTIAL EXEMPT ASSESSMENTS

CODE	07/01/94	07/01/95
COUNTY 000	0	0
STATE 000	0	0
MUNICIPAL 000	0	0

LAND AREA: 12,325.00 SF

PRESS: <F1> PRIMARY SCRIN

<F3> SELECT NEXT PROPERTY

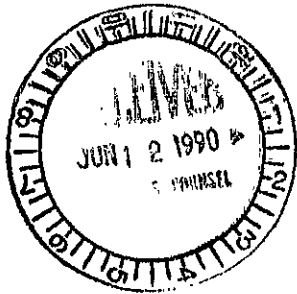
P.C. Ex. 9

Pete Zimmerman

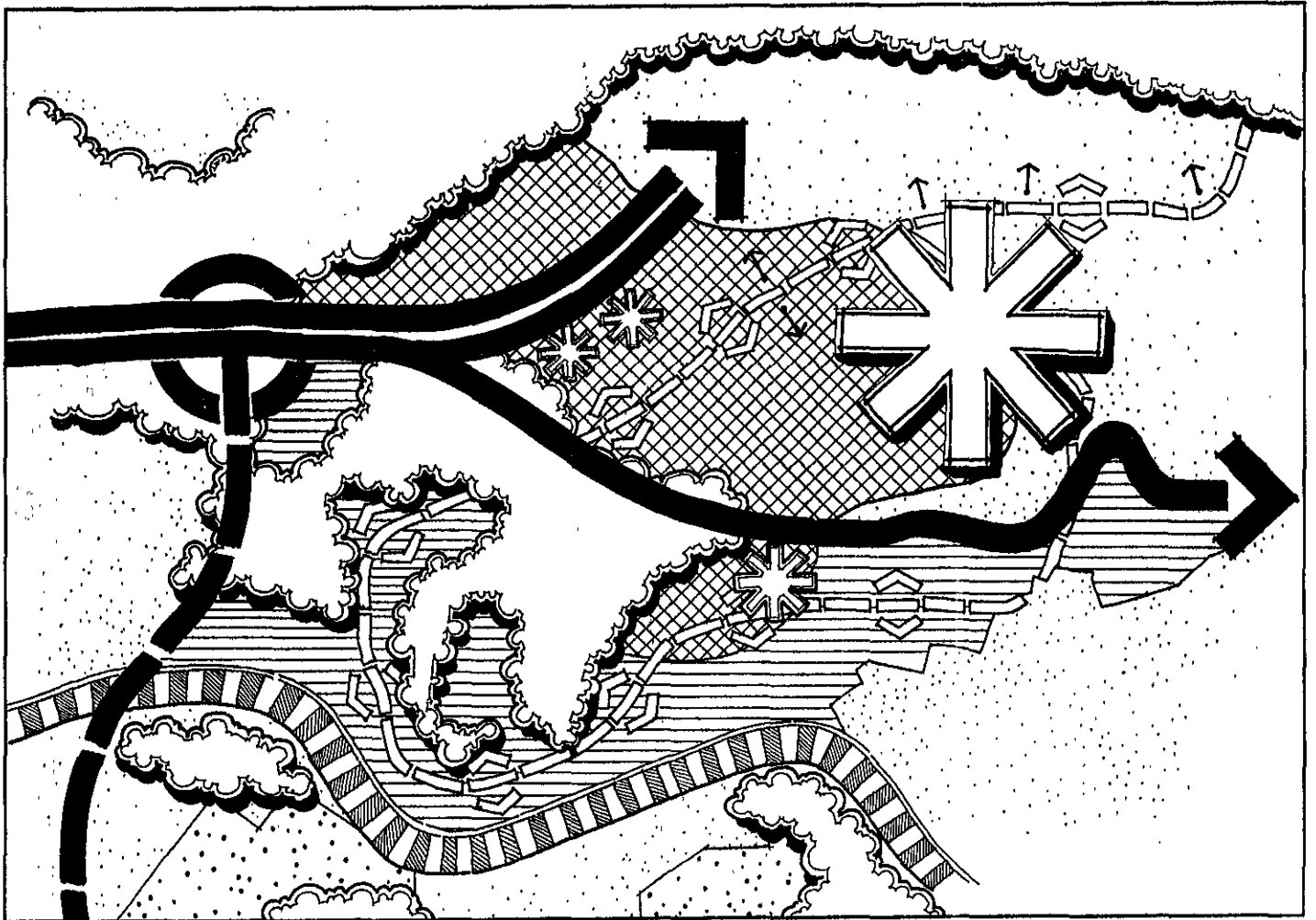
People's Counsel Exh. 6

11, 12, 19, 37

Master Plan



Baltimore County 1989-2000



As adopted February 5, 1990

HOUSING

It is the responsibility of the government to ensure sufficient land is available for residential development. The development community has generally been able to provide a satisfactory number of new housing units in attractive locations. Where the private housing market has so far been unable to meet demand is for accommodation needs of lower income groups, the elderly, the handicapped, and those in need of special care.

The 1979 Master Plan identified this issue and the need to rehabilitate a large proportion of the County's older housing stock as two major areas of concern requiring active intervention by the public sector. The 1979 Plan recommended the creation of a task force to help the County establish policies and programs to deal with affordable and specialized housing. In addition, the Plan called for the creation of a County Department of Housing and Community Development which would be the focus for all the County's housing actions.

In 1986, the new administration established a Department of Community Development with broad authority over housing and community issues, and a Housing Policy Team which made recommendations to the County Executive in March 1988. These recommendations form the basis of the 1989 Master Plan policies.

POLICY:

The citizens of Baltimore County should be provided with affordable housing. Efforts should be made to assist first-time homeowners and special groups such as the elderly, the handicapped and persons on low or fixed incomes.

ISSUE: Housing

Baltimore County, recognizing the need of its residents for a broad range of housing choices in terms of price or annual cost, location, size, and neighborhood amenities, will develop partnerships to create and preserve quality affordable housing. The nature and structure of partnerships may vary in response to many national, regional, and local factors, and may involve National, State, and County government agencies, and profit making, nonprofit, and neighborhood corporations. All efforts will be directed toward the goal of enlarging the County's supply of affordable housing to help meet demand in the 1990s.

The County must also address the housing needs of the elderly, disabled, and handicapped. County regulations may need to be revised and innovative financing mechanisms created to meet the special concerns of these groups.

It is particularly important to use the financial incentives and revisions to the Zoning and Development Regulations as listed below, and the recommendations in Community Plans to ensure that there is a range of housing opportunities evenly distributed throughout the County's proposed urban centers, especially where employment is available.

ACTIONS:

1. Provide incentives to encourage private sector investment in affordable housing and reinvestment in older neighborhoods. Incentives may include direct or indirect funding contributions, variation of land use or construction requirements, expedited permit processing or other actions. The County's Department of Community Development will determine, on a case-by-case basis, what incentives would be best.
2. Balancing the need for affordable housing and the necessity of maintaining the County's bond rating, Baltimore County will, if deemed appropriate after evaluation, seek a change in law to create the institutional and financial capacity to create and preserve affordable housing. If approved, these tools may

be used in conjunction with the other action items in this section.

3. Pursue a combination of innovative development financing including lower interest mortgages, closing cost loans, and limited transfer or property tax deferrals to maintain a high rate of homeownership. In addition, Baltimore County will also work through the Baltimore Regional Council of Governments to adopt and support region-wide initiatives to increase homeownership and to revitalize older communities.
4. As part of future refinements of zoning and other land use control, consider options such as density unit bonuses, new types and configurations of housing, planned retirement developments and revisions to the regulations for Planned Unit Developments. These will be targeted toward housing for moderate income first-time homebuyers and the County's steadily increasing elderly population. Revisions may be made under certain conditions to infrastructure charges and fees to facilitate affordable housing production.
5. Cost of newly constructed housing is strongly influenced by development approval processing times and fees. Baltimore County government must reduce processing time and fees for affordable housing.
6. All rezoning, zoning variances, special exceptions, and development density or intensity bonus decisions must, if favorable to the petitioner, include a requirement the petitioner provide or contribute to provision of affordable housing. Contribution levels should be proportional to the property value increase resulting from the decision.
7. Continue to permit clustering of housing and other development strategies which reduce costs for developments including affordable housing. Where clustered housing may be incompatible with surrounding residential developments, design standards will be established.
8. Inventory and map surplus or excess publicly owned property and that which is appropriate for housing should be offered to developers of affordable housing. To this end, revise the County Code to permit negotiated sales or land leases for the express purpose of developing affordable housing.
9. Any property tax deferrals involving residential property will be in proportion to the amount of affordable housing provided.
10. Revise Zoning Regulations which obstruct development of manufactured or modular housing in residential and commercial zones to permit well designed affordable housing of these types.
11. Permit planned retirement developments and other elderly housing facilities subject to appropriate design standards to achieve compatibility with existing neighborhoods. Housing for the elderly should be located in areas that have sufficient support services and should be dispersed to allow the elderly to remain in their communities.
12. Reduce settlement expenses for moderate-income homebuyers.
13. Revise the Zoning Regulations so that commercial uses, day care facilities, health service, etc. may be allowed in housing for the elderly.

COMMUNITY PLANNING AND CONSERVATION

POLICY:

Baltimore County's planning efforts should be focused on new as well as existing communities to ensure that the County's built environment provides desirable places for its citizens to live and work. The quality of life in existing communities should be protected by active, considerate, and cooperative efforts of County government and community improvement organizations. Neighborhood businesses should be encouraged in existing commercial areas located adjacent to residential areas. Commercial activities incompatible with local neighborhoods should be re-

stricted in such areas. Future development of subsidized housing should be dispersed.

Communities which have a high concentration of low-income housing and government-assisted housing should be supported by positive County actions. For example, affordable day care facilities for children and elderly relatives of working parents should be provided either in residential settings, or near workplaces.

The thrust of the County's community planning program for new residential development should be aimed at new development areas, such as Owings Mills, Perry Hall - White Marsh and Patapsco. Emphasis should be placed on the creation of livable communities supported by appropriate public and community facilities.

Sector land use, transportation and environmental development policy planning guidelines set out in this Master Plan should form the basis for plan preparation. Plans should be prepared in conjunction with landowners, developers and adjacent communities likely to be affected by new development.

ISSUE: Community Planning

All too often, development is disjointed. Residential subdivisions, commercial uses, and employment opportunities are not integrated and tend to detract from, rather than support and enhance each other. Community plans are needed for new development to provide a context for individual development proposals in order to foster communities that mix, in unified manner, local shopping, public facilities and services, open space, and a range of housing options.

ISSUE: Community Conservation and Enhancement

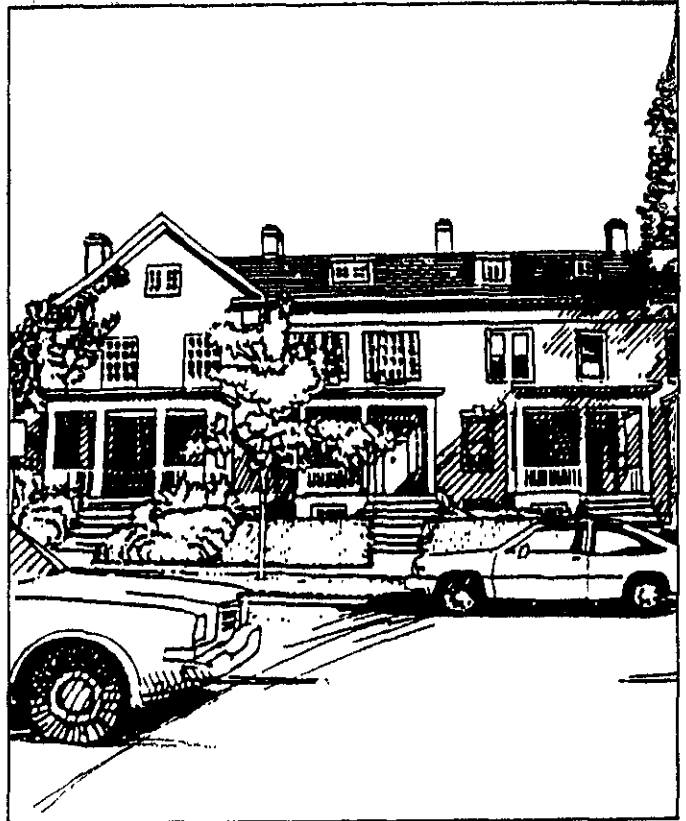
Community conservation refers to public and private efforts designed to maintain or enhance the physical, social, and economic resources of the County's older, urban area communities.

The County's community conservation areas are those identified in the 1979 Master Plan as 'Existing Communities' plus areas that have changed over the past decade from scattered fringe development into mature communities. These areas are communities that are essentially sound and where supportive actions specific to these areas need to be taken by residents rather than government. Citizens must be involved in the careful review of projects or proposals to ensure that they are not detrimental to their neighborhoods. The actions recommended in this Master Plan will enable citizens to actively work to protect and enhance their communities.

Enhancement areas are communities that have experienced a degree of physical decline and require County action to address specific problems such as poor condition of public facilities and private housing stock. They are priority targets for capital improvement funds, community services and facilities, special education programs, etc., as appropriate.

A significant proportion of the Capital Improvement Program should be dedicated to physical improvements in the older neighborhoods such as repairing sidewalks and streets, upgrading sewer and water lines, and expanding storm drain projects. These sort of improvements will restore pride and foster civic involvement among the communities' current residents and favorably influence prospective homebuyers.

The County's infrastructure needs to be evaluated and inventoried. The Office of Planning and Zoning and the Departments of Community Development, Public Works, and Environmental Protection and Resource Management should review capital improvements made during the preceding year and state priorities for the CIP for each two year bond period in a joint report to the County Executive and Council. This would aid the County Executive and Council in establishing an appro-



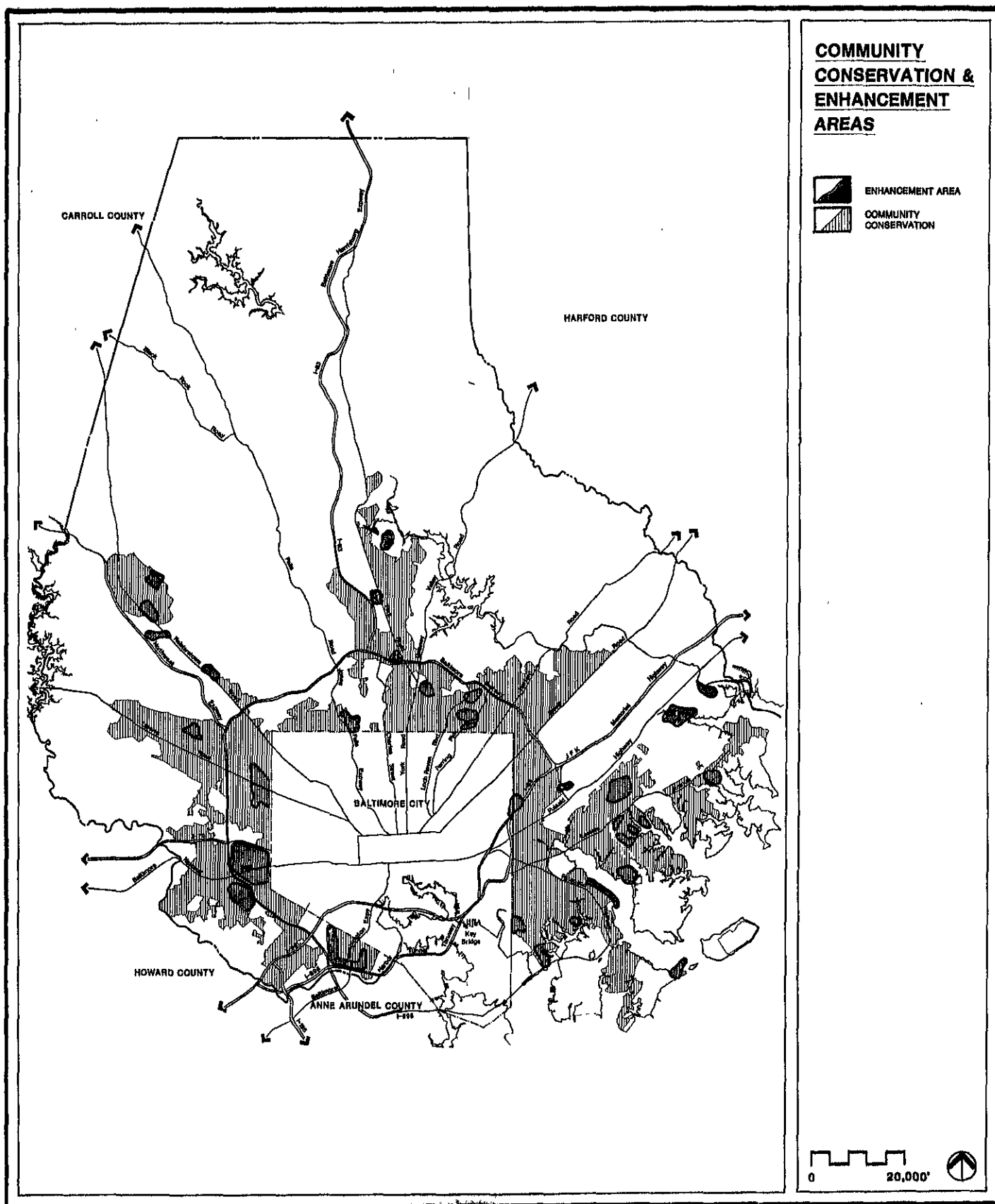
priate allocation of funds to meet the needs of the community in the ensuing bond referendum.

The precedent for this activity was established in the 1979 Master Plan Resolution which stated the Council's wish for the Director of Planning and Zoning to report on the relationship between proposed capital projects and the Master Plan.

ACTIONS:

A. Plan Preparation Program Community Conservation

1. Following adoption of the County-wide Master Plan and the Sector Land Use, Transportation and Policy Plans, the County will commence a program of local community action planning. These local action plans will target Enhancement Areas. They will have strong community input, be backed by an aggressive Capital Improvement Program, and involve the Community Outreach Program which acts as a liaison between County agencies and communities. Private investments which are in harmony with plan objectives will be encouraged. Any rezoning necessary to meet plan objectives or to facilitate implementation of the plan should be identified and acted upon.
2. Specific action proposals may be needed to address local, easily identifiable problems. These action plans will be prepared by the County. Public and private efforts will be coordinated and concentrated to effect quick, low cost solutions.
3. The County will consider the use of Community Conservation Area designations to facilitate stringent review of development proposals and direct attention to specific community needs. Proposals encouraging extra traffic harmful to the neighborhood should be avoided. Designated areas would



also be given special attention as a part of the Capital Improvement Program.

4. The following program of Local Actions and community Plan preparation is proposed for the period 1990-92:
 - Completion of the Towson Plan for adoption as part of the County Master Plan by the Planning Board and Council.
 - Continuation of the work underway on plans for Hereford and Pikesville.
 - Preparation of Community Plans for North Point Peninsula, North Point - Wells McComas, Lower Back River Neck, Aero Acres - Victory Villa, Philadelphia Road Corridor, Overlea, Belair Road Corridor, Kingsville - Fork, Jacksonville, Hanover Pike, Reisterstown Road Corridor Extended, Woodmoor - Lochearn - Woodlawn, Randallstown, Catonsville, Lanadowne - Baltimore Highlands, and the North - Central Rural Area. The area delineated on the Priority Planning Studies map is intended to indicate the community under study. Adjacent areas may also be considered.
 - Preparation of a Development Impact Study for communities affected by the Worldbridge Centre project, and a Redevelopment Area Plan for the Timonium - Hunt Valley Corridor.
 - Evaluation of plans prepared by citizens' associations with a view to their eventual submission to the Planning Board and Council for review and adoption. These include the update of the "Plan for the Valleys", Lutherville Plan, Glyndon Plan, Ruxton - Riderwood Plan, and Sparks - Glencoe Plan.

Community Planning

The County will work together with local community groups and property owners to prepare comprehensive plans for new development areas responsive to community needs and values. Priority areas are Owings Mills, White Marsh, and Patapsco.

B. Development Review Process

1. Community Input Meeting for CRG Plans.

Require a meeting between community groups and prospective developers prior to the filing of a development plan. This meeting would take place in the local community with a County Development Process coordinator and, at his or her discretion, a community planner when needed.

2. Community Impact Statement

All CRG plans in community conservation areas will be accompanied by a community impact statement identifying potential conflicts with existing neighborhoods or communities.

3. Compatibility Review for Infill Development

To ensure that new development is compatible with the existing residential community, establish and adopt criteria for compatibility and procedures for review and approval which are acceptable to both development and community interests. A compatibility review should be required for infill development in community conservation areas.

4. Streamline Review Process

The County will streamline the review process where possible.

C. Revisions To Development And/OR Zoning Regulations

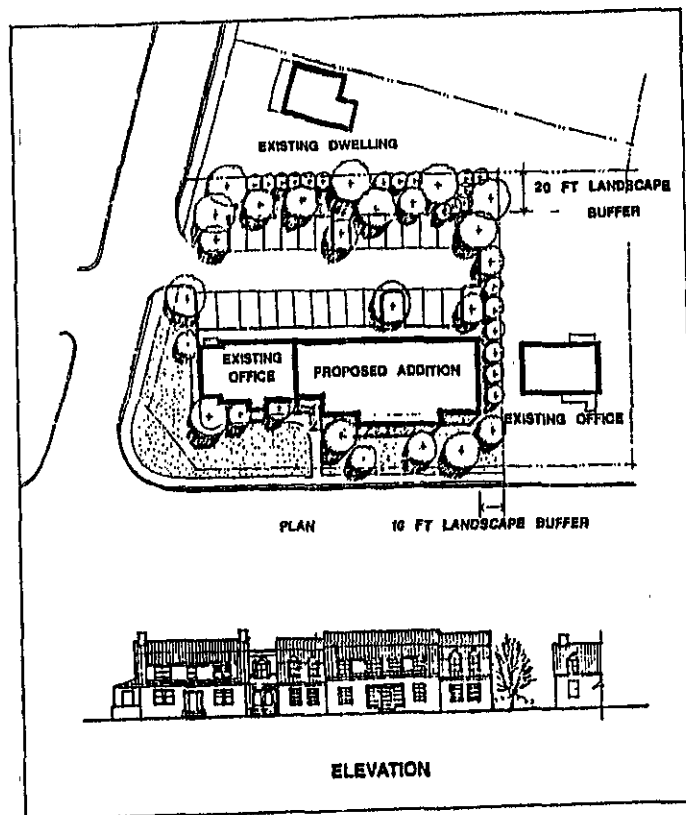
More specific information on these actions is in the 'Implementing the Plan' section.

1. Adequate Public Facilities

To ensure that a full range of adequate public services and facilities are in place to meet the needs of existing and future residents, the County should strengthen its basic services legislation.

2. Revise Bill 100

Adopt revisions to Bill 100 to discourage transfer of density between adjacent zones which would be counter to



the original intent of the site specific zoning. Such a step would enhance the County's ability to ensure compatibility.

3. Revise Regulations and Standards for Planned Unit Developments.

4. Neighborhood Business Zone

Amend the Baltimore County Zoning Regulations to create a highly restrictive business zone for possible use in existing and future commercial areas located near residential areas.

5. Establish Districts for Commercial Corridors

Prepare legislation to establish a District for Commercial Corridors which will address issues of traffic, permitted uses, landscaping, signage, maintenance and occupancy standards, encroachment into residential areas, commercial expansion and revitalization opportunities.

Unmarketable surplus commercial properties in commercial shopping "strips" should be designated for investigation as to other compatible uses.

6. Establish Districts for Industrial Areas Located in Residential Neighborhoods

Prepare legislation to establish a District to address the issue of compatibility between industrial and residential uses. Traffic, noise, air pollution, landscaping, signage, parking, hours of operation, etc., must all be reconciled with adjacent residential uses and needs.

7. Buffer Requirements

Amend the Baltimore County Landscape Manual to provide effective buffering and screening requirements for commercial development projects which abut residential zones.

Existing land uses which are in conflict or incompatible with surrounding uses should be eliminated or buffered to minimize adverse effects on the community.

8. Signs

Amend the Baltimore County Zoning Regulations to update and revise the regulations for business and advertising signs.

9. Public and Private Open Space

Reevaluate the County's Open Space requirements and investigate procedures or design standards that will minimize or mitigate the impact of development.

D. By-Law/Regulations Enforcement

1. Housing Maintenance

Aggressively enforce the Baltimore County Livability Code for rental properties and expand the Code to include the exterior maintenance of owner-occupied housing.

Designate fines for inspection and enforcement costs, and public education and awareness efforts to make the Livability Code and other housing quality standards self-sustaining.

Continue to participate in programs providing low interest loans or innovative financing mechanisms to property owners for maintenance, renovation or improvement of their properties.

Continue to work with all concerned parties to preserve rental housing currently receiving Federal subsidies.

2. Vacant Buildings

Amend the Baltimore County Code to prohibit the extended vacancy of buildings and to prevent demolition by neglect.

E. Community Conservation Through the Capital Improvement

Undertake a study of the County's infrastructure, and inventory needed improvements. The Office of Planning and Zoning, and the Departments of Environmental Protection and Resource Management, Community Development, and Public Works should make a joint report of the results and proposed priorities to policymakers as part of either the annual Basic Services Report or Growth Monitoring Report. This will enable the Administration to identify priorities for conservation of older communities.

Update the infrastructure inventory every two years on the same cycle as the bond referendum.

Relevant County agencies will be directed to use the report to Council when preparing their CIP requests.

F. Education And Information Programs

1. Community Conservation Resource Handbook

Prepare a handbook describing current County, State, Federal, and private resources and programs which can be used in community conservation.

2. Education Program

Initiate an education program for citizens to promote a better understanding of planning, zoning, and County government.

3. Community Information Base

Establish an information system to monitor all significant aspects of neighborhood quality in existing communities.

Citizen groups must be strengthened and expanded to increase local involvement in community conservation efforts and to improve representation of diverse community interests.

AFRICAN-AMERICAN COMMUNITIES

The historic African American communities in Baltimore County represent a valued part of the heritage of many Black residents as well the heritage of the County. Many of these historic enclaves were settled before the turn of the century. Some of these

communities are not represented by formal community organizations and those that are frequently are not part of the County mainstream.

The 1979 Master Plan in the Housing and Community Preservation Plan element addressed the issue of safeguarding and improving the County's existing housing stock. Overcrowding and lack of plumbing were cited as two indicators of substandard housing. These conditions were mentioned as being of particular concern in the older areas of the County and especially as being a problem associated with historic Black enclaves. The 1979 Plan contained a map which indicated the location and estimated population of twenty of the communities. The Plan emphasized "Civic leaders hesitate to complain about housing in these communities because of a concern that poor families might be evicted." In addition, it was stressed that many of these communities were more concerned about unemployment and the absence of road paving, curbs, gutters and other public improvements.

ISSUE: Conserving the African American Communities

A survey of the historic African American enclaves is being conducted. More than 37 communities have been identified. The survey indicates the majority of the problems identified in the 1979 Plan still exist today. In addition, many of the community organizations are not "tied-in" to the County system and are unaware of where or how to seek assistance, or are hesitant to do so.

The survey thus far has found several common problems among these widely scattered communities. These include the need for storm drains and gutters, more affordable housing, housing rehabilitation, and curbs and sidewalks. Encroachment from outside the community was also cited as a particular threat to these historic communities.

ACTIONS:

1. The survey initiated by Baltimore County to determine the demographic characteristics and problems of these communities should be completed. Particular problems should be further explored with the concerned community so a course of action can be identified.
2. The communities which are not now a part of the County system should be encouraged to participate for their own benefit. To this end, a contact person has been established in the Planning Office to provide the communities with a link to County government. This person will work closely with Community Outreach and the Office of Minority Affairs to coordinate and follow up on planning concerns and problems identified by the communities.
3. While the historic African American enclaves are generally small and in their own right would not qualify for specific community plans for preservation, these communities should be viewed as a whole since they share many common problems and similar concerns. A plan of action to address their common concerns should be developed.

HISTORIC PRESERVATION

Historic buildings and their settings provide a continuity with the past, establish a tangible sense of place and enhance the aesthetic environment of the County. There is often, however, conflict between preservation of historic buildings and the construction of new subdivisions, roads and commercial projects. Many significant buildings and potential archeological sites have been lost or their surroundings degraded because of the pressure of development.

Historic preservation was identified as a goal in the 1979 Master Plan. Better success in achieving this goal requires

IN RE: CLASS A CHILD CARE USE PERMIT * BEFORE THE
 1300 Old Eastern Avenue *
 15th Election District * DEPUTY ZONING COMMISSIONER
 Gordon L. Harrison, et ux - * OF BALTIMORE COUNTY
 Applicants * Case No. CACC-91-6

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicants herein request a use permit for a Class A Child Care Center on the subject property, pursuant to Sections 424.4A, 424.5A and 500.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1.

The Applicants, by Gordon L. Harrison, appeared and testified. Also appearing on behalf of the Applicants were Marie Sadler, mother-in-law, and Donna Copp and Pat Pakaski, nearby residents. There were no Protestants at the hearing, however, Carville A. Lauenstein voiced his concerns by letter dated January 16, 1991. Said letter has been incorporated into the case file.

The Applicants originally requested and were prematurely granted a use permit for a Class A Child Care Center at the above-captioned address by the Zoning Commissioner on November 20, 1990. Following the issuance of said Order, the Zoning Office received a letter of opposition from an adjoining property owner within the required time frame. The Zoning Commissioner subsequently rescinded the use permit by Amended Order issued November 26, 1990 and required that the matter be set in for a public hearing. Said hearing was held on January 18, 1991.

Testimony indicated that the subject property, known as 1300 Old Eastern Avenue, zoned D.R. 5.5, is improved with a two-story single family dwelling and has been the residence of his mother-in-law, Marie Sadler,

ORDER RECEIVED FOR FILING

Date

By

for the past year. Mr. Harrison testified that his wife and Mrs. Sadler are desirous of opening a child day care center on the subject property. He testified that he has spoken to various neighbors who indicated they have no objections. To support his testimony, Mr. Harrison introduced Petitioner's Exhibit 4 which is a signed Petition from several nearby property owners indicating they have no objections to the use proposed.

Mr. Harrison testified concerning the requirements of Section 424.4A of the B.C.Z.R. He indicated that there would be 2 employees on the site, that the hours of operation for the center would be 6:00 AM to 6:00 PM, Monday through Friday, and that no more than 12 children would be enrolled at any given time. Pursuant to the requirements of Section 424.1, Mr. Harrison testified he understood that he must be registered, licensed and certified by all applicable State and Local agencies; however, he indicated he was advised that the application process could not be completed until zoning requirements were resolved. He further testified that the subject property will be fenced at a minimum as set forth in Petitioner's Exhibit 1 and outlined in blue to provide an adequate play area for the children. Mr. Harrison reviewed the requirements of Section 502.1 of the B.C.Z.R. and testified that the proposed use would not in any way conflict with any of the requirements set forth therein.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

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Date

By

requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the requirements set forth in Sections 424.1, 424.4A, 424.5A, 424.6A, 500.4 and 502.1 of the B.C.Z.R. have been met and that the relief requested should be granted with certain restrictions as more fully described below.

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.

IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of January, 1991 that a Use Permit for a Class A Child Care Center on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their permit and be granted same upon receipt of this Order; however,

ORDER RECEIVED FOR FILING

Date

By

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 relief granted herein shall be rescinded.

2) Prior to the use and occupancy of the Class A Child Care Center, Applicants shall submit copies of all registrations, licenses, and certifications issued by all applicable State and Local agencies.

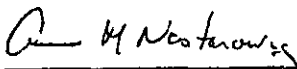
3) Prior to the operation of the Class A Child Care Center, Applicants shall install a fence around the property at a minimum as depicted on Petitioner's Exhibit 1. Applicants shall contact this Office upon completion of said fence installation and permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

4) No more than 12 children shall be enrolled in the Day Care Center at any given time.

5) The hours of operation of the Day Care Center shall be limited to 6:00 AM to 6:00 PM, Monday through Friday.

6) When applying for a use 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, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.


ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Mr. & Mrs. Gordon L. Harrison
1301 Old Eastern Avenue, Baltimore, Md. 21221

Mr. Carville Lauenstein
1308 Eastern Avenue, Baltimore, Md. 21221

People's Counsel
Case File

ORDER RECEIVED FOR FILING

Date

By

91-6

RECEIVED

JAN 17 1991

Zoning Commissioner
County Office Building
Towson, Maryland 21204

ZONING OFFICE

Re: Proposed Day Care Center
at 1300 Old Eastern Ave
Essex, Maryland 21221

Dear Sir:

January 16, 1991

The sign posted at 1308 Old Eastern Avenue has the date of the hearing incorrectly stated. This was of concern since I just returned from Florida on January 14, 1991 and was surprised to learn of the hearing as being scheduled for this Friday Jan. 18, 1991.

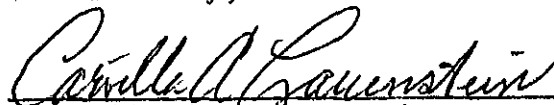
The above hearing date is the same as the date that I'm to begin treatment for a cancer problem at Franklin Square Hospital.

I guess the best that I can do is state my concerns should this Day Care Operation be approved:

1. The posting of signs denoting the facility in this residential neighborhood.
2. The erection of a so called privacy fence which usually degrades the neighborhood.
3. The creation of a traffic problem at the busy corner.
4. The fact that once this facility ceases to exist for the operation of a Day Care Center it should, in my opinion remain as residential zoning-5.5.

Sorry, I probably can not attend the hearing as scheduled and do not have time to discuss this matter with other people in this residential neighborhood so we have adequate representation at this hearing.

Yours truly,


Carville A. Lauenstein
687-1600

11/26/90

IN RE: CLASS A CHILD CARE USE PERMIT * BEFORE THE
1300 Old Eastern Avenue * ZONING COMMISSIONER
15th Election District *
Gordon L. Harrison, et ux - * OF BALTIMORE COUNTY
Applicants * Case No. CACC-91/1/6

* * * * *

AMENDED ORDER

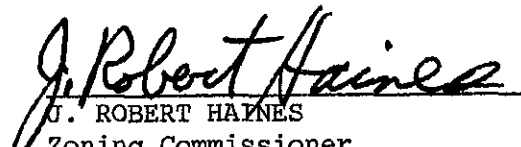
WHEREAS, the Applicant requested a use permit for a Class A Child Care Center at the above-captioned address, pursuant to Sections 424.4A, 424.5A and 500.4 of the Baltimore County Zoning Regulations (B.C.Z.R.).

WHEREAS, the relief requested was prematurely granted by Order issued November 20, 1990;

WHEREAS, subsequent to the issuance of said Order, this Office received a letter of opposition from an adjoining property owner within the specified time frame, thereby requiring a public hearing;

IT IS ORDERED by the Zoning Commissioner for Baltimore County this 26th day of November, 1990 that the Order issued November 20, 1990 be and the same is hereby AMENDED to rescind the Use Permit for a Class A Child Care Center on the subject property until such time as a public hearing is held to determine the appropriateness of same; and,

IT IS FURTHER ORDERED that this matter be set in for a hearing as docketing permits and that the property be posted and advertised accordingly, the cost of same to be borne by Petitioners.


J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs
cc: Mr. & Mrs. Gordon L. Harrison
1300 Old Eastern Avenue, Baltimore, Md. 21221

Case File

ORDER RECEIVED FOR FILING

Date

By

11/20/90

IN RE: CLASS A CHILD CARE USE PERMIT * BEFORE THE
1301 Old Eastern Avenue *
15th Election District * ZONING COMMISSIONER

Gordon L. Harrison, et ux - * OF BALTIMORE COUNTY
Applicants *
* Case No. CACC-91/1/6
* * * * *

ORDER

The Applicant has requested a use permit for a Class A Child Care Center at the above-captioned address, pursuant to Sections 424.4A, 424.5A and 500.4 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The subject property has been posted and there being no requests for public hearing, a decision shall be rendered based upon the documentation presented.

The Applicant has filed the supporting affidavits as required by Sections 424.4A and 500.4 of the B.C.Z.R. In the opinion of the Zoning Commissioner, the information, pictures, and affidavits submitted provide sufficient facts that comply with the requirements of Sections 424.4A, 424.5A and 500.4 of the B.C.Z.R.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the B.C.Z.R. having been met, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of November, 1990 that a Use Permit for a Class A Child Care Center at the above-captioned location be and is hereby GRANTED.


J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Mr. & Mrs. Gordon L. Harrison
1300 Old Eastern Avenue, Baltimore, Md. 21221

Case File

ORDER RECEIVED FOR FILING
Date 11/20/90
By Bjs

ZONE DR. 5.5.

CACC-91-6

APPLICATION FOR Class "A"
CHILD CARE CENTER

USE PERMIT

This Use Permit is requested in accordance with Sections 424.5 and 500.4 of the Baltimore County Zoning Regulations.

Proposed Child Care Center Location:

Election District 15
Subdivision ESSEX
Lot Number 8-PT9 Block Number 00F
Street Address 1300 OLD EASTERN AVE (North side)
If no Lot or Block Number, give distance to nearest
intersecting street 40 feet, North/South/East
West of 145' Eyring Street/Road/Avenue
Lot Size 145' x 85'

Existing Nearest Child Care Center Location: (Lot Number, Street Address, etc.)

Hopewell Christian Care 1613 Hopewell Ave BALTO. MD 21221
Our Lady of Mt Carmel 1702 Eastern Ave BALTO MD. 21221

General Information:

- A. Name & Address of applicant/operator
DEBORAH JOANN HARRISON, Gordon L. Harrison
1301 OLD EASTERN AVE
BALTO. MD 21221 Phone No. 686-0228
- B. No. of employees 2 Hrs. of operation 6 AM TO 6 PM
Days of the Week 5 MON - FRI
- C. Number of children enrolled PROPOSED #12
- D. Estimated amount of traffic generated:
Morning 12 Afternoon 12
- E. A Site Plan, drawn to scale, indicating location and type of structure on the lot in question, location and dimensions of play area(s), parking arrangement, and proximity of dwellings on adjacent lots must accompany this Use Permit
- F. A snapshot of the structure

I am aware that the Zoning Regulations require that the above property be posted for a period of thirty (30) days prior to the Zoning Commissioner taking any action, that said posting (sign) shall include information relative to the number of children, hours of operation, and number of employees, and that I am responsible for, and hereby agree, to pay expenses for all posting, advertising and filing fees.

Gordon L. Harrison
(Applicant's Signature)

POST IN CONSPICUOUS PLACE

CENTER NO. 03-2426

State of Maryland



DEPARTMENT OF HUMAN RESOURCES

CORNER CARE

(name of center)

This certifies that the above Child Care Center operated by

DEBORAH HARRISON

(licensee)

at 1301 OLD EASTERN AVENUE, BALTIMORE, MARYLAND 21221

street

city

in accordance with Family Law

Article, Part VII has been found to conform to COMAR 10.05.01, Child Care Centers of the Maryland State Department of Human Resources.

This license granted on FEBRUARY 28, 19 93

(date)

This license expires on FEBRUARY 28, 19 94

(date)

Issuance of this license is expressly conditioned on licensee's irrevocable consent to permit inspections by the designee of the Secretary of Human Resources to determine whether: (a) the licensee is complying with the laws and regulations which relate to the license; and (b) to evaluate any complaint or unfavorable comment which relates to the facility. Failure to allow any inspections requested by the Secretary's designee may result in denial, suspension or revocation of this license.

Months of Operation 12

Days of Operation MONDAY - FRIDAY

Hours of Operation 6:00 AM TO 6:00 PM

Center approved for children:

- ☐ Under 2 years old
☒ 2 to 6 years old
☐ 6 to 16 years old

NO MORE THAN FIVE CHILDREN
UNDER THE AGE OF TWO AND
HALF YEARS.

ASSIGNED CAPACITY 12

Regional Manager

Executive Director

Secretary

William Donald Schaefer
Governor



Carolyn W. Colvin
Secretary

Region III

Child Care Administration

To: ~~Arnold Jablon~~, Director
Zoning Administration
111 West Chesapeake Avenue
Towson, Maryland 21204

From: Betty Botsko, Regional Manager
Child Care Administration
Suite LL 8
409 Washington Avenue
Towson, Maryland 21204 MS #64
Attn N Cooper

Date: 5-19-92

A CHILD CARE CENTER LICENSE has been requested for the following facility:

NAME OF CENTER: Corner Care

ADDRESS OF CENTER: 1300 Old Eastern Ave 21221

NAME OF APPLICANT/LICENSEE: Deborah Harrison

TELEPHONE: 686-0228

REQUESTED: CAPACITY 12 AGES OF CHILDREN TO BE SERVED 2-6

TYPE OF FACILITY House

☒ Class A Center (7-12 Children)

☐ Class B Center (13 or More Children)

In order to issue the license, this office needs evidence of compliance with local zoning codes. Please indicate your approval/disapproval below.

A CHILD CARE CENTER MAY OPERATE AT THE ABOVE NAMED ADDRESS:

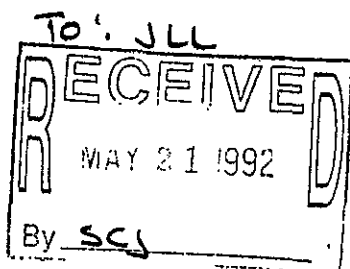
Yes ☒ No ☐ (If No, please specify the grounds for disapproval and additional action required of the applicant.)

THIS IS A CONDITIONAL APPROVAL SUBJECT TO ZONING CASE # CACC-91-6

RESTRICTIONS (SEE ATTACHED COPY) THE APPLICANT IS ADVISED TO PROVIDE COPIES

OF ALL ITEMS LISTED IN RESTRICTION #2 (AS SOON AS AVAILABLE) FOR INCLUSION

IN THE ZONING CASE FILE.



NAME/TITLE Arnold Jablon (Please print)

SIGNATURE Arnold Jablon

DATE: 5/27/92

EX-105
1/28/91

IN RE: CLASS A CHILD CARE USE PERMIT * BEFORE THE
1300 Old Eastern Avenue *
15th Election District * DEPUTY ZONING COMMISSIONER
Gordon L. Harrison, et ux - * OF BALTIMORE COUNTY
Applicants * Case No. CACC-91-6

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicants herein request a use permit for a Class A Child Care Center on the subject property, pursuant to Sections 424.4A, 424.5A and 500.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1.

The Applicants, by Gordon L. Harrison, appeared and testified. Also appearing on behalf of the Applicants were Marie Sadler, mother-in-law, and Donna Copp and Pat Pakaski, nearby residents. There were no Protestants at the hearing, however, Carville A. Lauenstein voiced his concerns by letter dated January 16, 1991. Said letter has been incorporated into the case file.

The Applicants originally requested and were prematurely granted a use permit for a Class A Child Care Center at the above-captioned address by the Zoning Commissioner on November 20, 1990. Following the issuance of said Order, the Zoning Office received a letter of opposition from an adjoining property owner within the required time frame. The Zoning Commissioner subsequently rescinded the use permit by Amended Order issued November 26, 1990 and required that the matter be set in for a public hearing. Said hearing was held on January 18, 1991.

Testimony indicated that the subject property, known as 1300 Old Eastern Avenue, zoned D.R. 5.5, is improved with a two-story single family dwelling and has been the residence of his mother-in-law, Marie Sadler,

for the past year. Mr. Harrison testified that his wife and Mrs. Sadler are desirous of opening a child day care center on the subject property. He testified that he has spoken to various neighbors who indicated they have no objections. To support his testimony, Mr. Harrison introduced Petitioner's Exhibit 4 which is a signed Petition from several nearby property owners indicating they have no objections to the use proposed.

Mr. Harrison testified concerning the requirements of Section 424.4A of the B.C.Z.R. He indicated that there would be 2 employees on the site, that the hours of operation for the center would be 6:00 AM to 6:00 PM, Monday through Friday, and that no more than 12 children would be enrolled at any given time. Pursuant to the requirements of Section 424.1, Mr. Harrison testified he understood that he must be registered, licensed and certified by all applicable State and Local agencies; however, he indicated he was advised that the application process could not be completed until zoning requirements were resolved. He further testified that the subject property will be fenced at a minimum as set forth in Petitioner's Exhibit 1 and outlined in blue to provide an adequate play area for the children. Mr. Harrison reviewed the requirements of Section 502.1 of the B.C.Z.R. and testified that the proposed use would not in any way conflict with any of the requirements set forth therein.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the requirements set forth in Sections 424.1, 424.4A, 424.5A, 424.6A, 500.4 and 502.1 of the B.C.Z.R. have been met and that the relief requested should be granted with certain restrictions as more fully described below.

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.

IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of January, 1991 that a Use Permit for a Class A Child Care Center on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their 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 relief granted herein shall be rescinded.

2) Prior to the use and occupancy of the Class A Child Care Center, Applicants shall submit copies of all registrations, licenses, and certifications issued by all applicable State and Local agencies.

3) Prior to the operation of the Class A Child Care Center, Applicants shall install a fence around the property at a minimum as depicted on Petitioner's Exhibit 1. Applicants shall contact this Office upon completion of said fence installation and permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

4) No more than 12 children shall be enrolled in the Day Care Center at any given time.

5) The hours of operation of the Day Care Center shall be limited to 6:00 AM to 6:00 PM, Monday through Friday.

6) When applying for a use 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, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

5/27/92
CRAIG MURPHY
ZONING ENF.
VERIFIED REQUIRED
FENCE COMPLIES
WITH RESTRICTIONS
JLL

CRAIG
CAN YOU
FIELD VERIFY
COMPLIANCE?
SEE PLAN
WITH X LOCATION
OF FENCE.

THANKS J. LEWIS

?
NEED TO
CHECK WITH WCR.

Ann M. Natarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Mr. & Mrs. Gordon L. Harrison
1301 Old Eastern Avenue, Baltimore, Md. 21221

Mr. Carville Lauenstein
1308 Eastern Avenue, Baltimore, Md. 21221

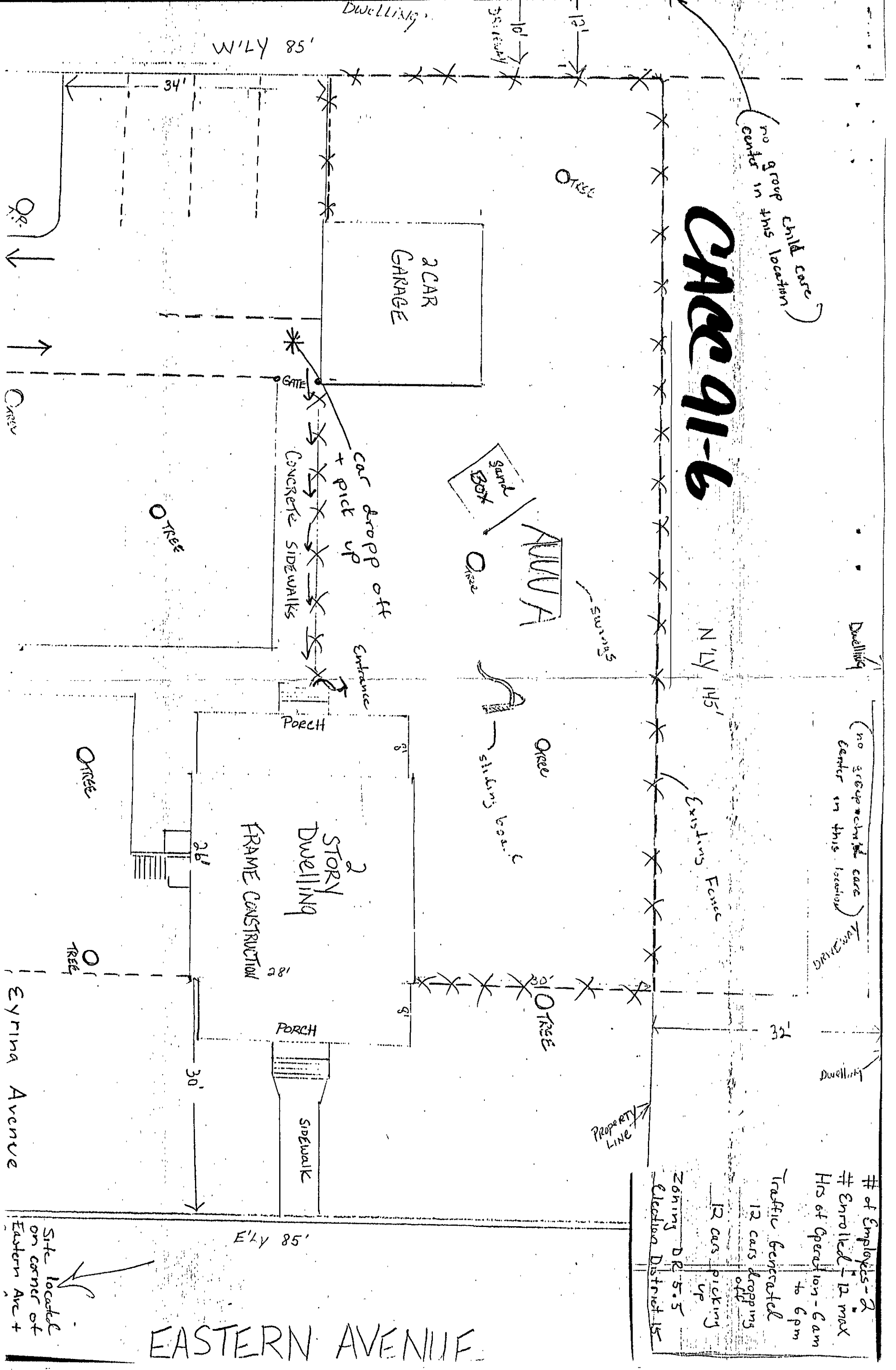
People's Counsel
Case File

(no group child case)
center in this location

CASE 91-6

(no group child case)
center in this location

of Employees - 2
Enrolled - 12 max
Hrs of Operation - 6 am to 6 pm
Traffic Generated
12 cars dropping off
12 cars picking up
Zoning DR 5.5
Election District 15



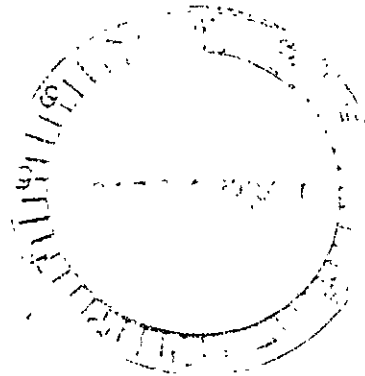
EASTERN AVENUE

Site located on corner of Eastern Ave +

FINAL REPORT of the
Baltimore County Planning Board
Adopted October 18, 1984

People's Council # 8

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
CONCERNING
DAY CARE OR CHILD CARE PROGRAMS



Baltimore County Office of Planning and Zoning
Towson, Maryland 21204

Published by the Baltimore County Office of Planning and Zoning
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PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
CONCERNING
DAY CARE OR CHILD CARE PROGRAMS

A Report of the Baltimore County Planning Board
(Adopted October 18, 1984; Public Hearing Held July 19, 1984)

Project Description

County Council Resolution No. 61-83 (see Attachment #1) requests that the Planning Board conduct a complete review of the Zoning Regulations regarding day care or child care programs and to consider amendments to the Zoning Regulations which would permit day care or child care programs in all appropriate zones of the county. This resolution also requests that such day care and child care programs be permitted in any public or private building on the basis of the number of children in the program and the type of license required for the operation of the program.

Discussion

The Zoning Regulations currently permit the following types of private day care programs;

- Privately sponsored day care and nursery programs for children before, during and after regular school hours as an ancillary use in a school building by right in Resource Conservation (R.C.) and Density Residential (D.R.) Zones.
- Privately sponsored day care and nursery programs are permitted by right as an ancillary use, within housing for the elderly projects in D.R. and R.A.E. zones.
- Nursery schools are permitted by right in all business zones and by special exception in D.R. zones.

Day care services are established specifically for the purpose of child care. The providers of this service commonly take responsibility for children when their parents or guardians are working or otherwise unavailable to care for their children during long periods of time during the day or night. Day care programs are licensed by several State and County agencies. The Health General Article, Title 14, Subtitle 1, of the Annotated Code of Maryland gives the Secretary of the State Department of Health and Mental Hygiene the power to adopt rules and regulations for licensing and operating group day care centers. The term "group day care center" is defined in the Annotated Code as follows:

"Group day care center" means an agency, institution, or establishment that, for part or all of a day, on a regular schedule, and at least twice a week, offers or provides group day care to at least 7 children who do not have the same parentage.

Title 10, Subtitle 05, Chapter 01, of COMAR contains the State Department of Health and Mental Hygiene's licensing requirements. These requirements apply to day care centers under private, non-profit, proprietary, public and religious auspices. The regulations do not apply to family day-care homes, summer day-camps, State Department of Education approved non-public schools and kindergartens, religious schools exempt from approval under Article 77, Title 12, Annotated Code of Maryland. Facilities operated by public school systems and by county or city Departments of Recreation are also exempt from the State Department of Health and Mental Hygiene's day care regulations. Recently, the State Department of Health and Mental Hygiene modified the definition of group day care center by creating a new classification "small group day care center" for centers with 7 to 12 children.

The Health-General Article of the Annotated Code of Maryland empowers the County Health Department as the licensing authority for group day care centers. In addition to the regulations in the Health-General Article of the Annotated Code and in Title 10 of COMAR, group day care centers in Baltimore County are also governed by Day Nurseries, Title 8, Baltimore County Code. Like Title 10 of COMAR, Title 8 of the County Code sets licensing requirements for day nurseries. The license is effective for a period of 1 year and is renewable for an additional year, if the licensee meets the requirements for a new license. The term "day nursery" is defined in Title 13, Article II of the County Code as shown below.

- (2) The term "day nursery" shall be taken to mean an institution, establishment or place in which are received two (2) or more children for temporary guardianship and nursery care, apart from their parents or guardians, whether for compensation, reward or otherwise, during that portion of the day or night in which their parents or guardians are engaged in other pursuits and occupations than attending to and caring for such children.

Family day care homes are regulated by the State Department of Human Resources' Social Service Administration. Article 88A, Title 32D, Annotated Code of Maryland gives the Social Service Administration the responsibility of licensing family day care homes. Family day care means care given to a child in lieu of parental care in a residence other than the child's for less than 24 hours per day and for which compensation is paid. A family day care home is the residence in which family day care is provided. The Annotated Code restricts the number of children cared for in a family day care home to no more than 2 children under 2 years of age nor more than a total of 6 children of any age at any time. Family day care homes are not required to be registered if the day care provider is:

- Related to each child by blood or marriage;
- A friend of each child's parent or legal guardian and the care is provided on an occasional basis; or
- Has received the care of the child from a child placement agency licensed by the Department of Human Resources or by a local Department of Social Services.

Estimating the need

The increasing presence of women in the labor force as well as a steady increase of single parent households are major factors behind the rapid growth of the child day care movement. A recent Bureau of Labor Statistics report showed 23 million women in the national labor force in 1960 (35 percent of women 14 years old and over). By 1980 the female labor force had grown to 44 million women or 51 percent of the female population 16 years old and over. Most of the increase in labor force participation of women has been the result of the entry of mothers into the labor force, especially those with young children. Between 1950 and 1980, the labor force participation rate (i.e. the percent of the civilian non-institutional population in the labor force) for wives with children under 18 increased from 18 to 54 percent, while the rate for other ever-married women (i.e., widowed, divorced, separated, and other married with husband absent) with children increased from 55 to 69 percent during the same period. Among wives with children under 18 years old, the greatest labor force increases were recorded in the category "women with pre-school-age children (under 6 years old)" which rose from 12 percent in 1950 to 45 percent in 1980.

Census figures for Baltimore County (see Attachment 2) showed a 54 percent increase from 1970 to 1980 of females in the labor force. In 1980, 48,744 females in the labor force had at least 1 child. This figure represents 33 percent of all women 16 and over in 1980, and 57.5 percent of the total females with children in Baltimore County. There was also a dramatic increase from 1970 to 1980 in the number of females 16 years old and over with one or more children in the county's labor force. In 1970, there were 8,815 such women. By 1980, the number of females 16 years old and over with one or more children under 6 years old in the labor force had increased to 14,748, a 59.8 percent increase from 1970 to 1980.

Another trend contributing to the need for day care is the rising number of children living with only their mother. In March 1978, more than 10 million children were living in families headed by women. Eight years earlier, only 6.7 million children were in such families. Baltimore County's population seems to reflect this national trend. From 1970 to 1980 the number of female householders with children (no husband present) grew from 6,243 in 1970 to 12,496 in 1980, an increase of over 100 percent. It should also be noted that in Baltimore County the number of married-couple families with children decreased by about 8.3 percent from 1970 to 1980.

According to the Baltimore County Department of Health, there are currently about 8,400 children enrolled in roughly 150 licensed day care centers in the County. There are also 713 registered family day care homes in the County which provide day care to approximately 2,852 children. The Baltimore County Department of Social Services, which is responsible for registering family day care homes also pointed out that there are hundreds of unregistered family day care homes in neighborhoods throughout the County.

Existing day care centers - observations and comments

The staff field checked several day care operations which were listed in a Baltimore County directory of licensed child care centers. Group day care centers in Baltimore County are operated by private profit and non-profit organizations, church or community groups or the Department of Recreation, and are generally housed in four types of structures: churches, schools, community centers and private homes. Outdoor activities are usually conducted within fenced yards which have various types of play equipment. The outdoor activities are usually supervised by at least one adult. Noise levels in play areas generally increase as the size of the group increases. Group day care centers which were located in churches, schools and community centers had adequate drop-off/ pick-up areas and parking. This was not always the case for group day care centers in private homes. Drop-off/pick-up areas were not always provided. Several day care providers had paved areas in their front yards to allow traffic to pull off of the street and into the paved area to drop-off or pick up children. Parking was provided either on the street or in a driveway.

Group day care centers which were located in private homes were in single family detached houses. Lot sizes were generally around 1/4 acre. There was ample outdoor space, but in some cases the play space ended as close as 10 feet to the next house. Play areas were fenced in at all day care centers observed by the staff, but usually no buffer was provided.

Family day care homes are operated by individuals or families in their own homes. Family day care homes exist in many different types of dwellings, from single family detached to two bedroom apartments and are located predominately in D.R. zones. Drop-off/pick up and parking for family day care homes in single family detached and row houses are usually located on the nearest street or alley. In apartment complexes, the parking lot also serves as the drop-off/pick-up area. The outdoor play areas in the family day care homes were fenced in, but usually no buffer was provided between the play areas and the next yard. In neighborhoods where homes are either row houses or single family detached houses on small lots, outdoor activities occasionally disturb neighbors.

Family day care homes appear to be compatible uses (in most cases) in residential areas while group day care centers are not as compatible, especially group day care in homes located in high density zones where the lot size is small. Day care centers located on small lots are more likely to have outdoor play areas which annoy neighbors. Traffic volume generated by day care centers varies with the number of children served.

Larger day care centers will attract a larger volume of traffic than family day care homes. This is a major obstacle to permitting large group day care centers in residential areas.

Family day care homes are clearly home businesses. In many cases, family day care homes and small group day care homes (seven to twelve children) are a means of providing additional income to young parents and homeowners. The relatively small amount of children permitted in family day care homes (no more than six) make them generally compatible in any type of dwelling permitted in a residential zone. Small day care homes are also compatible in residential zones. This type of day care should be restricted to single family detached dwellings when located in residential zones. The maximum of twelve children permitted in small day care homes is too large to be accommodated in attached dwellings. Family day care homes and small group day care homes should be permitted by right as an accessory use to dwellings in residential zones.

Some neighborhoods may accommodate group day care centers as principal uses (Note: For family day care homes for example, the dwelling serves a "principal" residential function while day care is secondary or "accessory"). The special exception process (as outlined in Section 502 of the Zoning Regulations) should be used to determine which residential areas can accommodate group day care centers as principal uses.

Many group day care centers, and nursery schools as well, in Baltimore County are located in churches. This is one of the most appropriate locations for day care since community service is a major function of most churches. Day care should be permitted in churches as well as in the uses shown below:

- Community buildings
- Hospitals
- School buildings
- Office buildings.

While office buildings are not the quasi-public or community service oriented uses that the other above mentioned uses are, employment and population trends (see Attachment #2) suggest that office buildings are also appropriate locations for day care centers. These same trends are also justification for permitting day care in business and certain manufacturing zones as principal or accessory uses.

Recommendations

The current Zoning Regulations regarding child care facilities are not responsive to our changing lifestyles as indicated by population and employment trends, and they limit the ability of the child care industry to adequately address the resultant child care needs. The Planning Board feels that the Zoning Regulations should be accordingly updated by:

- Providing definitions of child care facilities in line with those of the State of Maryland and reflective of the child care industry;
- Permitting as an accessory use licensed or registered day care centers of six or less children within dwellings as a matter of right under specified conditions in all residential zones;

- Permitting as an accessory use licensed day care centers of seven to twelve children in single family detached dwellings as a matter of right in R.C. zones, by use permit in D.R. zones and in apartment buildings in R.A.E. zones as a matter of right;
- Permitting licensed day care centers for over twelve children by special exception in R.C. zones as an accessory use and in D.R. zones as a principal use;
- Permitting licensed day care centers for seven or more children as a matter of right in all Business zones and certain light manufacturing zones; and by
- Permitting by right day care centers of any size within those uses considered especially appropriate locations for child care facilities such as churches, school buildings, and office buildings.

The Planning Board therefore recommends that the Baltimore County Zoning Regulations, 1955, as amended, be further amended as set forth below. (Note: For a summary of these recommendations see Attachment #3.)

In Section 101, add alphabetically the following definitions:

Family Day Care Home: A private residence wherein care, protection and supervision is provided for a fee for part or all of a day on a regular schedule and at least twice a week to no more than six (6) unrelated children by an adult.

Group Day Care Center: A building or structure wherein care, protection and supervision is provided for part or all of a day, on a regular schedule, and at least twice a week to at least seven (7) children who do not have the same parentage or is licensed in accordance with Health-General, Title 14, General Day Care, Subtitle 1. Children, Annotated Code of Maryland.

Group Day Care Center, Class A: A group day care center wherein group day care is provided to or is licensed for no more than twelve (12) children.

Group Day Care Center, Class B: A group day care center wherein group day care is provided to or is licensed for more than twelve (12) children.

Within R.C. zones, permit family day care homes and group day care centers, Class A by right as an accessory use in dwellings, and group day care centers, Class B by special exception as accessory uses in dwellings by adding the following amendments:

In Subparagraph 1A01.2.B.7 (Accessory uses or structures in R.C.2 zones) add the following new entry:

- j. Family day care homes and group day care centers, Class A, within dwellings (see Section 424)

In Subparagraph 1A02.2.A.10 (Accessory uses or structures in R.C.3 zones) add the following new entry:

- h. Family day care homes and group day care centers, Class A, within dwellings (see Section 424)

In Subparagraph 1A03.3.A.6 (Accessory uses or structures in R.C.4 zones) add the following new entry:

- g. Family day care homes and group day care centers, Class A, within dwellings (see Section 424)

In Subparagraph 1A04.2.A.11 (Accessory uses or structures in R.C.5 zones) add the following new entry:

- h. Family day care homes and group day care centers, Class A, within dwellings (see Section 424)

In Paragraph 1A01.2.C (certain uses permitted by special exception in R.C.2 zones) add the following new entry:

- 25. Group day care centers, Class B as an accessory use within dwellings (see Section 424)

In Paragraph 1A02.2.B (certain uses permitted by special exception in R.C.3 zones) add the following new entry:

- 13A. Group day care centers, Class B as an accessory use within dwellings (see Section 424)

In Paragraphs 1A03.3.B (certain uses permitted by special exception in R.C.4 zones) add the following new entry:

- 15. Group day care centers, Class B, as an accessory use within dwellings (see Section 424)

In Paragraph 1A04.2.B (certain uses permitted by special exception in R.C.5 zones) add the following new entry:

- 22. Group day care centers, Class B as an accessory use within dwellings (see Section 424)

Permit group day care centers and nursery programs by right in churches, community buildings, hospitals and school buildings in R.C. zones by making the following amendment:

In Paragraphs 1A01.2.B and 1A03.3.A (certain uses permitted as of right in R.C.2 and R.C.4 zones) revise Subparagraph 3A as follows by deleting the words that are lined through and adding the words that are UNDERLINED:

- 3A. Public schools, ~~and privately sponsored day care and nursery programs for children before, during, and after regular school hours as an ancillary use in a school building,~~ group day care centers, Class A and Class B, and nursery programs as permitted in Subsection 424.1.

In Paragraph 1A02.2.A (certain uses permitted as of right in R.C.3 zones) revise Subparagraph 6 as follows by deleting the words that are lined through and adding the words that are UNDERLINED:

6. Schools, including but not limited to private preparatory schools, colleges, conservatories or other fine arts schools. ~~and privately sponsored day care and nursery programs for children before, during, and after regular school hours as an ancillary use in a school building.~~ Group day care centers, Class A and B, and nursery programs as permitted in Subsection 424.1.

In Paragraph 1A04.2.A (certain uses permitted as of right in R.C.5 zones) revise Subparagraph 7 as follows by deleting the words that are lined through and adding the words that are UNDERLINED:

7. Schools, including but not limited to private preparatory schools, colleges, conservatories or other fine arts schools. ~~and privately sponsored day care and nursery programs for children before, during, and after regular school hours as an ancillary use in a school building.~~ Group day care centers, Class A and Class B and nursery programs as permitted in Subsection 421.1.

Within D.R. zones, permit family day care homes by right as an accessory use in all dwellings, group day care centers (both classes) by special exception as a principal or accessory use and exempt family day care homes and certain group day care centers from Residential Transition Areas by adding the following amendments:

In Subparagraph 1B01.1.A.14 (Accessory uses or buildings in D.R. zones) add the following new entry:

- i. Family day care homes within dwellings (see Section 424).

In Subparagraph 1B01.1.B.1.c (Exceptions to residential transition) delete Item 12 and add a new Item 12 to read as follows:

12. Group day care centers, Class A and B, and nursery programs for children as permitted in Subsection 424.1 and family day care homes and group day care centers, Class A in dwellings.

In Paragraph 1B01.1.C (certain uses permitted by special exception in D.R. Zones) revise Subparagraph 11 as follows by adding the words that are UNDERLINED:

11. Private colleges (not including business or trade schools),
group day care centers, Class A and B (see Section 424),
nursery or dancing schools, dormitories or fraternity or
sorority houses

Permit family day care homes by right as accessory uses in dwellings, group day care centers (both classes) in apartment buildings by right in R.A.E. zones, permit group day care centers, Class A in certain office buildings in R-0 zones and permit group day care centers (both classes) by right in all business zones by adding the following amendments:

In Subparagraphs 200.2.A.5 and 201.2.A.5 (Accessory uses, buildings or structures in R.A.E.1 and R.A.E.2 zones) add the following new entry:

3. Family day care homes (see Section 424).

In Subparagraph 200.2.A.3 and 201.2.A.3 (service or retail uses in certain apartment buildings in R.A.E.1 and R.A.E.2 zones) add alphabetically the following new entry:

Group day care centers, Class A and B (see Section 424)

In Paragraph 203.3.A (certain uses permitted as of right in R-0 zones) expand Subparagraph 2 as follows by adding the words that are UNDERLINED:

2. Class A office buildings and their accessory uses
including parking and group day care centers, Class A
(see Section 424).

In Subsection 230.9 (certain uses permitted as of right in B.L. zones) add alphabetically the following new entry:

Group day care centers, Class A and B (see Section 424).

In Paragraph 207.3.C (Auxiliary commercial uses in Office-Technology Zones) delete Subparagraph 6 and add a new Subparagraph 6 to read as follows:

6. Group day care centers, Class A and B and nursery programs
(see Section 424).

Permit group day care centers by right in M.R., M.L.R., and M.L. as a principal use, and group day care centers by right in M.H. zones under certain conditions by adding the following amendments:

In Subsection 241.1 (certain uses permitted as of right in M.R. zones) add alphabetically the following new entry:

Group day care centers, Class A and B (see Section 424).

In Subsection 253.1 (uses permitted as of right in M.L. zones) add the following new entry in Paragraph 253.1.C:

25. Group day care centers, Class A and B (see Section 424).

In Section 256 (USE REGULATIONS for Manufacturing, Heavy zones) add alphabetically the following new entry in Subsection 256.1:

2A. Group day care centers as permitted in Subsection 424.1

Delete Section 424 (DAY CARE AND NURSERY PROGRAMS) and add a new Section 424 to read as follows:

Section 424 - FAMILY DAY CARE HOMES and GROUP DAY CARE CENTERS

424.1 Family day care homes and group day care centers whether permitted as a matter of right or by special exception shall meet the following requirements:

A. Family day care homes shall be registered in accordance with Article 88 A, Section 32 E of the Annotated Code of Maryland, as amended;

B. Group day care centers shall be licensed in accordance with Health - General, Title 14, General Day Care, Subtitle 1. Children, of the Annotated Code of Maryland, as amended;

C. Outdoor play space abutting residential property shall be fenced, such fence to be a minimum of four feet in height;

D. One off-street parking space per employee shall be provided.

424.2 Group day care centers (including nursery programs for children) shall be permitted by right within the following uses whether such use is permitted by right or by special exception:

- A. Churches;
 - B. Community Buildings;
 - C. Hospitals;
 - D. Office buildings, except in R-0 zones where group day care centers, Class B shall require a special exception;
 - E. School buildings, public or private.
- 424.3 Group day care centers, Class A, permitted within single-family detached dwellings in D.R. zones shall be subject to the Zoning Commissioner's granting of a use permit.
- A. Upon application for a use permit, the owner or agent shall:
 - 1. Provide the following information:
 - a. Number of employees;
 - b. Number of children to be enrolled;
 - c. Hours of operation;
 - d. Estimated amount of traffic generated;
 - e. Location and dimensions of play area(s);
 - f. Parking arrangement;
 - g. Proximity of dwellings on adjacent lots;
 - h. Snapshot of the structure.
 - 2. Provide reasonable notification of the application for a use permit for a group day care center, to the occupants and owners of all real property which is fully or partially situated within 300 feet of the lot in question and within a D.R. zone; such notification shall include conspicuous posting of the application for a period of thirty days.
 - B. Within the 30 day posting period any occupant or owner within 300 feet of the lot in question and within a D.R. zone may file a formal request for a public hearing with the Zoning Commissioner.

- C. The Zoning Commissioner shall, without a public hearing, grant a use permit for a child care center if the proposed use meets all the requirements of this subsection and any other applicable requirements and no request for a public hearing has been filed during the thirty day posting period.
- D. Upon a formal request for a public hearing the Zoning Commissioner shall schedule a date for the public hearing, such hearing to be held not less than 15 days following public notice of such hearing in two newspapers of general circulation and not more than 60 days from the date of filing of the request for public hearing.
- E. Following a public hearing the Zoning Commissioner shall either deny or grant a use permit conditioned upon:
 - 1. His findings following the public hearing;
 - 2. The character of the surrounding residential community and the anticipated impact of the proposed use on that community;
 - 3. The manner in which the requirements of Subsection 424.1 and other applicable requirements are met; and
 - 4. Any additional requirements as deemed necessary by the Zoning Commissioner.

In Section 413 - SIGNS, revise Paragraph 413.1.d as follows by adding the words that are UNDERLINED:

- d. A sign, not exceeding 15 square feet in area, in connection with an apartment building or project in which a rental office is located; also for group day care centers or nursery programs permitted under Subsection 424.2 and located in a residential zone or as a principal use in a residential zone; and for a dwelling converted into a tea room or restaurant.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1983, Legislative Day No. 18
RESOLUTION NO. 61-83

Ms. Bachur, Councilwoman

By the County Council, August 1, 1983

A RESOLUTION to request the Planning Board to conduct a complete review of the Baltimore County Zoning Regulations regarding day care or child care programs, and to consider amendments to the Zoning Regulations in order to provide a comprehensive system for regulation of all day care and child care programs in Baltimore County.

WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, the Baltimore County Zoning Regulations, as amended by Bill No. 47-82, currently permit complete day care and nursery programs as an ancillary use in schools in the R.C. and D.R. zones of the County and in certain housing projects; and

WHEREAS, the Baltimore County Council believes that further review and amendment of the Zoning Regulations is appropriate with regard to such programs; and

WHEREAS, the Baltimore County Council believes that the Zoning Regulations should reflect the recent changes in day care programs, including the fact that day care programs are licensed according to several categories, which are based upon the number of children served by a program; that Zoning Regulations should take into account the effect that each day care category may have upon the community in which it would operate; and that each zoning classification should be reviewed to determine which category of day care for children is appropriate for each zoning classification.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland that the Baltimore County Planning Board be and it is hereby requested to conduct a thorough review of the Baltimore County Zoning Regulations as they apply to the regulation of any form of day care or nursery care or child care programs in all zoning classifications.

AND BE IT FURTHER RESOLVED that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to permit day care or child care programs in all appropriate zones of the County and to permit such programs to be located in any public or private building on the basis of the number of children in the program and the type of license required for the operation of the program.

SELECTED POPULATION CHARACTERISTICS FOR BALTIMORE COUNTY

	<u>Total Females</u>	<u>Percent Changes</u>	<u>Total Females in Civilian Labor Force</u>	<u>Percent Changes</u>	<u>Participation Rates</u>
1970	226,439	--	96,766	--	42.7
1980	275,016	+21.5	149,195	+54.2	54.2
	<u>Total Females With Children</u>		<u>Total Females in Labor Force with Children</u>	<u>Total Female Householder No Husband with Children</u>	<u>Percent Change</u>
1970	N/A		N/A	6,243	--
1980	84,774		48,744	12,496	+100.2
	<u>Married Couple Family with Children</u>		<u>Percent Change</u>	<u>Total Females 16 Years Old and Over with One or More Own Children Under 6 Years Old in Labor Force</u>	<u>Percent Change</u>
1970	84,845		-	8,815	--
1980	70,054		-8.3	14,748	59.8

DAY CARE RECOMMENDATIONS BY ZONE

	R.C.	D.R.	R.A.E.	OFFICE	MANUFACTURING	LEGEND
Family Day Care Homes (6 children or less)	A	A	A	A	---	P - Permitted as a principal use by right
Group Day Care Centers, Class A (7 to 12 children)	A*	A*	A	P	P	A - Permitted by right as an accessory use to dwellings S.E. - Special exception required * - restricted to single family detached dwellings --- Prohibited
Group Day Care Centers, Class B (More than 12 children)	S.E.*	S.E.	A	P ¹	P ²	Notes All day care facilities are subject to additional require- ments in proposed Section 424.

1. In R-0 zones, group day care centers, Class B are permitted by special exception while Class A centers are permitted by right as accessory to office buildings.

2. Except that in M.H. zones group day care centers, Class B are permitted only in uses listed in Subsection 424.1.

LAWS OF BALTIMORE COUNTY

BY adding

Special Regulation 7.09
Special Rule No. 7 Promotions
Section 21-22
Article II. Rules and Regulations
Title "Personnel"
Baltimore County Code, 1978, 1983 Cumulative Supplement, as amended

SECTION 1. *Be it enacted by the County Council of Baltimore County, Maryland*, that Special Regulation 7.09 be and it is hereby added to Special Rule No. 7 Promotions, Section 21-22, Article II. Rules and Regulations, title "personnel" of the Baltimore County Code, 1978, 1983 Cumulative Supplement, as amended. Said Special Regulation to read as follows:

SPECIAL RULE NO. 7 — PROMOTIONS

SPECIAL REGULATION 7.09 — ALL PROMOTIONS OF SWORN PERSONNEL WITHIN THE POLICE DEPARTMENT SHALL BE SUBJECT TO THE CONDITION THAT THE [POLICE OFFICER] INDIVIDUAL SATISFACTORILY COMPLETE A PROBATIONARY PERIOD OF NINE MONTHS. THE CHIEF OF POLICE, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF PERSONNEL, MAY GRANT A THREE MONTH EXTENSION OF THE PROBATIONARY PERIOD.

SECTION 2. *And be it further enacted*, that this Act shall take effect forty-five days after its enactment.

APPROVED AND ENACTED: 5/8/85

BILL NO. 47-85

AN ACT concerning

Child Care Programs

FOR the purpose of amending the Baltimore County Zoning Regulations in order to permit certain types of child care programs in certain zones in the County; defining terms; specifying certain requirements for child care homes or programs; and generally relating to child care programs in Baltimore County.

LAWS OF BALTIMORE COUNTY

BY repealing and re-enacting, with amendments,

Sections 1A01.2.B.3A, 1A02.2.A.6, 1A03.3.A.3A, 1A04.2.A.7, 1B01.1.A.12, 1B01.1.C.11, and 230.7

Baltimore County Zoning Regulations, as amended

BY repealing

Sections 1B01.1.B.1.c.12, 200.2.A.3.14A, 201.2.A.3.19A, and 207.3.C.6

Baltimore County Zoning Regulations, as amended

BY adding

Section 101 — Definitions, by adding new Definitions of "Family Child Care Home" and "Group Child Care Center"
Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 424

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and held a public hearing thereon, now, therefore,

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Sections 1A01.2.B.3A, 1A02.2.A.6, 1A03.3.A.3A, 1A04.2.A.7, 1B01.1.A.12, 1B01.1.C.11, and 230.7 of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed and re-enacted, with amendments, to read as follows:

Section 1A01-R.C. 2 (Agricultural) Zones

1A01.2.B. Uses Permitted as of Right.

3A. Public schools [, and privately sponsored day care and nursery programs for children before, during, and after regular school hours as an ancillary use in a school building].

Section 1A02-R.C. 3 Zones

1A02.2.A. Uses Permitted as of Right.

6. Schools, including but not limited to private preparatory schools, colleges, conservatories or other fine art schools [, and privately sponsored day care and nursery programs for children before, during, and after regular school hours as an ancillary use in a school building].

LAWS OF BALTIMORE COUNTY

Section 1A03 — R.C. 4 Zones.

WHEREAS, 1A03.3.A. Uses Permitted as of Right.

3A. Public schools [, and privately sponsored day care and nursery programs for children before, during, and after regular school hours as an ancillary use in a school building].

Section 1A04 — R.C. 5 Zones

1A04.2.A. Uses Permitted as of Right.

7. Schools, including but not limited to private preparatory schools, colleges, conservatories or other fine arts schools [, and privately sponsored day care and nursery programs for children, before, during and after regular school hours as an ancillary use in a school building].

Section 1B01 — D.R. Zones in General

1B01.1.A. Uses Permitted as of Right.

12. Schools, except business or trade schools or such schools as are permitted by special exception (see Paragraph C, below), but including schools for agricultural training [, and privately sponsored day care and nursery programs for children before, during, and after regular school hours as an ancillary use in a school building].

1B01.1.C. Uses Permitted by Special Exception.

11. Private colleges (not including business or trade schools), [nursery or] dancing schools, dormitories, or fraternity or sorority houses.

R.L. Zone

Section 230 — Use Regulations

230.7 — Private colleges, [nursery and] dancing schools, conservatory for music and the arts, dormitories, and fraternity and sorority houses.

Section 2. And be it further enacted, that Sections 1B01.1.B.1.c.12, 200.2.A.3.14A, 201.2.A.3.19A, and 207.3.C.6 of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed.

Section 3. And be it further enacted, that new definitions of "Family Child Care Home" and "Group Child Care Center" be and they are hereby added to

LAWS OF BALTIMORE COUNTY

Section 101 — Definitions, of the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101 — Definitions.

FAMILY CHILD CARE HOME: A PRIVATE RESIDENCE WHEREIN CARE, PROTECTION AND SUPERVISION IS PROVIDED FOR A FEE FOR PART OR ALL OF A DAY AT LEAST TWICE A WEEK TO NO MORE THAN SIX (6) CHILDREN AT ONE TIME INCLUDING CHILDREN OF THE ADULT PROVIDER (SEE SECTION 424).

GROUP CHILD CARE CENTER: A BUILDING OR STRUCTURE WHEREIN CARE, PROTECTION AND SUPERVISION IS PROVIDED FOR PART OR ALL OF A DAY, ON A REGULAR SCHEDULE, AT LEAST TWICE A WEEK TO AT LEAST SEVEN (7) CHILDREN INCLUDING CHILDREN OF THE ADULT PROVIDER (SEE SECTION 424):

GROUP CHILD CARE CENTER, CLASS A: A GROUP CHILD CARE CENTER WHEREIN GROUP CHILD CARE IS PROVIDED FOR NO MORE THAN TWELVE (12) CHILDREN AT ONE TIME.

GROUP CHILD CARE CENTER, CLASS B: A GROUP CHILD CARE CENTER WHEREIN GROUP CHILD CARE IS PROVIDED FOR MORE THAN TWELVE (12) CHILDREN.

NURSERY SCHOOL: A SCHOOL OR A LEVEL WITHIN A SCHOOL PROVIDING EDUCATIONAL INSTRUCTION FOR CHILDREN BETWEEN TWO AND FOUR YEARS OLD.

Section 4. And be it further enacted, that Section 424 of the Baltimore County Zoning Regulations, as amended, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

[Section 424 — DAY CARE AND NURSERY PROGRAMS.

Privately sponsored day care and nursery programs for children, before, during and after school hours are permitted as a matter of right as an ancillary use in any school building which is permitted by these regulations, whether such school building is permitted as a matter of right or by special exception.]

SECTION 424. FAMILY CHILD CARE HOMES, GROUP CHILD CARE CENTERS, AND NURSERY SCHOOLS.

LAWS OF BALTIMORE COUNTY

FAMILY CHILD CARE HOMES, GROUP CHILD CARE CENTERS, AND NURSERY SCHOOLS ARE PERMITTED IN ALL ZONES IN ACCORDANCE WITH THIS SECTION. IF A CONFLICT ARISES BETWEEN THIS SECTION AND OTHER SPECIFIC PROVISIONS OF THESE ZONING REGULATIONS, THIS SECTION SHALL GOVERN.

424.1 GENERAL. FAMILY CHILD CARE HOMES, GROUP CHILD CARE CENTERS, AND NURSERY SCHOOLS SHALL MEET THE FOLLOWING REQUIREMENTS:

A. ANY SUCH USE SHALL BE REGISTERED, LICENSED, OR CERTIFIED AS REQUIRED BY THE APPLICABLE STATE OR LOCAL AGENCY.

B. IN ADDITION, WITH RESPECT TO GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS, OUTDOOR PLAY SPACE ABUTTING RESIDENTIAL PROPERTY SHALL BE FENCED, IF REQUIRED BY THE ZONING COMMISSIONER, AND ONE OFF-STREET PARKING SPACE PER EMPLOYEE SHALL BE PROVIDED.

C. ON OR AFTER APRIL 15, 1985, NO FAMILY CHILD CARE HOME, GROUP CHILD CARE CENTER OR NURSERY SCHOOL SHALL BE PERMITTED ADJOINING A RESIDENTIALLY USED PROPERTY OR DWELLING UNIT THAT HAS AN EXISTING FAMILY CHILD CARE HOME OR GROUP CHILD CARE CENTER OR NURSERY SCHOOL ADJOINING SUCH RESIDENTIALLY USED PROPERTY OR DWELLING UNIT.

424.2 GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS ARE PERMITTED BY RIGHT WITHIN THE FOLLOWING USES WHETHER SUCH USE IS PERMITTED BY RIGHT OR BY SPECIAL EXCEPTION, AND IN D.R. ZONES, GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS PERMITTED BY THIS SUBSECTION ARE NOT REQUIRED TO MEET THE PROVISIONS OF 1B01.1.B.1.b.3 (RESTRICTIONS IN RESIDENTIAL TRANSITION AREAS):

- A. CHURCHES;
- B. COMMUNITY BUILDINGS;
- C. HOSPITALS;
- D. SCHOOL BUILDINGS, PUBLIC OR PRIVATE;
- E. HOUSING FOR THE ELDERLY;
- F. OFFICE BUILDINGS, EXCEPT IN R-O ZONES WHERE GROUP DAY CARE CENTERS IN OFFICE BUILDINGS SHALL REQUIRE A SPECIAL EXCEPTION.

LAWS OF BALTIMORE COUNTY

424.3 FAMILY CHILD CARE HOMES ARE PERMITTED BY RIGHT AS AN ACCESSORY USE WITHIN DWELLINGS IN ALL ZONES. IN D.R. ZONES, SUCH USE IS NOT REQUIRED TO MEET THE PROVISIONS OF 1B01.1.B.1.b.3. (RESTRICTIONS IN RESIDENTIAL TRANSITION AREAS).

424.4 A. GROUP CHILD CARE CENTERS, CLASS A ARE PERMITTED AS AN ACCESSORY USE WITHIN SINGLE-FAMILY DETACHED DWELLINGS IN ALL RESIDENTIAL ZONES EXCEPT R.C. 4, IN ALL INDUSTRIAL ZONES, AND IN R.O. AND O.T. ZONES IF THE ZONING COMMISSIONER GRANTS A USE PERMIT UNDER THE FOLLOWING PROCEDURE:

1. UPON APPLICATION FOR A USE PERMIT, THE OWNER OR AGENT SHALL PROVIDE THE FOLLOWING INFORMATION:

- a. NUMBER OF EMPLOYEES;
- b. NUMBER OF CHILDREN TO BE ENROLLED;
- c. HOURS OF OPERATION;
- d. ESTIMATED AMOUNT OF TRAFFIC GENERATED;
- e. A SITE PLAN INDICATING LOCATION AND TYPE OF STRUCTURE ON THE LOT IN QUESTION, LOCATION AND DIMENSIONS OF PLAY AREA(S), PARKING ARRANGEMENT, AND PROXIMITY OF DWELLINGS ON ADJACENT LOTS;

f. A SNAPSHOT OF THE STRUCTURE.

2. ON THE PROPERTY IN QUESTION, NOTICE OF THE APPLICATION FOR THE USE PERMIT SHALL BE CONSPICUOUSLY POSTED FOR A PERIOD OF THIRTY DAYS FOLLOWING THE FILING OF THE APPLICATION.

3. WITHIN THE THIRTY DAY POSTING PERIOD, ANY OCCUPANT OR OWNER WITHIN ~~300~~ 1,000 FEET OF THE LOT IN QUESTION ~~AND ALSO WITHIN THE GAME ZONE AS THE LOT IN QUESTION~~ MAY FILE A FORMAL REQUEST FOR A PUBLIC HEARING WITH THE ZONING COMMISSIONER IN ACCORDANCE WITH SECTION 500.7.

4. IF A FORMAL REQUEST FOR A PUBLIC HEARING IS NOT FILED, THE ZONING COMMISSIONER, WITHOUT A PUBLIC HEARING, MAY GRANT A USE PERMIT FOR A CHILD CARE CENTER IF THE PROPOSED USE MEETS ALL THE REQUIREMENTS OF THIS SUBSECTION AND ANY OTHER APPLICABLE REQUIREMENTS. SUCH USE PERMIT MAY BE ISSUED WITH SUCH CONDITIONS OR RESTRICTIONS AS DETERMINED APPROPRIATE BY THE ZONING COMMIS-

LAWS OF BALTIMORE COUNTY

SIONER TO SATISFY THE PROVISIONS OF 424.4.A.6.c BELOW AND TO ENSURE THAT THE CHILD CARE CENTER WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY OR GENERAL WELFARE OF THE SURROUNDING COMMUNITY.

5. IF A FORMAL REQUEST FOR A PUBLIC HEARING IS FILED, THE ZONING COMMISSIONER SHALL SCHEDULE A DATE FOR THE PUBLIC HEARING, SUCH HEARING TO BE HELD NOT LESS THAN 15 DAYS FOLLOWING PUBLIC NOTICE OF SUCH HEARING IN TWO NEWSPAPERS OF GENERAL CIRCULATION AND NOT MORE THAN 60 DAYS FROM THE DATE OF FILING OF THE REQUESTS FOR PUBLIC HEARING.

6. FOLLOWING THE PUBLIC HEARING, THE ZONING COMMISSIONER MAY EITHER DENY OR GRANT A USE PERMIT CONDITIONED UPON:

- a. HIS FINDINGS FOLLOWING THE PUBLIC HEARING;
- b. THE CHARACTER OF THE SURROUNDING COMMUNITY AND THE ANTICIPATED IMPACT OF THE PROPOSED USE ON THAT COMMUNITY;
- c. THE MANNER IN WHICH THE REQUIREMENTS OF SUBSECTION 424.1 AND OTHER APPLICABLE REQUIREMENTS ARE MET; AND ANY ADDITIONAL REQUIREMENTS AS DEEMED NECESSARY BY THE ZONING COMMISSIONER IN ORDER TO ENSURE THAT THE CHILD CARE CENTER WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY OR GENERAL WELFARE OF THE SURROUNDING COMMUNITY AND AS ARE DEEMED NECESSARY TO SATISFY THE OBJECTIVES OF SECTION 502.1 OF THESE REGULATIONS.
- d. SECTION 1B01.1.B NOT WITHSTANDING, THE ZONING COMMISSIONER MAY MODIFY 1B01.1.B.1.b.3 AS IT PERTAINS TO SUCH USE IN D.R. ZONES.

B. GROUP CHILD CARE CENTERS, CLASS A ARE PERMITTED AS AN ACCESSORY USE WITHIN SINGLE-FAMILY DETACHED DWELLINGS IN 0-1 AND 0-2 ZONES AND IN ALL BUSINESS ZONES, BY RIGHT.

424.5 A. ALL OTHER PRINCIPAL USE GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS IN RESIDENTIAL ZONES ARE PERMITTED IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

LAWS OF BALTIMORE COUNTY

GROUP CHILD CARE CENTERS

CLASS A CLASS B NURSERY SCHOOLS

RC2	SE	SE	SE
3	SE	SE	SE
4	N	N	N
5	SE	SE	SE
D.R. (ALL)	SE	SE	SE
R.A.E.1,2	C	C	C

Permitted only within apartment buildings of 50 or more units and subject to supplemental regulations of paragraph 200.2.B. and 201.2.B.

B. GROUP CHILD CARE CENTERS IN BUSINESS AND MANUFACTURING ZONES ARE PERMITTED AS A NON-COMMERCIAL ACCESSORY OR PRINCIPAL USE IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

CLASS A CLASS B NURSERY SCHOOLS

R-O	SE	SE	SE
0-1, 0-2	R	R	R
O.T.	C	C	C

Only permitted within buildings of principal uses permitted in 207.3A

BUSINESS ZONES	R	R	R
M.R., M.H., ML & M.L.R. ZONES	R	R	R

R=PERMITTED AS OF RIGHT; SE=PERMITTED BY SPECIAL EXCEPTION; N=NOT PERMITTED; C=PERMITTED SUBJECT TO ADDITIONAL CONDITIONS

LAWS OF BALTIMORE COUNTY

424.6 SIGN AND DISPLAY REGULATIONS

A. RESIDENTIAL AND R-O ZONES. FAMILY CHILD CARE HOMES, GROUP CHILD CARE CENTERS, AND NURSERY SCHOOLS ARE PERMITTED THE FOLLOWING SIGNS WHEN LOCATED IN ANY RESIDENTIAL OR R-O ZONE:

1. ACCESSORY FAMILY CHILD CARE HOMES AND ACCESSORY GROUP CHILD CARE CENTERS CLASS A IN SINGLE-FAMILY DETACHED STRUCTURES: ONE SIGN NOT EXCEEDING ONE SQUARE FOOT IN SURFACE AREA;

2. GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS PERMITTED BY SUBSECTION 424.2 AND BY SPECIAL EXCEPTION, AND THOSE PERMITTED IN R.A.E. ZONES: ONE SIGN, NOT EXCEEDING 8 SQUARE FEET IN SURFACE AREA.

B. ALL OTHER OFFICE, BUSINESS, AND INDUSTRIAL ZONES: FAMILY CHILD CARE HOMES, GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS SHALL BE PERMITTED TO HAVE ACCESSORY SIGNS IN ACCORDANCE WITH THE SIGN REGULATIONS OF THE APPLICABLE ZONES. GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS OPERATING AS PRINCIPAL USES SHALL NOT BE CONSTRUED AS AN OFFICE USE OR BUILDING.

SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-five days after its enactment.

APPROVED AND ENACTED: 4/19/85

BILL NO. 48-85

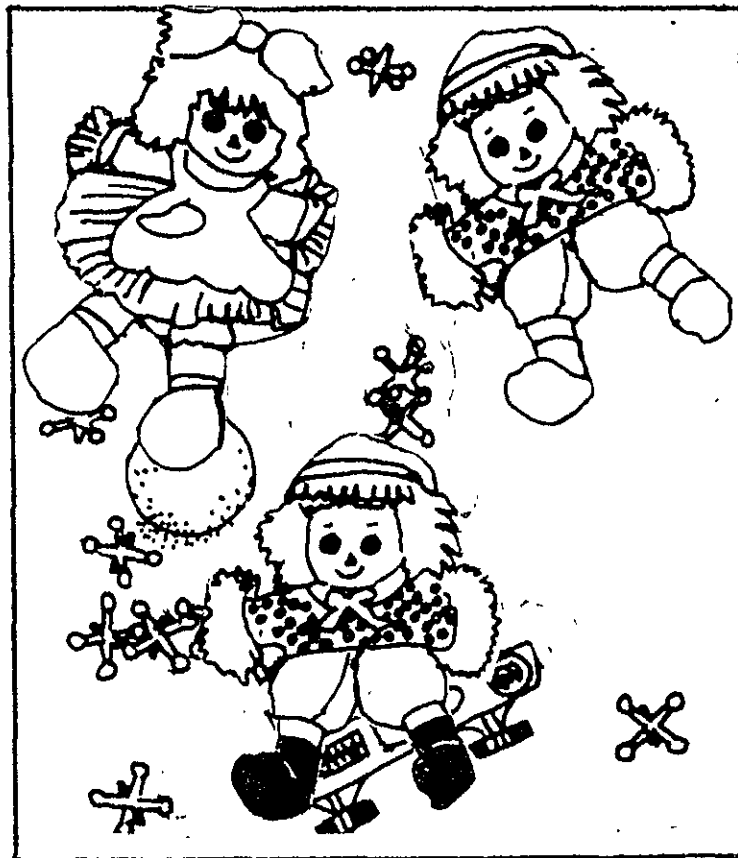
AN ORDINANCE concerning

The 1984-85 Current Expense Budget
Summer Recreation Program

FOR the purpose of amending the 1984-85 Current Expense Budget for the fiscal year ending June 30, 1985, by appropriating monies to the Gifts and Grants Special Revenue Fund which have been received from the Maryland State Arts Council through a State grant and appropriating County funds to the Summer Recreation Program.

Proposed Amendments to
the Baltimore County
Zoning Regulations

REGARDING



CHILD CARE

A Final Report of
The Baltimore County
Planning Board

November 16, 1989

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
REGARDING DENSITY BONUSES FOR CHILD CARE CENTERS

A Final Report of the Baltimore County Planning Board
November 16, 1989

PROJECT DESCRIPTION

County Council Resolution #48-88 (See Attachment #1) requests the Baltimore County Planning Board to consider proposing amendments to the Zoning Regulations "in order to facilitate the placement of day care centers in Baltimore County by providing a density allocation to developers."

BACKGROUND

Density bonus incentives have been considered for elderly housing and historic preservation. For the elderly, increased density is considered necessary to meet the unique needs of the expanding elderly population and appropriate because elderly households have less impact on County facilities than the general population. The Planning Board recommended that a density bonus be permitted for elderly housing facilities at hospital, institutional and historic sites through a special exception process if certain conditions are met. The Planning Board also recommended that density be calculated by "density unit" rather than "dwelling unit" for elderly housing facilities which provides a density increment for projects containing efficiency and one bedroom units. The County Council implemented the Planning Board recommendations through Bill No. 36-88.

The Planning Board also considered density bonuses to encourage historic preservation in response to Resolution #38-87. Except for elderly housing facilities, the application of density bonuses to historic properties as an incentive for historic preservation was determined to be infeasible. The Resource Conservation zones, lacking public water and sewer, cannot support high densities. In the other zones, maximum office and business zone floor area ratios and residential densities are rarely developed.

The Planning Board recommended that new definitions and regulations be adopted for child care centers in 1984. The recommendations were adopted by the County Council. The text amendments eliminated most of the zoning problems associated with small child care operations in homes and made it easier for larger child care facilities to open in schools, churches and hospitals.

The child care issue was last addressed by the Planning Board in November, 1987, in response to County Council Resolution #35-87. The Planning Board recommended that child care centers be exempt from RTA restrictions, subject to Zoning Commissioner approval. The Planning Board also recommended the exemption of space used for child care centers in office buildings from the calculation of the adjusted

gross floor area of the building where the office building has a minimum gross floor area of 100,000 square feet and the child care center a maximum area of 4,000 square feet. The County Council held a hearing on these amendments, but has not introduced legislation.

DISCUSSION

It is still difficult to establish freestanding commercial child care centers in Baltimore County although developers and potential operators find that there is a demand for such facilities. Plans for child care centers are not routinely included in large residential subdivisions or at adjacent commercial developments. This is not the case in neighboring jurisdictions, such as Harford, Carroll and Howard Counties where a number of new child care centers have been built.

Zoning regulations are related to the gap in child care facilities in several ways:

1. As stated in the 1987 Final Report of the Planning Board, the residential transition area (RTA) buffer applies to child care centers, although it does not apply to schools or community facilities. This buffer often makes it infeasible to develop sites which would otherwise be suitable for child care. While the full RTA buffer may not be available, an adequate buffer to protect neighboring homes can be provided in many cases.
2. The County does not have a neighborhood-type commercial zone which permits only a limited range of uses. Land costs in commercial zones are high and child care must compete with uses which are more profitable.
3. Child care centers require special exception approval to operate in residential zones. Uncertainty of approval and an inability to carry additional costs over an extended period of time because of limited profits discourages providers from scheduling a special exception hearing.

The high cost of land throughout the County in general also discourages the development of child care centers. A density bonus, if child care centers are provided, could offset the cost of land. However, as discussed in the Final Report regarding historic preservation, a density bonus is not feasible in most parts of the County. The issue of density bonuses has been raised in the proposed 1989 Master Plan. The Master Plan also stresses the need to make major revisions in the Density-Residential (D.R.) Zones, business zones and planned unit development (PUD) provisions.

RELATION TO COUNTY EXECUTIVE INITIATIVES

Expanding the supply of accessible, affordable, quality, child care is an initiative of this Administration. As stated in Closest to the People (Children and Youth Executive Initiatives), "Priority attention will be given to child care needs".

The lack of child care is a factor which encourages homebuyers to move to neighboring jurisdictions where such facilities are being developed. This movement can lead to changes in the location of the County's labor force with negative ramifications for the economic development and tax base of the County.

The County Executive has established an inter-agency steering committee to deal with problems involving the establishment of child care facilities. The Chamber of Commerce has also established a Committee to facilitate child care. The Office for Children in the Department of Community Development has the primary responsibility for implementing Child Care initiatives.

ANALYSIS

To achieve quality child care in Baltimore County the Zoning Regulations must permit child care facilities to be located in quality environments. Clearly, a residential zone provides a more ideal environment for children than a business or manufacturing zone, with the additional benefit of being near the family residence. Proximity to the residence provides convenience for the parents. However, because this activity center is not a residential use, additional standards are necessary to ensure that it does not adversely affect the surrounding residential properties.

Zoning requirements in local Maryland jurisdictions typically require day care centers to have a minimum lot area of 20,000 square feet plus 500 square feet per child, a minimum lot width of 100-200 feet and setbacks of 25 feet. Minimum interior and exterior area requirements have been established by the State in COMAR 10.05.01 and the Annotated Code of Maryland in SS14-101-14-114, governing group day care centers. The required minimum of useable interior floor space is 35 square feet per child. Procedural Guidance for the Inspection of COMAR 10.05.01 Regulation .16, Playgrounds, establishes an exterior play area of 75 square feet per child for 50% of the licensed capacity or 75 square feet per child for the total number of children to use the play area at one time, but not less than 50% of the licensed capacity.

The Planning Board's recommended amendments are based on State requirements, traffic circulation and the protection of adjacent residential property owners from excessive sounds or visual intrusions. Specific statements of justification are presented below.

MAXIMUM NUMBER OF CHILDREN

The base standard of 40 children to be permitted in group day care centers in D.R., (Density Residential), Zones was chosen because it is the highest number of children permitted in an intermediate size center under the State's licensing requirements. A center for forty children provides the most financially feasible operating size for day care providers serving less than 100 children.

Moreover, a capacity restriction reduces the transportation impacts resulting from the center. When the number of child pick-up and drop-off, employee and delivery trips are counted, a center for forty (40) children could generate approximately one hundred (100) vehicle trips per day. This level of traffic approximates the amount of traffic which would be generated by ten (10) single family dwellings, or one cul-de-sac. The use should be compatible with surrounding residential uses, from a transportation perspective, provided that access points afford good sight distance and safe ingress and egress according to the County Bureau of Traffic Engineering.

AREA STANDARDS

The State's combined minimum area requirements for interior and exterior space per child totals 110 square feet. This standard is based on "useable area". Each requirement was increased to adjust for gross area. 35 square feet of interior useable area was assumed to be 50 square feet of gross area, while the 75 square feet exterior requirement was adjusted to 100 square feet. The combined minimum gross area per child, for the determination of the minimum lot size standard, was 150 square feet. The maximum capacity of the center was used for determining the minimum lot area. There is potential for reduction of the exterior play area to accommodate shift play periods but this is a matter for the State Office of Child Care Licensing and the Zoning Commissioner to consider upon a request for a modification or variance.

PARKING, DELIVERY AND TRAFFIC CIRCULATION

Parking, delivery and traffic circulation area requirements were based on Section 409.3 and Section 409.4C of the Zoning Regulations pertaining to parking space and aisle dimensions and Section 409.6.4, governing the required number of parking spaces to be provided at group child care centers.

The Zoning Regulations require that there be at least one (1) parking space per employee on the largest shift but in no case less than two (2) spaces. Based on the State's maximum staff to child ratio of 1 staff member per 6 children (where all children are two (2) years old), a center for forty (40) children would require seven (7) parking spaces to accommodate employee parking. One space for delivery vehicles should also be provided at a strict minimum.

These requirements assume that a sufficient number of staff parking spaces will be available for use by clients. All children should be met at the car and escorted into the center to minimize the parking period per client, in order for this shared parking to be effective. If only the minimum amount of parking is provided, a loop driveway should be seriously considered.

Parking areas should be located in the side or rear yards to be consistent with the residential character and design of the neighborhood. However, the front yard may be used for parking or circulation when the Zoning Commissioner, upon the recommendation of the Director of Planning, or any reviewing agency, determines that safety or neighborhood compatibility will be improved.

BUFFER AND SETBACK REQUIREMENTS

The buffer and setback requirements were based on the RTA (Residential Transition Area) requirements specified in Article 1B regulating the DR (Density Residential) Zones; particularly, Section 1B01.1.B.3(b), which establishes buffer areas of 50 or 75 feet, depending on the orientation of the building and its relationship to adjoining properties. Also, Table 504 under Section V.B.2 of the CMDP (Comprehensive Manual of Development Policies), Setback Standards for Principal Buildings Permitted in any D.R. zone for Nonresidential Uses, was considered along with the requirements of other jurisdictions.

No minimum lot width is proposed. Instead, minimum buffer and maximum impervious surface area standards are recommended. A front yard setback has been suggested to be a minimum of twenty-five (25) feet. Also, a vegetative buffer twenty (20) feet wide along the perimeter of the side and rear yards, would be required. A solid fence five feet in height would be required along the perimeter of the play area. This security fence would also provide a sound barrier and visual screen to adjoining property owners. To enhance the noise reduction capabilities of the fence it may not be closer than twenty feet (20') from the property line. The required vegetative buffer will minimize the intrusive effects of the fence on surrounding properties. In addition, a maximum impervious surface area (including buildings and parking areas) of twenty-five percent (25%) is proposed. These requirements are intended to provide design flexibility while ensuring that the center will be in harmony with the surrounding residential uses when the RTA (Residential Transition Area) requirements cannot be met, or when a center providing for more than forty (40) children is proposed. Within an RTA, the bulk standards are to be applied as part of the special exceptions

provided in Section 502 of the Baltimore County Zoning Regulations. In DR (Density Residential) Zones not within an RTA, centers for up to forty (40) children will be permitted by right, subject to compliance with the bulk standards in Section 424.7.

RECOMMENDATIONS

The provision of facilities for the supervision, care and education of the children is a matter of great concern to the County and to the general public. The Staff recommends amendments to Section 424, "Family Child Care Homes, Group Child Care Centers and Nursery Schools" only. Under the general provision of Section 424, where any conflicts arise between this section and any other Section of the Zoning Regulations, this section shall govern. Additional amendments providing for density bonuses and implementing other Master Plan recommendations should be considered following the adoption of the Master Plan by the County Council.

These amendments will promote the expansion of the supply of Child Care Centers in the County.

The Baltimore County Planning Board recommends that the Baltimore County Zoning Regulations, 1955, as amended, be further amended as set forth below. Wherever utilized, dashes indicate text to be deleted, and underlining indicates text to be added.

1. Add new paragraphs to 1B01.1.A (uses permitted as of right in D.R. zones) as follows:

10B. Class A group child care centers and Class B group child care centers providing for up to 40 children, subject to the requirements of Section 424, Family Child Care Homes, Group Child Care Centers and Nursery Schools.

2. Add a new Subparagraph 10 A to Section 1B01.B.1.C (exceptions to residential transition areas) as follows:

10.A Class A and Class B group child care centers, provided that the Zoning Commissioner determines, during the special exception process that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

3. Add a new Subparagraph 6B to Section 1B01.1.C (uses permitted by Special Exception in DR Zones) as follows:

6B. Class B group child care centers for more than 40 children subject to the standards set forth in Section 424, Family Child Care Homes, Group Child Care Centers and Nursery Schools.

4. Amend Section 424.5.A (Schedule of permitted uses for group child care centers) as shown on Chart 1.

5. Add a new Section 424.7 entitled (Bulk Standards for group centers in DR Zones

a. Minimum Lot Size: 1 acre for the first 40 children plus 500 square feet per child for every child beyond 40 children

b. Minimum setback requirements:

front: 25 feet from street line or the average setback of the adjacent residential dwellings, whichever is less.

side: 50 feet from property line, with 20' perimeter vegetative buffer

rear: 50 feet from property line, with 20' perimeter vegetative buffer

c. Parking, drop off and delivery areas shall be located in the side or rear yards unless the Zoning Commissioner, upon the recommendation of the Director of Planning, determines that safety or neighborhood compatibility will be improved by using the front yard for parking, drop off or delivery purposes. In all cases these areas shall be located outside of the required buffer area.

d. Maximum height: 35 feet

e. Maximum impervious surface area: 25% of gross area

6. Amend Section 424.1.B (general child care center requirements) as follows:

In addition, with respect to group child care centers and nursery schools, outdoor play space, abutting residential property, shall be fenced ~~if required by the Zoning Commissioner~~. Fences shall be solid wood stockade or panel, a minimum height of 5 feet, and no closer to the property line than twenty (20') feet.

424.5 A. All other principal use group child care centers and nursery schools in residential zones are permitted in accordance with the following schedule:

GROUP CHILD CARE CENTERS

	<u>CLASS A</u>	<u>CLASS B</u>	<u>NURSERY SCHOOLS</u>
RC 2	SE	SE	SE
3	SE	SE	SE
4	N	N	N
5	SE	SE	SE
D.R. (ALL)	SE	SE	SE
<u>More than 40</u> <u>children or</u> <u>RTA exemption</u>			
D.R. (ALL)	<u>C</u>	<u>C</u>	<u>C</u>
<u>40 or fewer</u> <u>children</u> <u>subject to</u> <u>RTA if appli-</u> <u>cable, other-</u> <u>wise, Section</u> <u>424.7</u>			
R.A.E.1,2 <u>Permitted only</u> <u>within apartment</u> <u>buildings of 50</u> <u>or more units and</u> <u>subject to supple-</u> <u>mental regula-</u> <u>tions of para-</u> <u>graphs 200.2.B</u> <u>and 201.2.B.</u> <u>{Bill No. 47,</u> <u>1985.</u>	C	C	C Permitted only-within apartment buildings of-50-or-more units-and-sub- plemental-re- gulations-of paragraphs 200.2-B-and 201.2-B- {Bill-No- 47,-1985-}

B. Group child care centers in business and manufacturing zones are permitted as a noncommercial accessory or principal use in accordance with the following schedule:

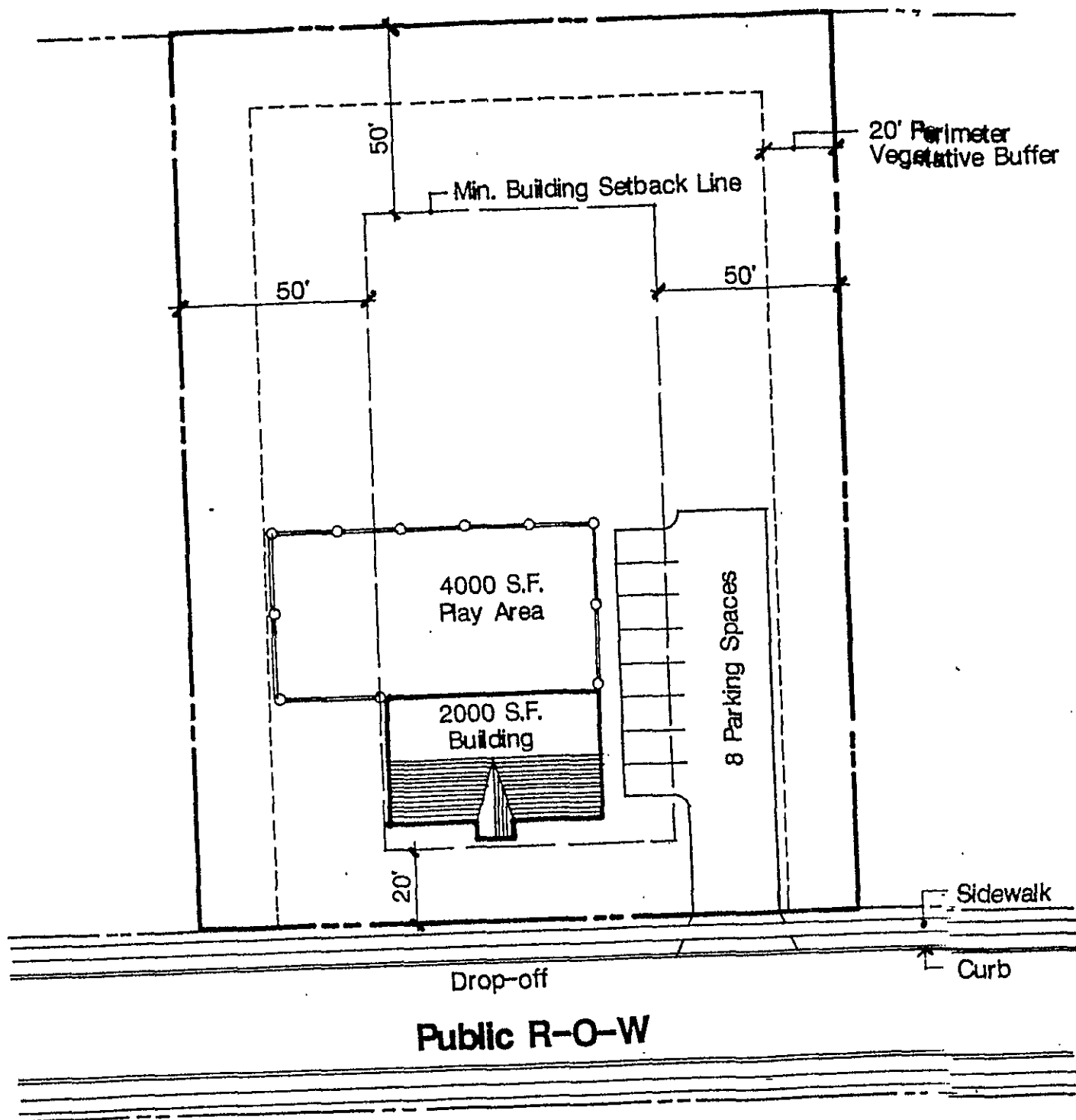
	<u>CLASS A</u>	<u>CLASS B</u>	<u>NURSERY SCHOOLS</u>	
R-O	SE	SE	SE	
<u>More than 40 children</u>				
R-O	<u>C</u>	<u>C</u>	<u>C</u>	
<u>40 or fewer children, subject to Section 424.7</u>				
O-1, O-2	R	R	R	
O.T. <u>Only permitted within buildings of principal uses permitted in 207.3A</u>	C	C	C	<u>Only-per- mitted- within buildings of-prin- cipal-uses permitted in-207.3A</u>
Business Zones	R	R	R	
M.R., M.H. M.L. & M.L.R. Zones	R	R	R	

R = Permitted as of Right

SE= Permitted by Special Exception

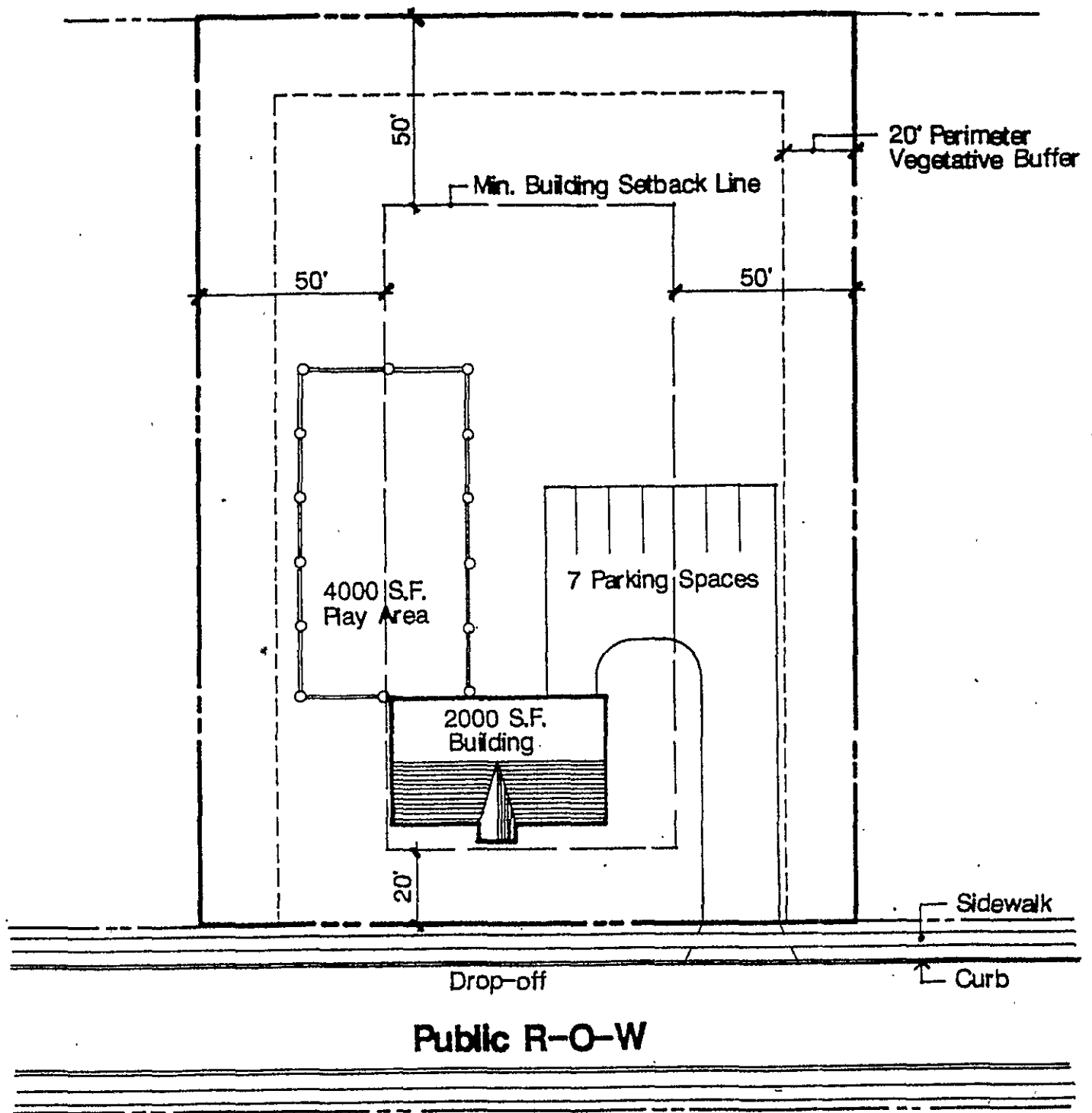
N = Not Permitted

C = Permitted subject to additional conditions
{Bill No. 47, 1985.}



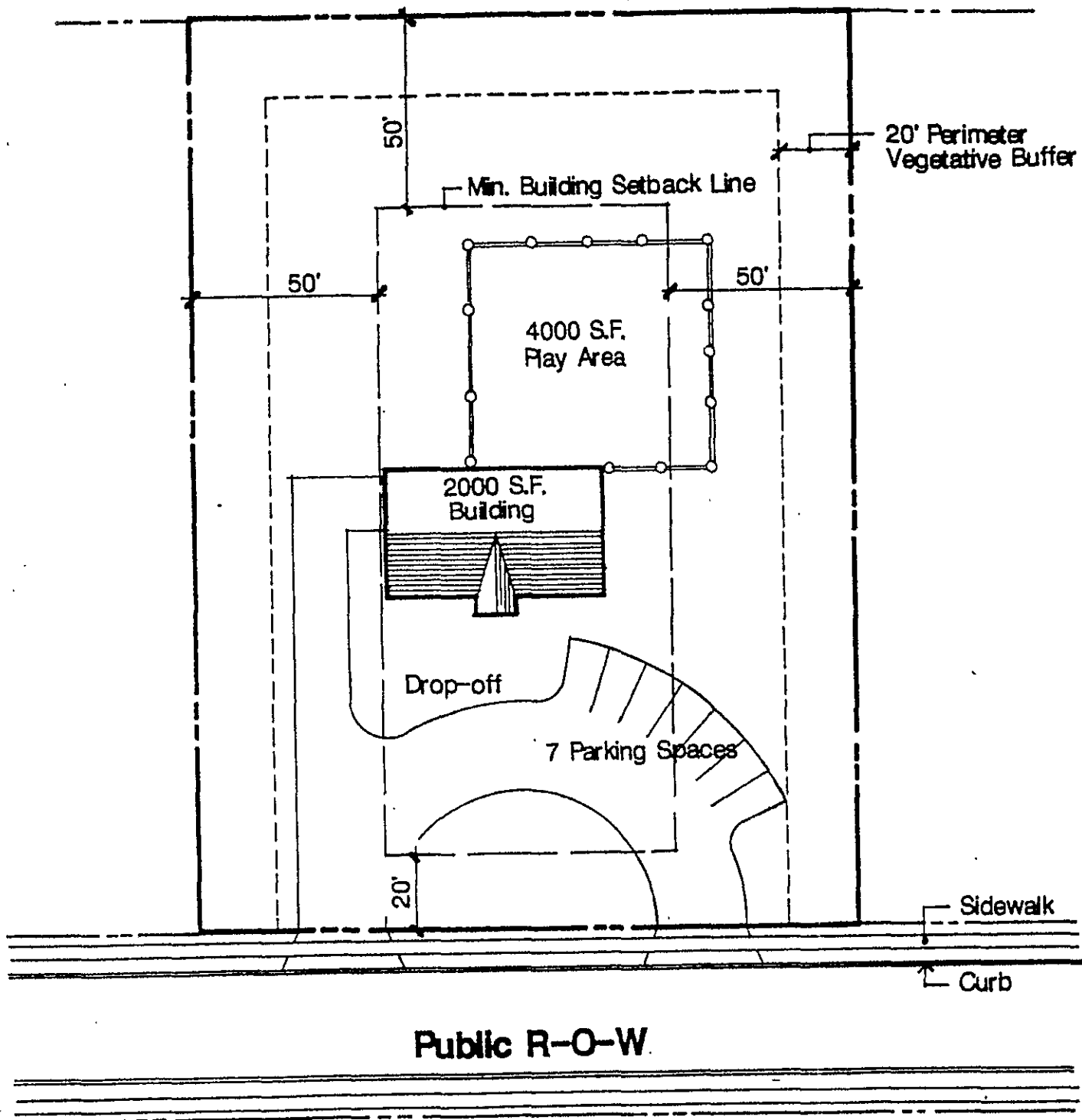
EXAMPLE SITE PLAN # 1

One Acre Lot (min.)/40 Children
Scale: 1"=40'



EXAMPLE SITE PLAN # 2

One Acre Lot (min.)/40 Children
Scale: 1"=40'



EXAMPLE SITE PLAN # 3

One Acre Lot (min.)/40 Children
Scale: 1"=40'

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 24

RESOLUTION NO. 48-88

COUNCILMEMBERS VOLZ & BACHUR

BY THE COUNTY COUNCIL, DECEMBER 19, 1988

A Resolution to request the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to facilitate the placement of day care centers in Baltimore County.

WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, the Baltimore County Zoning Regulations currently authorize day care centers to be located in various zones of the County; and

WHEREAS, the Baltimore County Council recognizes that there are not a sufficient number of day care centers in Baltimore County and that such centers are essential to the economy of Baltimore County; and

WHEREAS, the Baltimore County Council believes that it is possible to encourage the location of additional day care centers in the county by providing an incentive to a developer in the form of a density bonus or other type of density allocation which will encourage a developer to include a day care center in a development project; and

WHEREAS, the Baltimore County Council believes that such density bonus or allocation should be offered to a developer who provides for a day care center in the initial development plan in a manner similar to that approved by the Council for elderly housing facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to facilitate the placement of day care centers in Baltimore County by providing a density bonus or density allocation incentive to developers.

People's Counsel #11

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1990, LEGISLATIVE DAY NO. 19
BILL NO. 200-90

MR. WILLIAM R. EVANS, COUNCILMAN

BY THE COUNTY COUNCIL, October 15, 1990

A BILL ENTITLED

AN ACT concerning

Child Care Centers

FOR the purpose of amending the Baltimore County Zoning Regulations in order to permit Child Care Centers in D.R. Zones as a matter of right or by Special Exception depending upon the number of children provided for at the center and subject to certain standards and requirements; providing exceptions to residential transition area requirements in certain cases; and generally relating to the regulation of child care centers in Baltimore County.

BY repealing

Section 424.5A. and B.

Baltimore County Zoning Regulations, as amended

BY adding

Sections 1B01.1.A.10B, 1B01.1.B.1.c.10.A, 1B01.1.C.6.B.,

424.5.A. and B. and 424.7

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 424.1.B.

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final report, dated November 16, 1989, from the Planning Board and has held a public hearing thereon on January 30, 1990, now, therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
 2. COUNTY, MARYLAND, that Section 424.5A. and B. of the Baltimore County
 3. Zoning Regulations, as amended, be and it is hereby repealed.
-

1. SECTION 2. AND BE IT FURTHER ENACTED, that Sections
2. 1B01.1.A.10B, 1B01.1.B.1.c.10.A, 1B01.1.C.6.B., 424.5.A. and B., and
3. 424.7 be and they are hereby added to the Baltimore County Zoning
4. Regulations, as amended, to read as follows:

5. 1B01.1. - General Use Regulations in D.R. Zones.

6. A. Uses Permitted as of Right.

7. 10.B. CLASS A GROUP CHILD CARE CENTERS AND CLASS B
8. GROUP CHILD CARE CENTERS PROVIDING FOR UP TO 40 CHILDREN, IF NOT
9. LOCATED IN A RESIDENTIAL TRANSITION AREA, SUBJECT TO THE REQUIREMENTS
10. OF SECTION 424, AND FAMILY CHILD CARE HOMES, GROUP CHILD CARE CENTERS
11. AND NURSERY SCHOOLS.

12. 1B01.1.

13. B.1. Residential Transition Areas and Uses Permitted
14. Therein.

15. c. Exceptions to residential transition.

16. 10.A. CLASS A AND CLASS B GROUP CHILD CARE CENTERS,
17. PROVIDED THAT THE ZONING COMMISSIONER DETERMINES, DURING THE SPECIAL
18. EXCEPTION PROCESS THAT THE PROPOSED IMPROVEMENTS ARE PLANNED IN SUCH A
19. WAY THAT COMPLIANCE WITH THE BULK STANDARDS OF SECTION 424.7 WILL BE
20. MAINTAINED AND THAT THE SPECIAL EXCEPTION CAN OTHERWISE BE EXPECTED TO
21. BE COMPATIBLE WITH THE CHARACTER AND GENERAL WELFARE OF THE SURROUNDING
22. RESIDENTIAL PREMISES.

23. 1B01.1.

24. C. USES PERMITTED BY SPECIAL EXCEPTION.

25. 6B. CLASS B GROUP CHILD CARE CENTERS FOR MORE THAN 40
26. CHILDREN SUBJECT TO THE STANDARDS SET FORTH IN SECTION 424, AND FAMILY
27. CHILD CARE HOMES, GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS, AND

1. CLASS A AND CLASS B GROUP CHILD CARE CENTERS PROVIDING FOR UP TO 40
2. CHILDREN, IF LOCATED IN A RESIDENTIAL TRANSITION AREA.

3. Section 424 - Family Child Care Homes, Group Child Care Centers,
4. and Nursery Schools

5. 424.5.A. ALL OTHER PRINCIPAL USE GROUP CHILD CARE CENTERS AND
6. NURSERY SCHOOLS IN RESIDENTIAL ZONES ARE PERMITTED IN ACCORDANCE WITH
7. THE FOLLOWING SCHEDULE:

8. GROUP CHILD CARE CENTERS

9.		CLASS A	CLASS B	NURSERY SCHOOLS
10.	RC 2	SE	SE	SE
11.	RC 3	SE	SE	SE
12.	RC 4	N	N	N
13.	RC 5	SE	SE	SE
14.	D.R.(ALL ZONES):			
15.		<u>N/A</u>		
17.	MORE THAN 40 CHILDREN	SE	SE	SE
17.	40 OR FEWER CHILDREN	C	C	C
18.	40 OR FEWER CHILDREN AND	SE	SE	SE
19.	RTA IS APPLICABLE			
20.	R.A.E. 1, 2	C	C	C
21.	PERMITTED ONLY WITHIN			
22.	APARTMENT BUILDINGS OF			
23.	50 OR MORE UNITS AND			
24.	SUBJECT TO SUPPLEMENTAL			
25.	REGULATIONS OF PARAGRAPHS			
26.	200.2.B. and 201.2.B.			

27. B. GROUP CHILD CARE CENTERS IN BUSINESS AND MANUFACTURING
28. ZONES ARE PERMITTED AS A NONCOMMERCIAL ACCESSORY OR PRINCIPAL USE IN
29. ACCORDANCE WITH THE FOLLOWING SCHEDULE:

30.		CLASS A	CLASS B	NURSERY SCHOOLS
31.	R-0:			
32.		<u>N/A</u>		
33.	MORE THAN 40 CHILDREN	SE	SE	SE
34.	40 OR FEWER CHILDREN	C	C	C
35.	O-1, O-2	R	R	R
36.	O.T.	C	C	C
37.	ONLY PERMITTED WITHIN			
38.	BUILDINGS OF PRINCIPAL			
39.	USES PERMITTED IN 207.3.A.			
40.	BUSINESS ZONES	R	R	R
41.	M.R., M.H., M.L. &			
42.	M.L.R. ZONES	R	R	R

43. R = PERMITTED AS OF RIGHT
44. SE = PERMITTED BY SPECIAL EXCEPTION
45. N = NOT PERMITTED
46. C = PERMITTED SUBJECT TO ADDITIONAL CONDITIONS

2. The following standards apply to group child care centers
3. located in D.R. Zones:

4. A. MINIMUM LOT SIZE: 1 ACRE FOR THE FIRST 40 CHILDREN
5. PLUS 500 SQUARE FEET PER CHILD FOR
6. EVERY CHILD BEYOND 40 CHILDREN

7. B. MINIMUM SETBACK
8. REQUIREMENTS:

9. FRONT: 25 FEET FROM STREET LINE OR THE
10. AVERAGE SETBACK OF THE ADJACENT
11. RESIDENTIAL DWELLINGS, WHICHEVER
12. IS LESS

13. SIDE: 50 FEET FROM PROPERTY LINE, WITH
14. 20' PERIMETER VEGETATIVE BUFFER

15. REAR: 50 FEET FROM PROPERTY LINE, WITH
16. 20' PERIMETER VEGETATIVE BUFFER

17. C. PARKING, DROP OFF AND DELIVERY AREAS SHALL BE LOCATED
18. IN THE SIDE OR REAR YARDS UNLESS THE ZONING COMMISSIONER, UPON THE
19. RECOMMENDATION OF THE DIRECTOR OF PLANNING, DETERMINES THAT SAFETY
20. ~~OR-NEIGHBORHOOD-COMPATIBILITY-WILL-BE-IMPROVED~~ THERE WILL BE NO
21. ADVERSE IMPACT BY USING THE FRONT YARD FOR PARKING, DROP OFF OR
22. DELIVERY PURPOSES. IN ALL CASES THESE AREAS SHALL BE LOCATED OUTSIDE
23. OF THE REQUIRED BUFFER AREA.

24. D. MAXIMUM HEIGHT: 35 FEET

25. E. MAXIMUM IMPERVIOUS
26. SURFACE AREA: 25% OF GROSS AREA

27. SECTION 3. AND BE IT FURTHER ENACTED, that Section 424.1.B. of
28. the Baltimore County Zoning Regulations, as amended, be and it is
29. hereby repealed and re-enacted, with amendments, to read as follows:

30. 424.1 - General. Family child care homes, group child care
31. centers, and nursery schools shall meet the following requirements:

32. B. In addition, with respect to group child care centers
33. and nursery schools, outdoor play space abutting residential property
34. shall be fenced {, if required by the Zoning Commissioner}. FENCES
35. SHALL BE SOLID WOOD STOCKADE OR PANEL, A MINIMUM HEIGHT OF 5 FEET, AND
36. NO CLOSER TO THE PROPERTY LINE THAN TWENTY (20) FEET.

37. SECTION 4. AND BE IT FURTHER ENACTED, that this Act shall take
38. effect forty-five days after its enactment.

DATE: 7/13/95

CASE: 95-350

[illegible]

1. 1300 OLD EASTERN AVENUE

People's
Cemetary

2 THRU 12 NORTH SIDE OF

OLD EASTERN AVENUE

13. LAUERSTEINS - 1308 OLD EASTERN

14. CHURCH - 1302 OLD EASTERN

15. HOCKS - 1311 OLD EASTERN

1304 + 1306 NOT SHOWN - BRICK HOMES (GORN)

18 THRU 20 SOUTH SIDE OF

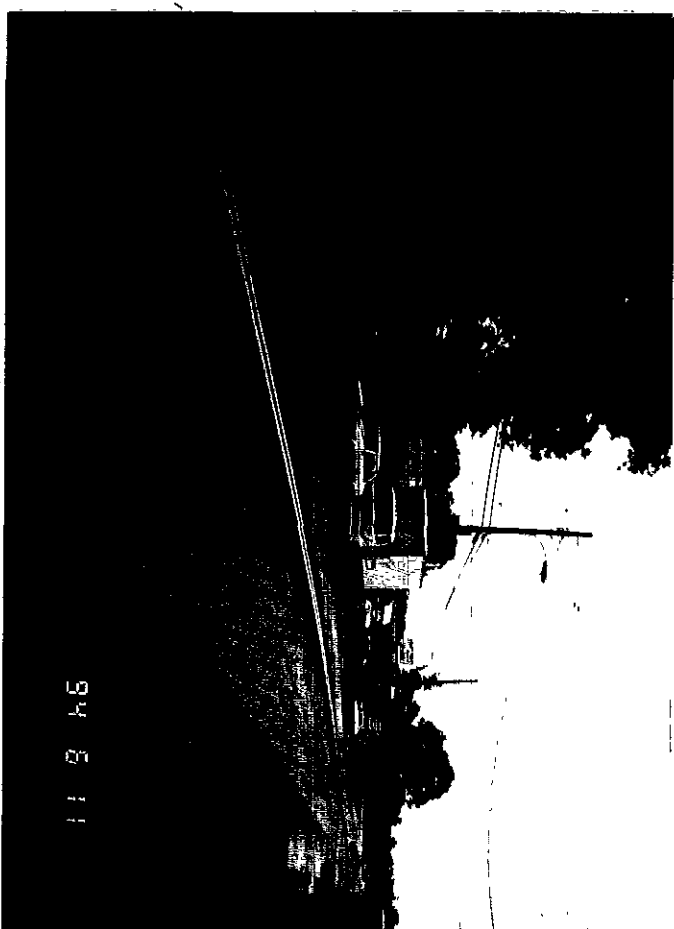
OLD EASTERN AVENUE



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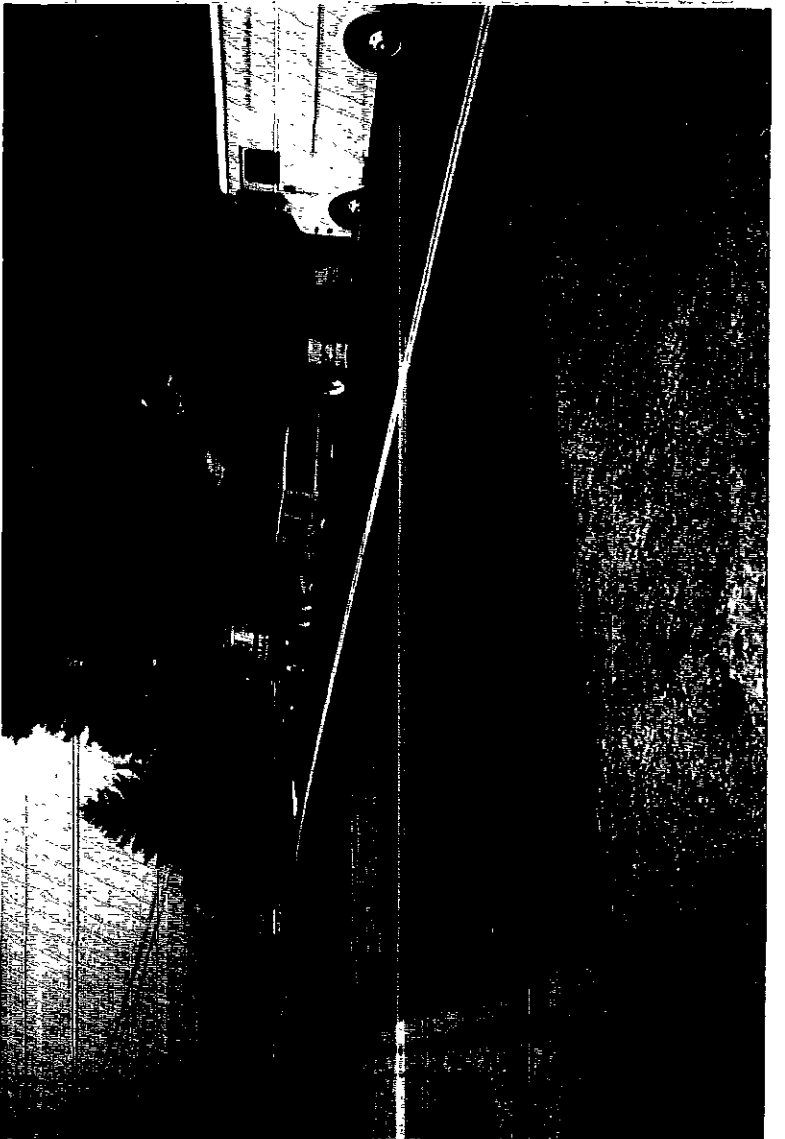
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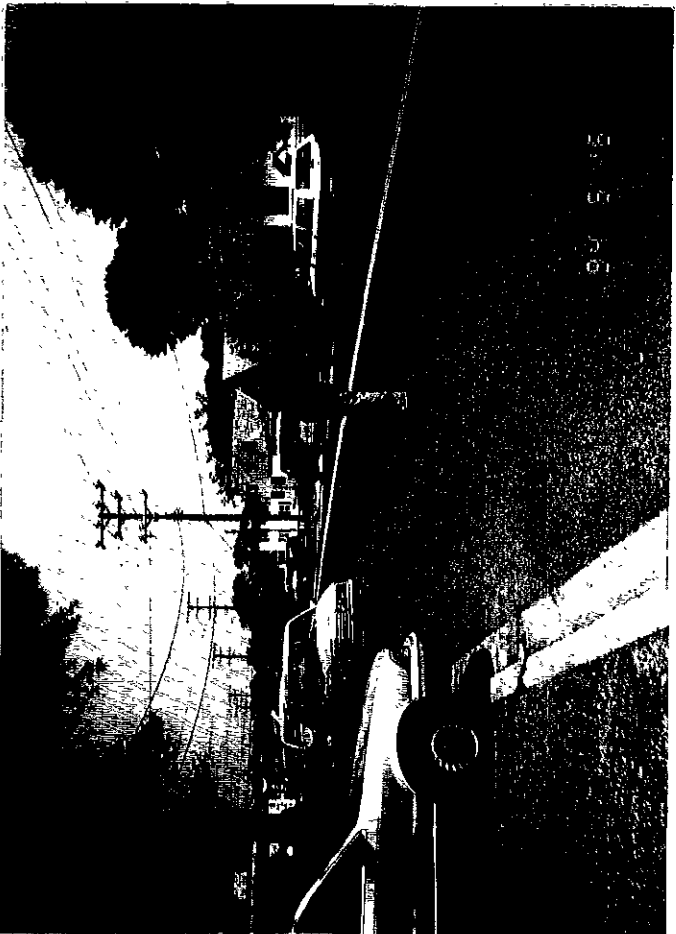
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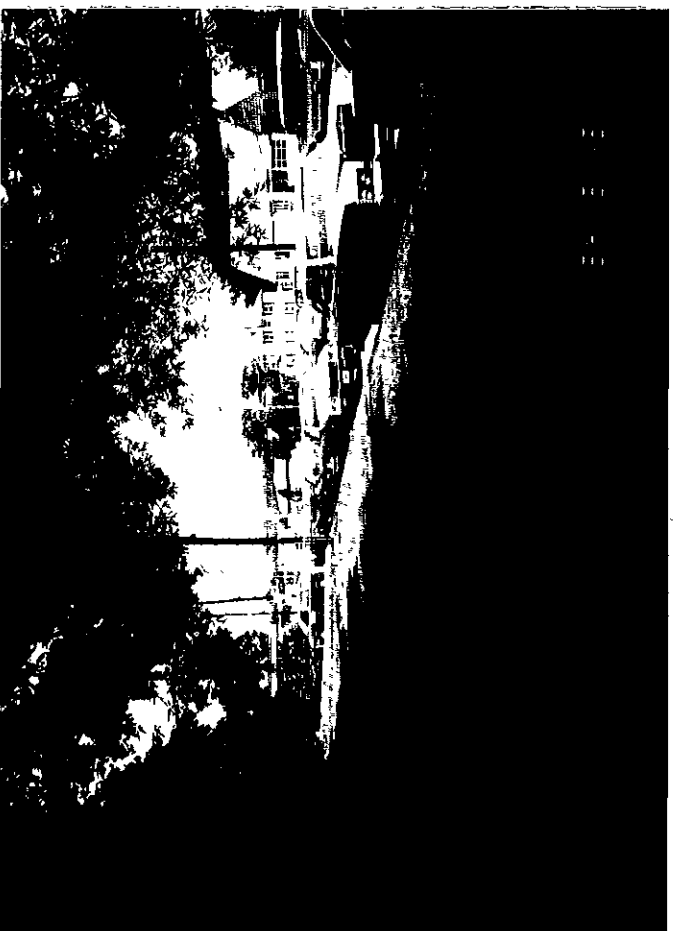
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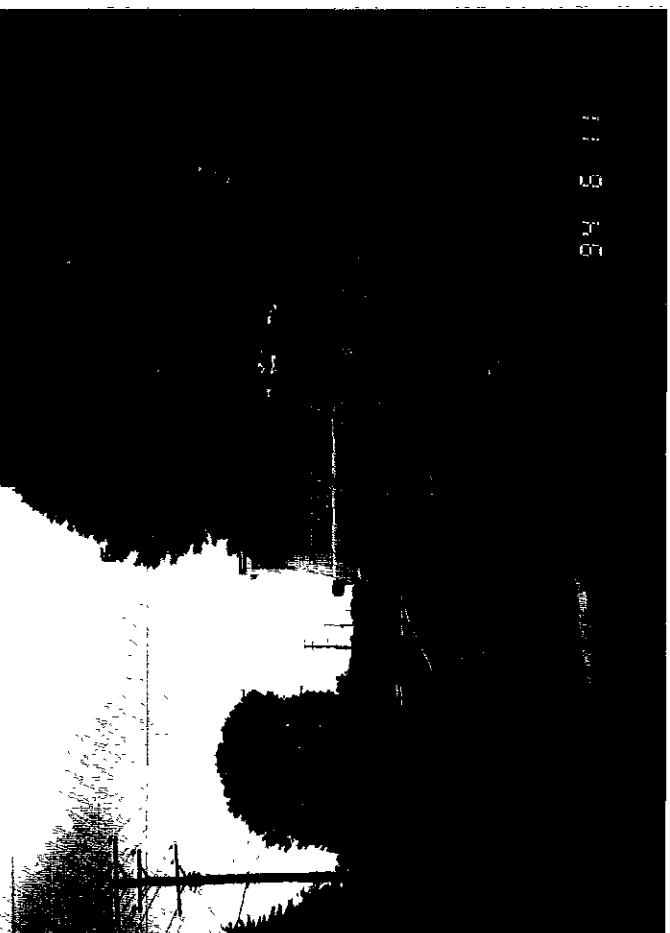
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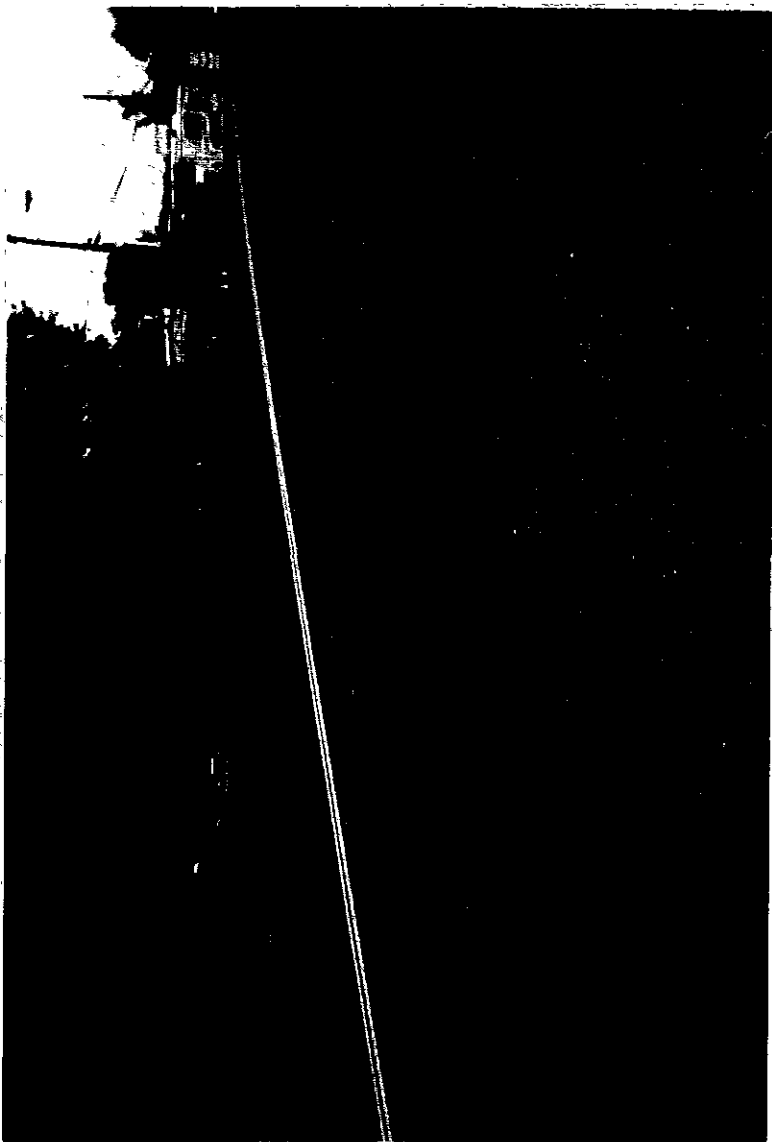
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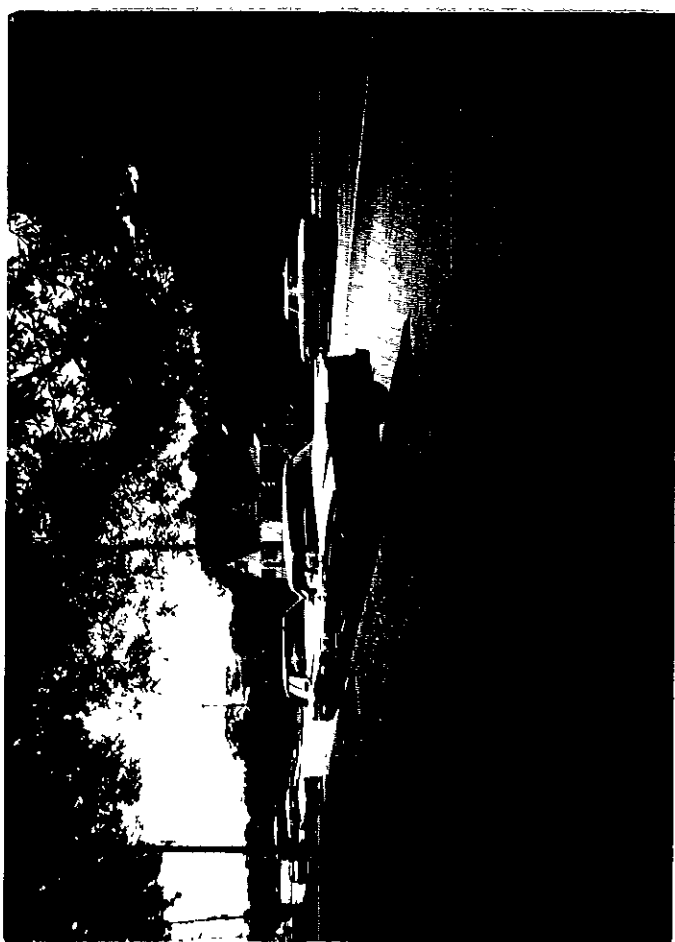
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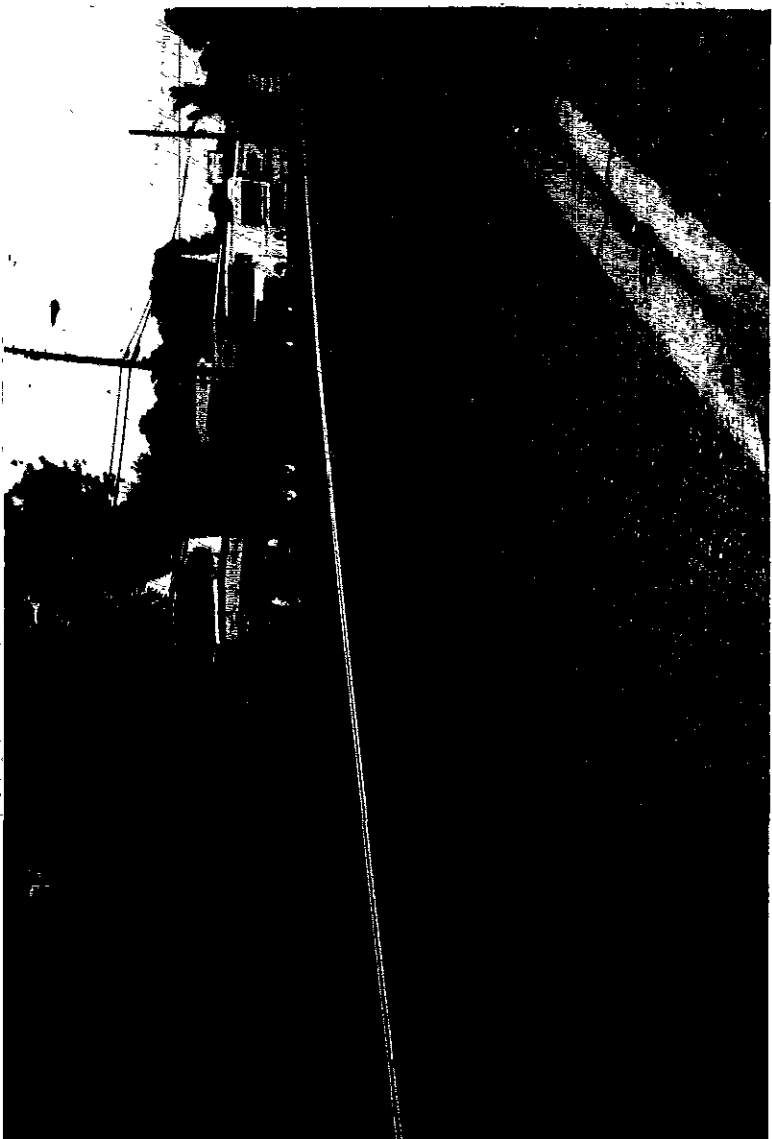
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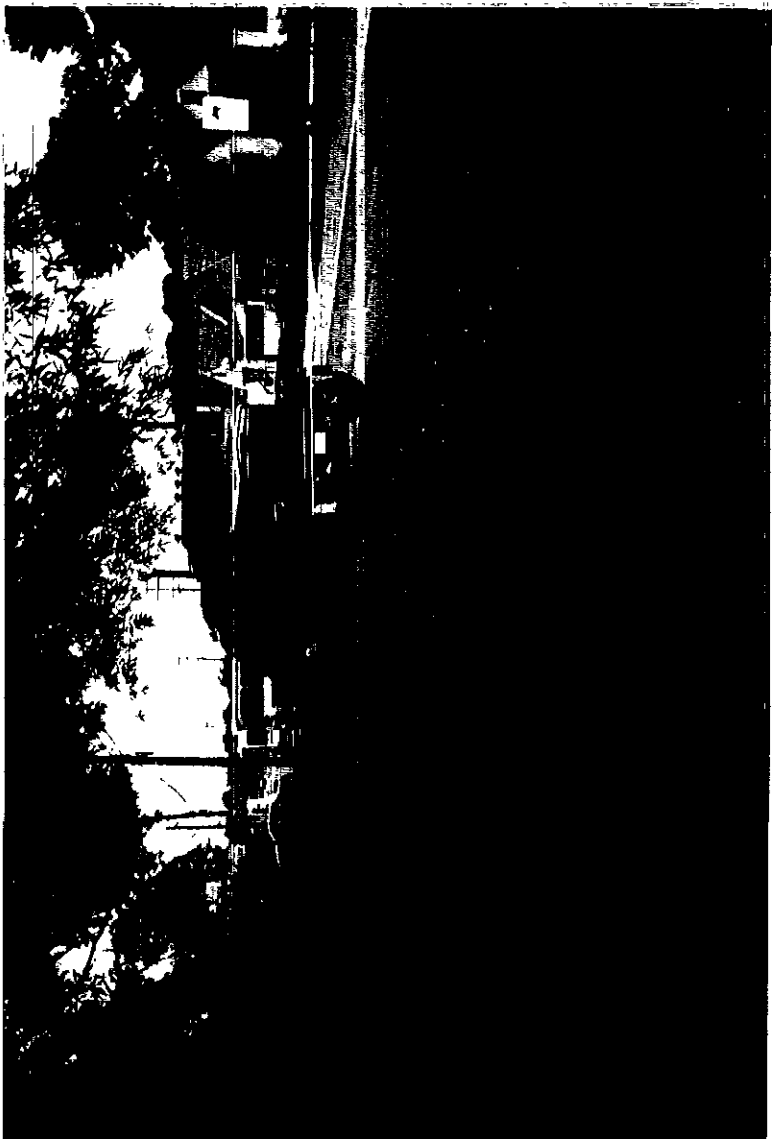
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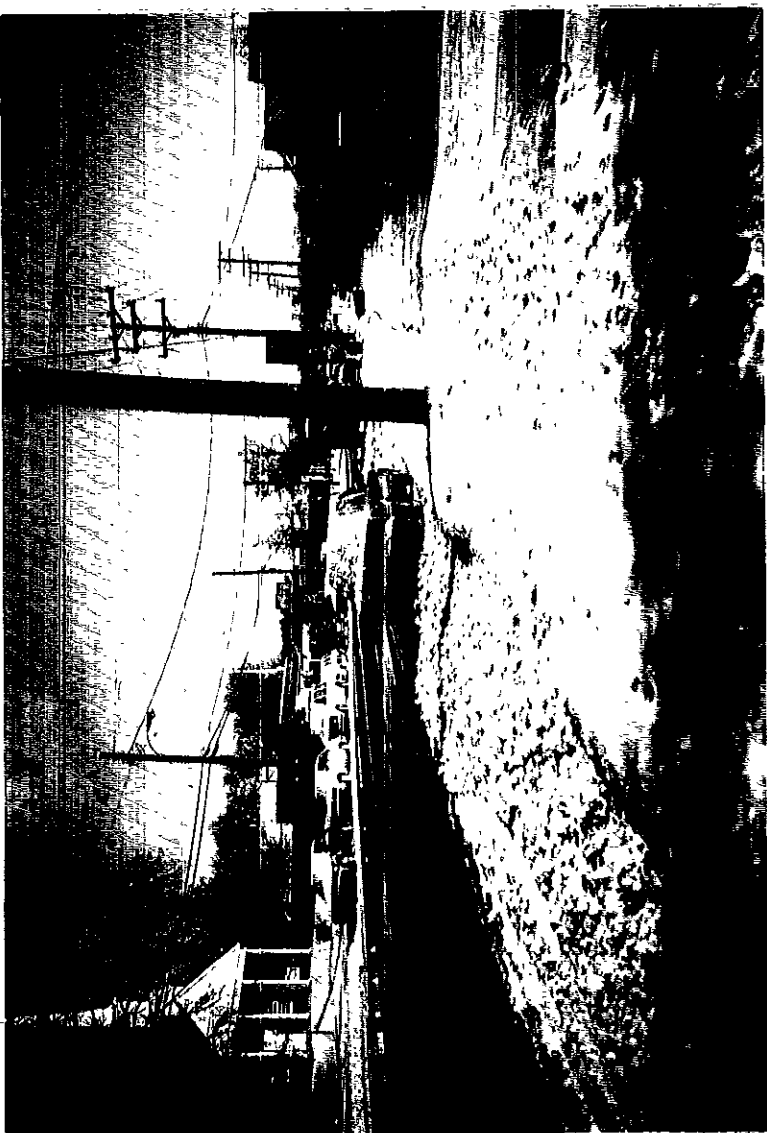


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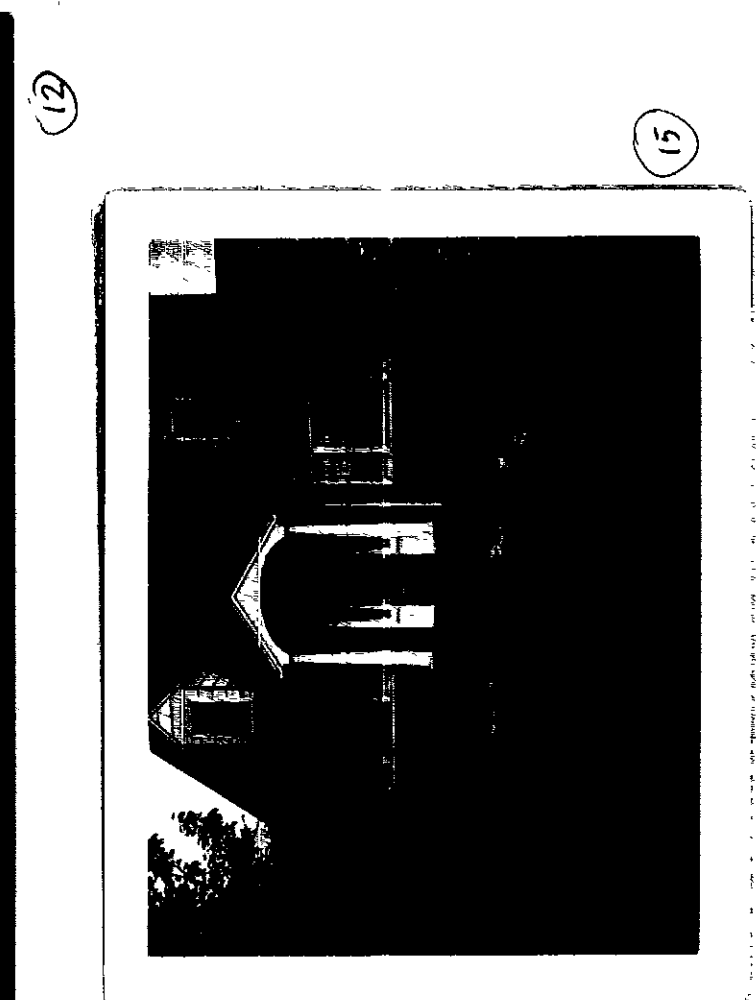


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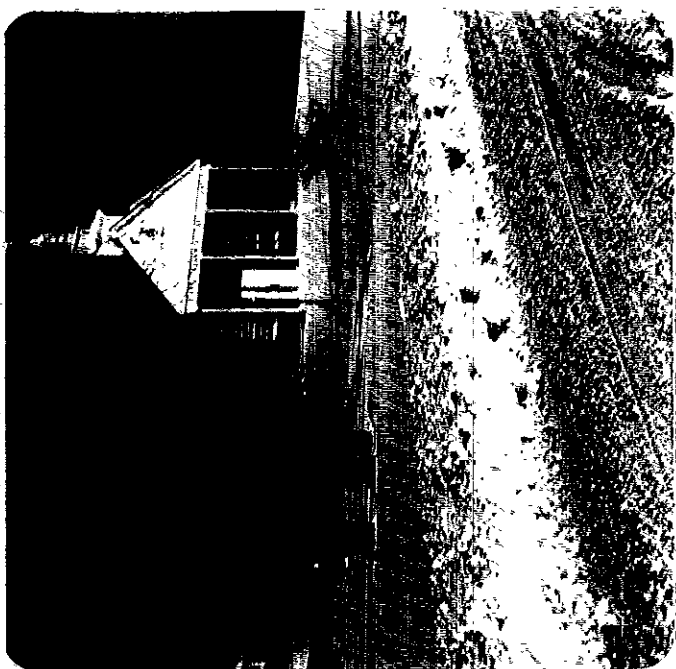


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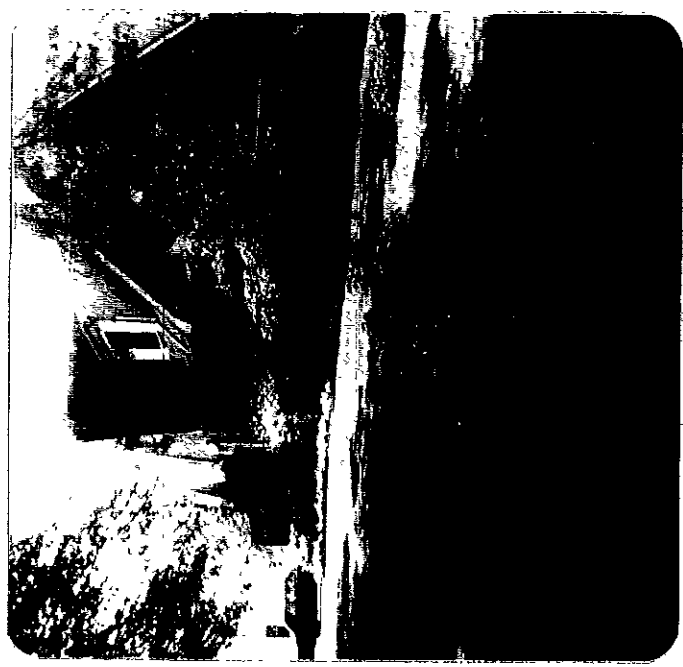
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17



Jt. Exh. 1A

BALTIMORE COUNTY, MARYLAND

95-00000
2/21/95

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: March 1, 1995

SUBJECT: 1300 Eastern Avenue

INFORMATION:

Item Number: 274

Petitioner: Harrison Property

Property Size: 12,325 sq. ft.

Zoning: DR-5.5

Requested Action: Special Exception & Variance

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

A review of the information provided and a site visit reveal that the property is too small to accommodate up to 40 students. The need for Variances seems to confirm this conclusion. Section 424.7 A requires a lot size of 1 acre; the subject property is less than one third of an acre. In addition to this relief, the applicant is also unable to comply with several other buffer and setbacks requirements.

This office recommends that the applicant's request be denied since the proposed use would tend to overcrowd the land.

Prepared by: Jeffrey W. Long

Division Chief: Cary L. Kern

PK/JL

Jt. Exh. 1B

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Robert O. Schuetz, Chairman

DATE: July 13, 1995

Board of Appeals

FROM: Pat Keller, Director, OPZ

SUBJECT: 1300 Eastern Avenue

INFORMATION:

Item Number: 274

Petitioner: Harrison Property

Property Size: _____

Zoning: DR-5.5

Requested Action: Special Exception

Hearing Date: _____ / _____ / _____

SUMMARY OF RECOMMENDATIONS:

After meeting with the applicant's attorney and based upon an agreement to limit the number of children to twenty-five and other conditions outlined in Mr Gontrum's letter of July 10, 1995, staff wishes to revise its comments of March 1, 1995. These comments have been discussed with the Director of Planning and meet with his approval.

Prior to the agreed upon conditions being offered, this office had taken the position that forty children on this site was excessive; we therefore opposed the expansion. However, with the reduction to a maximum to twenty-five children and an agreement to erect a board on board fence to replace the existing chain link fence, our concerns regarding overcrowding are relieved.

This office has conducted an assessment of the Essex-Middle River area and found that within the study area there are 9518 acres with a resident population of over 63,000 people. A significant portion of this population have medium household incomes of \$31,070. There are also a significant percentage of female heads of households. The need for daycare is critical to serve this population.

Therefore, staff supports the applicant's request subject to the above-mentioned conditions.

Prepared by: Jeffrey W. Lee

Division Chief: John J. Keller

PK/JL

ITEM274/PZONE/ZAC1

It. exh. 1C

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

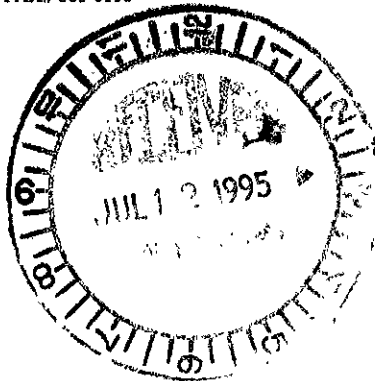
814 Eastern Boulevard
Baltimore, Maryland 21221

TELEPHONE: (410)686-8274
FAX# 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

ELIZABETH A. VANNI

*ALSO ADMITTED IN D.C.



July 10, 1995

Jeff Long
Jack Dillon
Office of Planning and Zoning
County Courts Building
Towson, Maryland 21204

Re: Case No. 95-280-XA
Gordon L. Harrison et ux -Pet.

Gentlemen:

As you may know the above-referenced case is scheduled for hearing on July 13, 1995 before the Baltimore County Board of Appeals. The case involves Petitioners' requests for a special exception for a Class B group child care center in a residential zone and for setback variances. On January 28, 1991, the Petitioners obtained a special exception for a Class A child care center. At that time Bill No. 200-1990 which adopted the bulk standards for group centers had not been adopted.

Since 1991 the center has operated in conformance with state and local regulations, and there is much demand for expansion of its service. Unfortunately, there is a shortage of such facilities in the Essex community area and a very large demand. The demand for such facilities as well as the approval of the neighbors has generated the requested zoning.

The special exception is necessary under Section 424.5A as it was in 1990 and 1991. The bulk regulations now apply regardless of the size of the facility. For the existing building as shown on the site plan regardless of the number of children the variances would be necessary. You can appreciate the difficulty of complying with the strictures of Section 424.7 in the older residential neighborhoods, particularly in the eastern and southeastern areas of the county.

The comment previously filed by your office in this case appreciated the fact that no limitation had been placed on the number of children that could attend the facility. Under state law there is in fact a limitation based on the square footage of the indoor area accessible for the daily program activities (COMAR 07.04.02.15-17). Although the state has yet to make the required

determination, it is our estimate that no more than 24-25 children would be permitted on the site at any one time due to these limitations. Consequently, my clients would be willing to accept such a limitation in any order approving the use.

In addition, my client would be willing to replace the chain link fence with a board on board fence if desired by the neighbors.

Your consideration of the proposed conditions as limiting the use of the facility as well as for the need for such facilities would be greatly appreciated.

Very truly yours,



John B. Gontrum

/jbg

cc: Gordon L. Harrison

~~John B. Gontrum, Esq., Attorney at Law, 101 Baltimore County~~

It Exhibit 2

Baltimore County
Office of Community Conservation

Investment Building, Suite 800
One Investment Place
Towson, Maryland 21204
(410) 887-3317
Fax: (410) 887-5696

July 11, 1995

Mr. Robert Schuetz, Chairman
Baltimore County Board of Appeals
400 Washington Avenue
Towson, MD 21204

Re: Case No. 95-280-XA
Gordon L. Harrison et ux - Pet.

Dear Mr. Schuetz:

Attached is a letter from John B. Gontrum, attorney for Gordon L. Harrison, regarding Case No. 95-280-XA which involves a request for a special exception for a Class B group child care center in a residential zone and for setback variances.

It is my understanding that the Baltimore County Office of Planning has changed its comments and is now in support of the center with the limitations outlined in Mr. Gontrum's letter. My office is also in support of the center with the restriction of 24-25 children. As you may know, there is a critical need for daycare centers particularly in areas such as Essex where there is a high concentration of households headed by women. Community services that include quality daycare are essential to the stability of the area and should be supported.

Therefore, I respectfully request that you consider granting the special exception for this daycare center.

Sincerely,

A handwritten signature in cursive script that reads "Mary L. Emerick".

Mary L. Emerick
Eastern Sector Coordinator

attachment

95 JUL 13 PM 11:23

RECEIVED
COMMUNITY DEVELOPMENT
JUL 13 1995



ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221

TELEPHONE: (410) 686-6274
FAX: (410) 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.

July 10, 1995

ELIZABETH A. VANNI

ALSO ADMITTED IN D.C.

Jeff Long
Jack Dillon
Office of Planning and Zoning
County Courts Building
Towson, Maryland 21204

Re: Case No. 95-280-XA
Gordon L. Harrison et ux -Pet.

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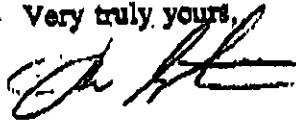
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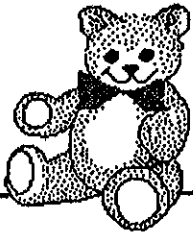
Very truly yours,



John B. Gontum

/jbg

cc: Gordon L. Harrison
Peter Zimmerman, People's Counsel for Baltimore County



Corner Care Child Care Center

TO WHOM THIS MAY CONCERN,

THIS IS A PETITION TO SHOW APPROVAL OR DISAPPROVAL TO EXPAND THE EXISTING DAYCARE AT 1300 OLD EASTERN AVE KNOWN AS CORNER CARE CHILD CARE CENTER FROM A 12 CHILD OPERATION TO A 24-30 CHILD CENTER.

APPROVAL WILL IN NO WAY CHANGE THE ZONING FROM THE EXISTING DR5.5, OR EFFECT ANY ADJOINING PROPERTIES.

ALL THE PROPER INSPECTIONS HAVE BEEN COMPLETED AND PASSED, THE CENTERS EXPANSION AWAITS AN APPEALS BOARD HEARING WHICH WILL TAKE PLACE ON JULY 13, 1995 AT THE OLD COURT HOUSE ROOM 48 AT 10:00 A.M.

ANYONE WISHING TO ATTEND THE HEARING THE ADDRESS IS 400 WASHINGTON AVE.

	NAME	ADDRESS	
1.	Mrs. Mrs. William Zindel	1306 OLD EASTERN AVE	Approval
2.	Lewis Jones	1302 OLD EASTERN AVE	Approval
3.	Danna Copp	1209 Old Eastern Ave	Approval
4.	Mr. & Mrs. John Pakaski	1211 Old Eastern Ave.	Approval
5.	George Kranni	3 Eyring Ave	Approval
6.	Dena M. Ricketts	7 EYRING AVE	Approval
7.	Margaret Emala	1303 Eastern Ave	Approval
8.			
9.			
10.			

THANK YOU FOR YOUR COOPERATION!
GORDON AND DEBBY HARRISON

Ret. Exh. #5-

Lewis D Jones
1302 Old Eastern Ave
Essex, MD 21221-3611
12 July, 1995

To Whom it may concern:

I have lived next door to the Corner Care day care center since March of last year. I have no plans to move. Because I am unable to attend the hearing on the proposed expansion of the day care center, I ask that the following be considered:

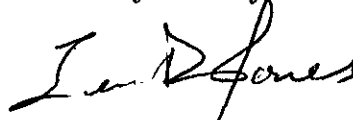
I have no objection to the proposed expansion of the day care center. My work schedule is such that I am often home in the daytime. The children have never been the least problem in any way; I don't expect that a few more will make any difference.

Old Eastern Avenue is a heavily travelled thoroughfare and on Eying Road are commercial establishments. There has never been a problem with traffic at the day care center. Whatever increase in traffic accompanies the expansion will never be noticed.

They have done quite a nice job over there with the addition to the building. The place looks appropriate to the neighborhood. There has been discussion that the county may require a high, opaque fence. To this I would object; what's there now is similar to other fences in the neighborhood and it serves its purpose perfectly well. A "spite fence" would only be an inappropriate and unnecessary eyesore.

With my thanks for your consideration, I am

Very Truly Yours;


Lewis D Jones

July 11, 1995

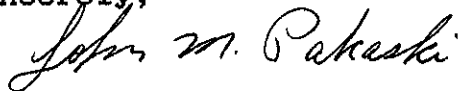
To Whom It May Concern:

My name is John M. Pakaski and I live at 1211 Old Eastern Avenue. I am writing this letter in regards to the July 13, 1995 hearing.

I feel that the Corner Care Day Care has only enhanced our community. Essex has been slowly deteriorating and to deny the area of such a positive venture would be a tragedy. There is no increase in the already heavy traffic and no negative incidents arising from the business.

Finally, I would like to say that the owners have turned a once eyesore into a beautiful and prosperous addition to our neighborhood.

Sincerely,



John M. Pakaski