

IN RE: PETITION FOR VARIANCE * BEFORE THE
 E/S East Street, 250' N of the * DEPUTY ZONING COMMISSIONER
 c/l of South Rolling Road * OF BALTIMORE COUNTY
 (1807 East Street) * Case No. 96-210-A
 13th Election District
 1st Councilmanic District
 Robert and Salvatore Yoviene and
 Asimina Alivizatos - Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 1807 East Street, located in the vicinity of Rolling Road and Washington Boulevard in Relay. The Petition was filed by the owners of the property, Robert and Salvatore Yoviene and Asimina Alivizatos. The Petitioners seek relief from Section 255.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 0.50 feet in lieu of the required 50 feet for the existing building, and a side yard setback of 30 feet in lieu of the required 50 feet for a proposed addition to a non-conforming structure. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Paul Gorman, Architect for the Petitioners, and Bill Smuck and David Justice for Smuck Homes, Inc., Contractor. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 2.0037 acres, more or less, zoned ML and is improved with a one-story warehouse. The property is a roughly triangular-shaped lot which abuts East Street on the east, the Baltimore Ohio Railroad on the north, and Maryland Route 195 to the west. The Petitioners wish to con-

ORDER RECEIVED FOR FILING
 Date 12/29/95
 By [Signature]

APPROVED

struct a one-story addition of 4,978 sq.ft. on the east side of the existing building, abutting East Street. Due to the location of the existing building and the unique shape of the lot, the requested variances are necessary. The proposed addition would maintain the same setback as the existing building and the property line on the west side for which a rear setback of 0.50 has been requested abuts the right-of-way for Maryland Route 195 (Washington Boulevard). Therefore, the relief requested will not result in any detriment to the surrounding locale.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to

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show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property

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line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; 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, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

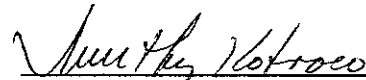
I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

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Date 12/29/95
By [Signature]

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 29th day of December, 1995 that the Petition for Variance seeking relief from Section 255.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 0.50 feet in lieu of the required 50 feet for the existing building, and a side yard setback of 30 feet in lieu of the required 50 feet for a proposed addition to a non-conforming structure, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 12/29/95
By [Signature]

RECORDED



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

December 29, 1995

Messrs. Robert and Salvatore Yoviene and
Asimina Alivizatos
1807 East Street
Baltimore, Maryland 21227

RE: PETITION FOR VARIANCE
E/S East Street, 250' N of the c/l of South Rolling Road
(1807 East Street)
13th Election District - 1st Councilmanic District
Robert and Salvatore Yoviene and
Asimina Alivizatos - Petitioners
Case No. 96-210-A

Dear Messrs. Yoviene and Alivizatos:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has 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,

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Paul J. Gorman
4410 John Avenue, Baltimore, Md. 21227

Mr. Bill Smuck, Smuck Homes, Inc., P.O. Box 159, Sykesville, Md. 21784

Mr. David Justus, 310 Tartan Green Court, Joppa, Md. 21085

✓ People's Counsel
Case File



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1807 EAST STREET
which is presently zoned ML

96-210-A

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) 268-2 (243.2 + 243.3) TO PERMIT

A 0.50' REAR SETBACK AND A 30' SIDE SETBACK BOTH IN LIEU OF 50'
EXTENSION OF A NON-CONFORMING STRUCTURE
IN A REAR YARD SETBACK

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

- BEST SITE CIRCULATION, DRAINAGE + USE OF LAND
- FURTHEST AWAY FROM NEIGHBOR
- BACKS UP TO SLOPED, WOODED, HIGHWAY R.O.W.

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

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)

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Address

Phone No

City

State

Zipcode

Name, Address and phone number or representative to be contacted

Name

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

11-14-95

ORDER RECEIVED FOR FILING

Date



Printed with Soybean Ink on Recycled Paper



ROBERT & SALVATORE GIOIENE

Asimina Alivizatos (Admin. Mngr)

Asimina Alivizatos

1807 East Street 410-247-0373

Baltimore, MD 21227

PAUL J. GORMAN

4410 JOHN AVE 242-4312
BALTO MD 21227

1 hr.

" SCHEDULE A "

96-210-A

Description of Metocraft Products, Inc. Parcel, St. Denis, 13th District Baltimore County, Maryland.

Beginning for the same at a pipe heretofore set on the east side of East Street said point being the beginning of that same parcel of land which by deed dated March 16, 1966 and recorded among the Land Records of Baltimore County was conveyed by John H. Weidemeyer and Wife unto METCRAFT PRODUCTS, INC. and running thence and binding on the abovementioned side of East Street North 17 degrees 15 minutes West 283.75 feet to a pipe heretofore set for the end of the first line of that same land which by deed dated May 9, 1967 and recorded among the Land Records of Baltimore County in Liber No. 4771 folio 579 was conveyed by THE BALTIMORE AND OHIO RAILROAD COMPANY unto METCRAFT PRODUCTS, INC. and running thence and binding on the second line thereof North 72 degrees 45 minutes East 120.00 feet to a pipe and to intersect the fourth or North 17 degrees 15 minutes West 120.00 feet line of the firstly abovementioned conveyance and thence binding on said line in part North 17 degrees 15 minutes West 36.25 feet to a pipe and to the south side of Railroad Street and thence binding on the south side of Railroad Street and in part on the fifth line of the firstly abovementioned conveyance in part North 72 degrees 45 minutes East 253.45 feet to a hub so on the westernmost right of way line of Metropolitan Boulevard as shown on State Roads Commission of Maryland Right of Way Plat No. 39990 and thence binding on said Right of Way the six following courses and distances viz; South 44 degrees 53 minutes 45 seconds West 5.81 feet, South 6 degrees 34 minutes 17 seconds West 92.20 feet to a stake, South 17 degrees 59 minutes 56 seconds East 54.85 feet to a hub, South 69 degrees 55 minutes 11 seconds West 34.73 feet to a pipe, South 13 degrees 53 minutes 15 seconds West 89.76 feet to a "PK" nail, and South 18 degrees 12 minutes 07 seconds West 119.86 feet to a hub and to intersect the seventh line of the firstly abovementioned conveyance and thence binding in part thereon and on the eighth and ninth lines of said conveyance the two following courses and distances viz; South 70 degrees 57 minutes 30 seconds West 61.21 feet to a pipe and South 72 degrees 45 minutes West 120.00 feet to the place of beginningcontaining 2.0037 acres of land more or less.

Subject to the twenty foot wide easement reserved in the firstly abovementioned conveyance.

WILLIAM H. ...

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

96-210-A

District 13th Date of Posting 12/1/95
 Posted for: Variances
 Petitioner: Robert + Salvatore Yoviene + Assisting Minors
 Location of property: 1807 East St.
 Location of Sign: Facing roadway on property being zoned
 Remarks: _____
 Posted by: [Signature] Date of return: 12/8/95
 Number of Signs: 1



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

No. 96-210-A

DATE 11-14-95 ACCOUNT 01-615

Item: 208
 By: MPK
 Owner: Yoviene AMOUNT \$ 285.00

RECEIVED FROM: Paul J. Gorman - 1807 East Street
020 - Comm Var - \$ 250.00
080 - 15150 - \$ 35.00
 FOR: \$ 285.00

12-05120947410647 = 1991.00
 92-00000000000000000000

VALIDATION OR SIGNATURE OF CASHIER
 CASHIER PINK - AGENCY YELLOW - CUSTOMER



Baltimore County
 Department of Permits and
 Development Management

Development Processing
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring 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. 208 Petitioner: Robert Yoviene

Location: 1807 East Street

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Asimina Alivizatos

ADDRESS: 1807 East Street

Balto. MD. 21227

PHONE NUMBER: (410) 247-0373

TO: PUTUMENT PUBLISHING COMPANY
November 30, 1995 Issue - Jeffersonian

Please forward billing to:

Robert Yoviene
1807 East Street
Baltimore, M D 21227
247-0373

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: 96-210-A (Item 208)
1807 East Sreet
E/S East Street, 250' N of c/l South Rolling Road
13th Election District - 1st Councilmanic
Legal Owner: Robert & Salvatore Yoviene and Asimina Alivizatos

Variance to permit a .50 foot rear setback and a 30 foot side setback, both in lieu of 50 feet.

HEARING: TUESDAY, DECEMBER 19, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

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
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

December 1, 1995

NOTICE OF HEARING

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or
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HEARING: TUESDAY, DECEMBER 19, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

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

Arnold Jablon
Director

cc: Robert and Salvatore Yoviene
Paul J. Gorman

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

December 14, 1995

Robert & Salvatore Yoviene
Asimina Alivizatos
1807 East Street
Baltimore, MD 21227

RE: Item No.: 208
Case No.: 96-210-A
Petitioner: R. Yoviene, et al

Gentlemen:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on November 14, 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 (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,


W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

APPROVED
12/14/95

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: Dec. 5, 1995
 Zoning Administration and Development Management

FROM: *pub* Robert W. Bowling, P.E., Chief
 Development Plans Review Division

RE: Zoning Advisory Committee Meeting
 for December 4, 1995
 Item No. 208

The Development Plans Review Division has reviewed the subject zoning item. This site is subject to the Landscape Manual to the extent possible.

RWB:sw

Baltimore County Government
Fire Department



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

(410) 887-4500

DATE: 12/01/95

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

RE: Property Owner: ROBERT & SALVATORE YDVIENE & ASIMINA ALIVIZATOS

LOCATION: E/S EAST ST., 250' N OF CENTERLINE S. ROLLING RD (1807 EAST ST.)

Item No.: 208 Zoning Agenda: VARIANCE

Gentlemen:

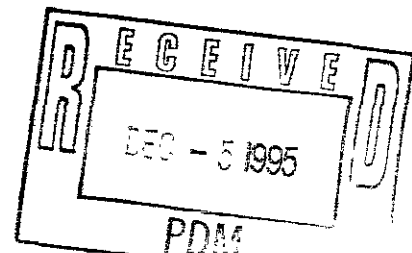
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

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.

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

cc: File





**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary
Hal Kassoff
Administrator

11-28-95

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 208 (MJK)

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 affected by any State Highway Administration projects.

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/es

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

PETITION PROBLEMS

#170 (Revisions) — JJS

1. No telephone number for legal owner.
2. Review information on bottom of petition form not completed.

#206 — JJS

1. Need authorization for person to sign for legal owner.
2. No address or telephone number for legal owner.

#207 — JJS

1. Plat says legal owner is Penske Truck Leasing Company; petition says Robert E. Frankel — Which is correct??

#208 — MJK

1. No signature for legal owners (Robert & Salvatore Yoviene).

#210 — JCM

1. No item number on papers in folders.
2. Review information on bottom of petition form not completed.

#214 — JJS

1. No zip code for legal owner.

RE: PETITION FOR VARIANCE
1807 East Sreet, E/S East Street, 250' N
of c/l South Rolling Road, 13th
Election District - 1st Councilmanic

Robert & Salvatore Yoviene and
Asimina Alivizatos
Petitioners

* * * * *

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 96-210-A

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 21st day of December, 1995, a copy of the foregoing Entry of Appearance was mailed to Paul J. Gorman, 4410 John Avenue, Baltimore, MD 21227, representative for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

BALTO MD

PAUL GORMAN

#410 JOHN AVE 21227

BILL SMUCK

2400 LIBERTY RD

DAVID JUSTUS

310 TARTAN GREEN CT JESSE MD 21085

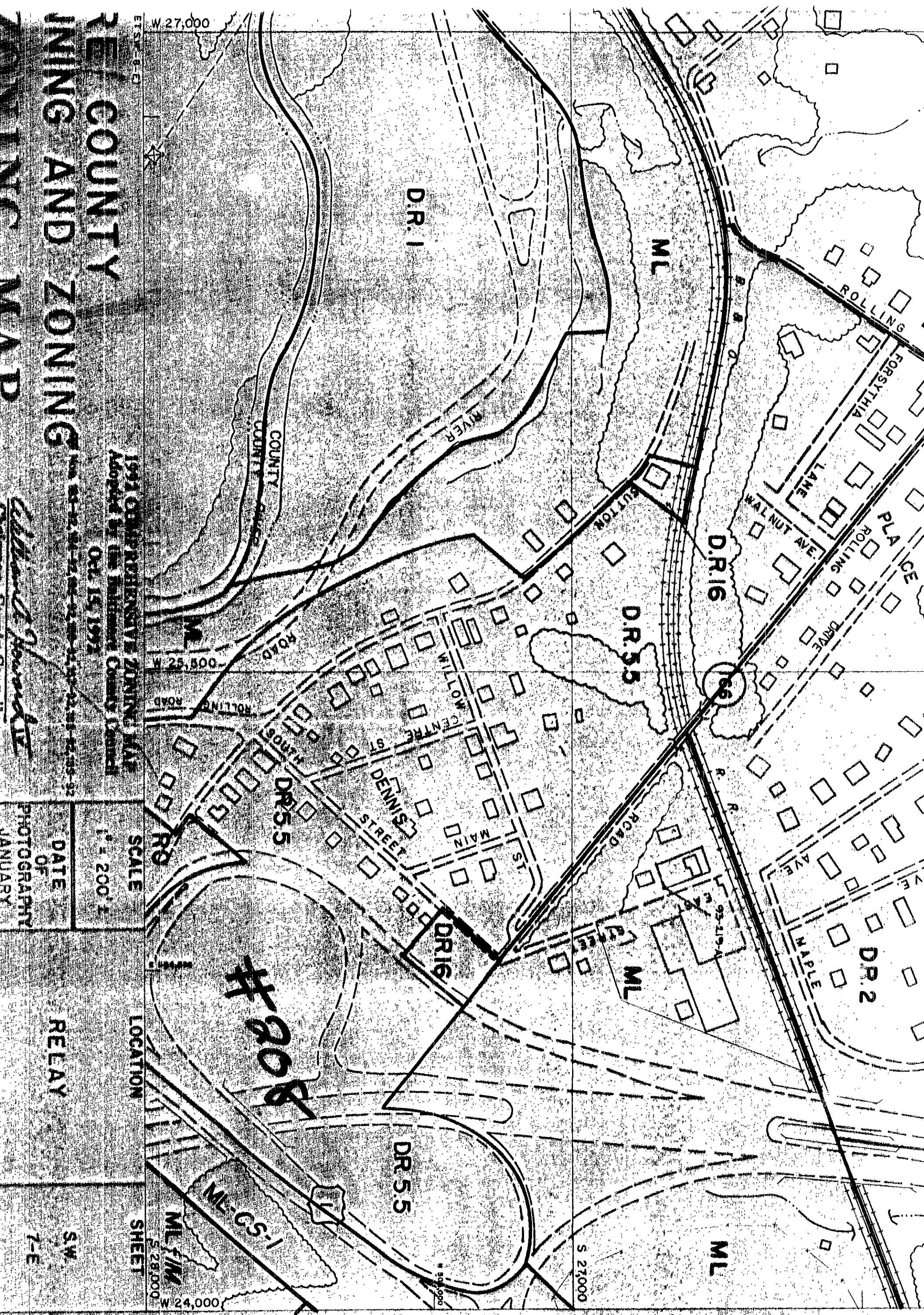


11/13/05



photograph

Case # 96-216-A



GUILFORD COUNTY ZONING AND ZONING MAP

1991 COMPREHENSIVE ZONING MAP
 Adopted by the Guilford County Board

Oct. 15, 1991

SCALE
 1" = 200'

LOCATION

ML-1
 S 28,000
 W 24,000

DATE OF PHOTOGRAPHY
 JANUARY

RELAY

S.W.
 7-E

76-210-A

IN RE: PETITION FOR VARIANCE
 E/S East Street, 250' N of the
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show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property

line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; 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, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

ORDER RECEIVED FOR FILING
 Date 12/29/95
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 12/29/95
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 12/29/95
 By [Signature]

ORDER RECEIVED FOR FILING
 Date 12/29/95
 By [Signature]

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 29th day of December, 1995 that the Petition for Variance seeking relief from Section 255.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 0.50 feet in lieu of the required 50 feet for the existing building, and a side yard setback of 30 feet in lieu of the required 50 feet for a proposed addition to a non-conforming structure, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Timothy M. Kotroco
 TIMOTHY M. KOTROCO
 Deputy Zoning Commissioner
 for Baltimore County

THK:bjs

Baltimore County
 Zoning Commissioner
 Office of Planning and Zoning

Suite 112, Courthouse
 400 Washington Avenue
 Towson, Maryland 21204
 (410) 887-4386

December 29, 1995

Messrs. Robert and Salvatore Yoviene and
 Asimina Alivizatos
 1807 East Street
 Baltimore, Maryland 21227

RE: PETITION FOR VARIANCE
 E/S East Street, 250' N of the c/l of South Rolling Road
 (1807 East Street)
 13th Election District - 1st Councilmanic District
 Robert and Salvatore Yoviene and
 Asimina Alivizatos - Petitioners
 Case No. 96-210-A

Dear Messrs. Yoviene and Alivizatos:
 Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has 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,
Timothy M. Kotroco
 TIMOTHY M. KOTROCO
 Deputy Zoning Commissioner
 for Baltimore County

THK:bjs

cc: Mr. Paul J. Gorman
 4410 John Avenue, Baltimore, Md. 21227

Mr. Bill Smuck, Smuck Homes, Inc., P.O. Box 159, Sykesville, Md. 21784

Mr. David Justus, 310 Tartan Green Court, Joppa, Md. 21085

People's Counsel
 Case File

ORDER RECEIVED FOR FILING
 Date 12/29/95
 By [Signature]

Petition for Variance
 to the Zoning Commissioner of Baltimore County
 for the property located at 1807 EAST STREET
 which is presently zoned MC

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 255.2 (243.2, 243.3) TO PERMIT A 0.50' REAR SETBACK AND A 30' SIDE SETBACK BOTH IN LIEU OF 50' EXTENSION OF A NON-CONFORMING STRUCTURE IN A REAR YARD SETBACK

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

- BEST SITE CIRCULATION, DRAINAGE AND USE OF LAND
- FURTHEST AWAY FROM NEIGHBOR
- BACKS UP TO SLOPED, WOODED, HIGHWAY R.O.W.

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.

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

Legal Owner(s):
 ROBERT & SALVATORE YOVIEENE
 (Type or Print Name)

Signature:
Asimina Alivizatos (Admin. Mngr)
Asimina Alivizatos
 (Type or Print Name)

Address:
 1807 East Street 410-247-0373
 Baltimore, MD 21227
 (Type or Print Name)

Signature:
PAUL J. GORMAN
 4410 JOHN AVE 242-4312
 BALTO MD 21227
 (Type or Print Name)

Address:
 4410 JOHN AVE 242-4312
 BALTO MD 21227
 (Type or Print Name)

ESTIMATED LENGTH OF HEARING: 1 hr.
 (Available for Hearing)

ALL RECEIVED BY: [Signature] DATE: 12-29-95

ORDER RECEIVED FOR FILING
 Date 12/29/95
 By [Signature]

#208

LIBER 5382 PAGE 424
 "SCHEDULE A"
 96-210-A

Description of Metcraft Products, Inc. Parcel, St. Denis, 13th District Baltimore County, Maryland.

Beginning for the same at a pipe heretofore set on the east side of East Street said point being the beginning of that same parcel of land which by deed dated March 16, 1966 and recorded among the Land Records of Baltimore County was conveyed by John H. Weidemeyer and Wife unto METCRAFT PRODUCTS, INC. and running thence and binding on the abovementioned side of East Street North 17 degrees 15 minutes West 283.75 feet to a pipe heretofore set for the end of the first line of that same land which by deed dated May 9, 1967 and recorded among the Land Records of Baltimore County in Liber No. 4771 folio 579 was conveyed by THE BALTIMORE AND OHIO RAILROAD COMPANY unto METCRAFT PRODUCTS, INC. and running thence and binding on the second line thereof North 72 degrees 45 minutes East 120.00 feet to a pipe and to intersect the Fourth or North 17 degrees 15 minutes West 120.00 feet line of the firstly abovementioned conveyance and thence binding on said line in part North 17 degrees 15 minutes West 35.25 feet to a pipe and to the south side of Railroad Street and thence binding on the south side of Railroad Street and in part on the fifth line of the firstly abovementioned conveyance in part North 72 degrees 45 minutes East 253.45 feet to a hub so on the westernmost right of way line of Metropolitan Boulevard as shown on State Roads Commission of Maryland Right of Way Plat No. 39990 and thence binding on said Right of Way the six following courses and distances viz: South 44 degrees 53 minutes 45 seconds West 5.81 feet, South 6 degrees 34 minutes 17 seconds West 92.20 feet to a stake, South 17 degrees 59 minutes 56 seconds East 54.85 feet to a hub, South 69 degrees 55 minutes 11 seconds West 34.73 feet to a pipe, South 13 degrees 53 minutes 15 seconds West 89.76 feet to a "PK" nail, and South 18 degrees 12 minutes 07 seconds West 119.86 feet to a hub and to intersect the seventh line of the firstly abovementioned conveyance and thence binding in part thence on and on the eighth and ninth lines of said conveyance the two following courses and distances viz: South 70 degrees 57 minutes 30 seconds West 61.21 feet to a pipe and South 72 degrees 45 minutes West 120.00 feet to the place of beginningcontaining 2.0037 acres of land more or less.

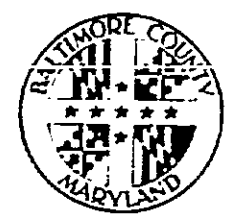
Subject to the twenty foot wide easement reserved in the firstly abovementioned conveyance.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

96-210-A

District: 13th Date of Posting: 12/1/95
Posted for: Yoviene
Location of property: 1807 East Street
Location of Sign: Along roadway on property being zoned
Remarks:
Posted by: [Signature] Date of return: 12/2/95
Number of Signs: 1

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 005799
DATE: 11-14-95 ACCOUNT: 01-615
Item: 208
Pay to: PDM
Amount: \$ 285.00
FROM: Paul J. Gorman - 1807 East Street
RECEIVED BY: [Signature]



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring 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. 208 Petitioner: Robert Yoviene
Location: 1807 East Street

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Asimina Alivizatos
ADDRESS: 1807 East Street
Baltimore, MD 21227
PHONE NUMBER: (410) 247-0373

Printed with Soybean Ink on Recycled Paper

12

TO: FUTURE PUBLISHING COMPANY
November 30, 1995 Issue - Jeffersonian

Please forward billing to:

Robert Yoviene
1807 East Street
Baltimore, MD 21227
247-0373

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: 96-210-A (Item 208)
1807 East Street
E/S East Street, 250' N of c/l South Rolling Road
13th Election District - 1st Councilmanic
Legal Owner: Robert & Salvatore Yoviene and Asimina Alivizatos

Variance to permit a .50 foot rear setback and a 30 foot side setback, both in lieu of 50 feet.

HEARING: TUESDAY, DECEMBER 19, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

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
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

December 1, 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:

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Variance to permit a .50 foot rear setback and a 30 foot side setback, both in lieu of 50 feet.

HEARING: TUESDAY, DECEMBER 19, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

[Signature: Paul J. Gorman]
Arnold Jablon
Director

cc: Robert and Salvatore Yoviene
Paul J. Gorman

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.

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Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

December 14, 1995

Robert & Salvatore Yoviene
Asimina Alivizatos
1807 East Street
Baltimore, MD 21227

RE: Item No.: 208
Case No.: 96-210-A
Petitioner: R. Yoviene, et al

Gentlemen:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on November 14, 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 (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,

[Signature: Carl Robinson]
Carl Robinson
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: Dec. 5, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Development Plans Review Division

RE: Zoning Advisory Committee Meeting
for December 4, 1995
Item No. 208

The Development Plans Review Division has reviewed the subject zoning item. This site is subject to the Landscape Manual to the extent possible.

RWB:sw

Baltimore County Government
Fire Department



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

(410) 887-1500

DATE: 12/01/95

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

RE: Property Owner: ROBERT & SALVATORE YOVIE NE & ASIMINA ALIVIZATOS
LOCATION: E/S EAST ST., 250' N OF CENTERLINE S. ROLLING RD (1807 EAST ST.)

Item No.: 208 Zoning Agenda: VARIANCE

Gentlemen:

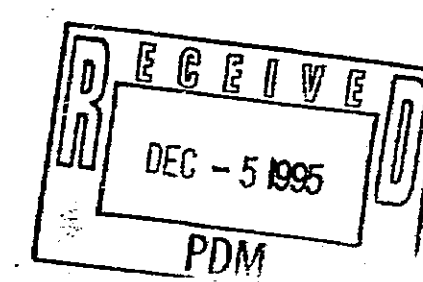
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

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.

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

cc: File



Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

11-28-95

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 208 (MJK)

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 affected by any State Highway Administration projects.

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,

[Signature: Bob Small]
Bob Small
Ronald Burns, Chief
Engineering Access Permits
Division

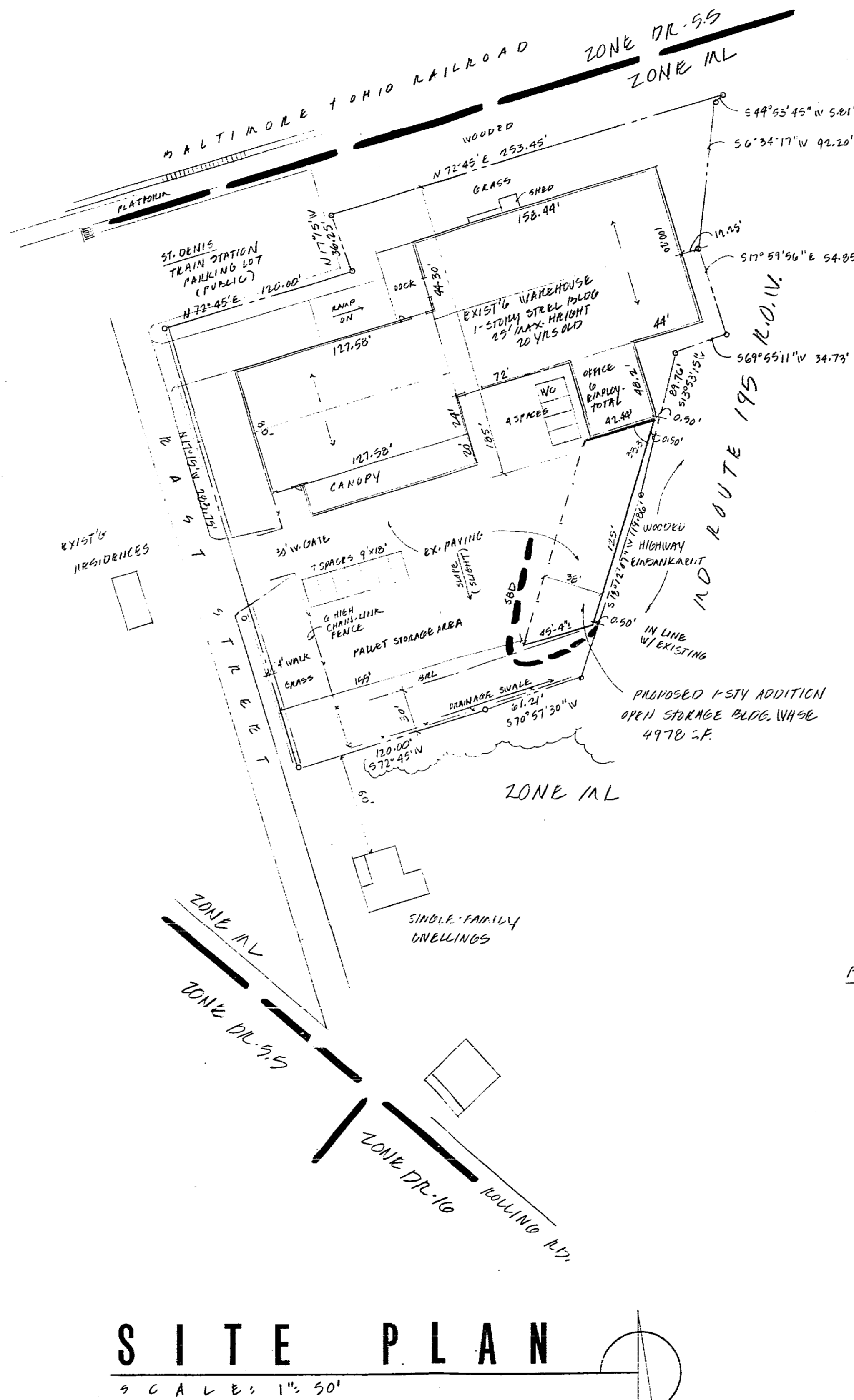
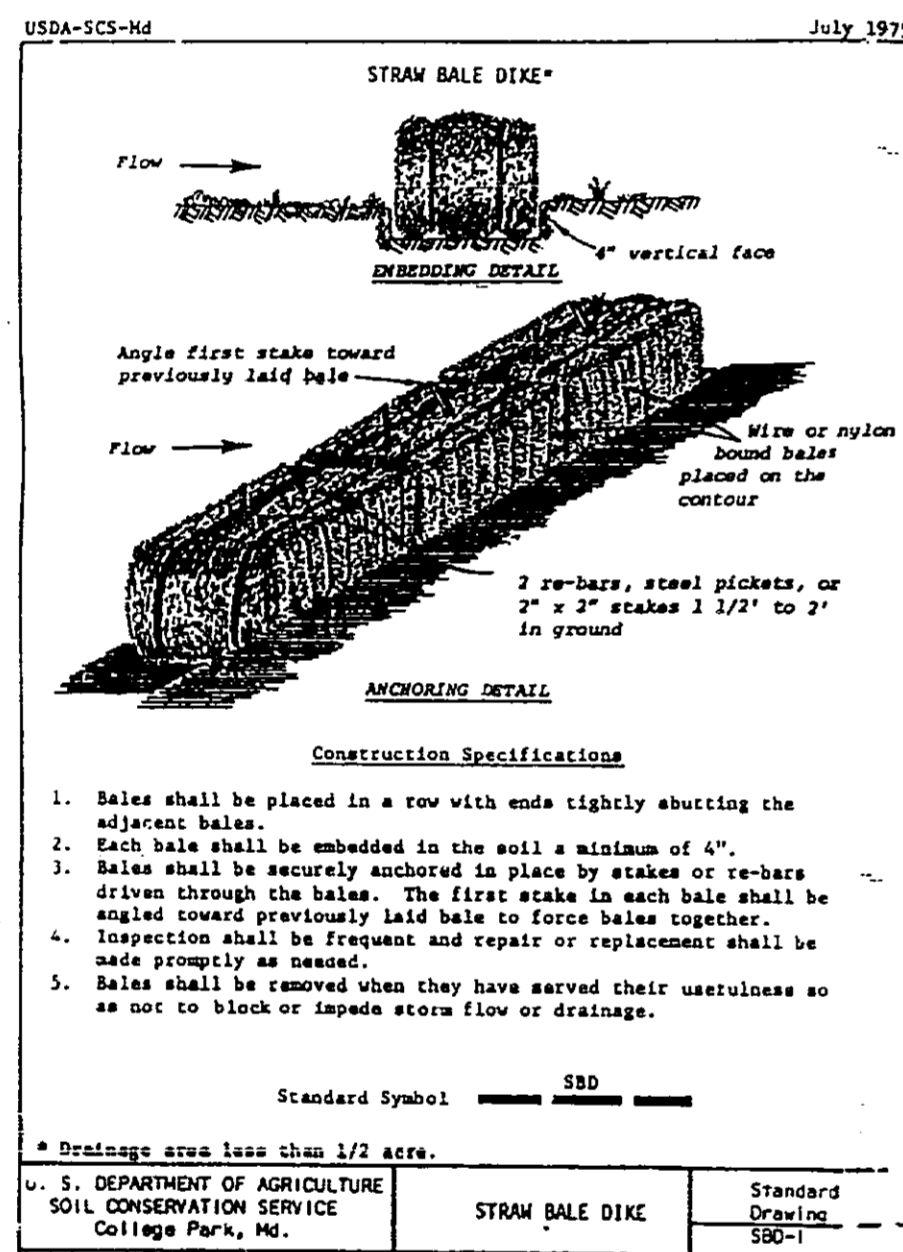
BS/es

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

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SEQUENCE OF OPERATION

1. Obtain Baltimore County building permit: 887-3900.
2. Contractor must submit written notification 48 hours prior to any construction activity to the Baltimore County Dept. of Permits and Licensing Sediment Control Inspector (887-3226) stating:
 - a. When contractor intends to begin construction.
 - b. Source of Borrow Material
 - c. Disposal site area
 - d. Contractors tentative closing date
3. Install INLET Protection (if REQUIRED)
4. Install silt fence
5. Contractor shall designate staging areas
6. Cut paving and excavate the project site (temporary stabilization shall be completed within 7 calendar days)
7. Complete underground utility installation if required
8. Complete building pad
9. Construct building
10. Place 6" gravel base in drives and parking areas and patch bituminous paving
11. When stabilization is complete and upon obtaining written approval from the Baltimore County Sediment Inspector, remove all Sediment Control devices



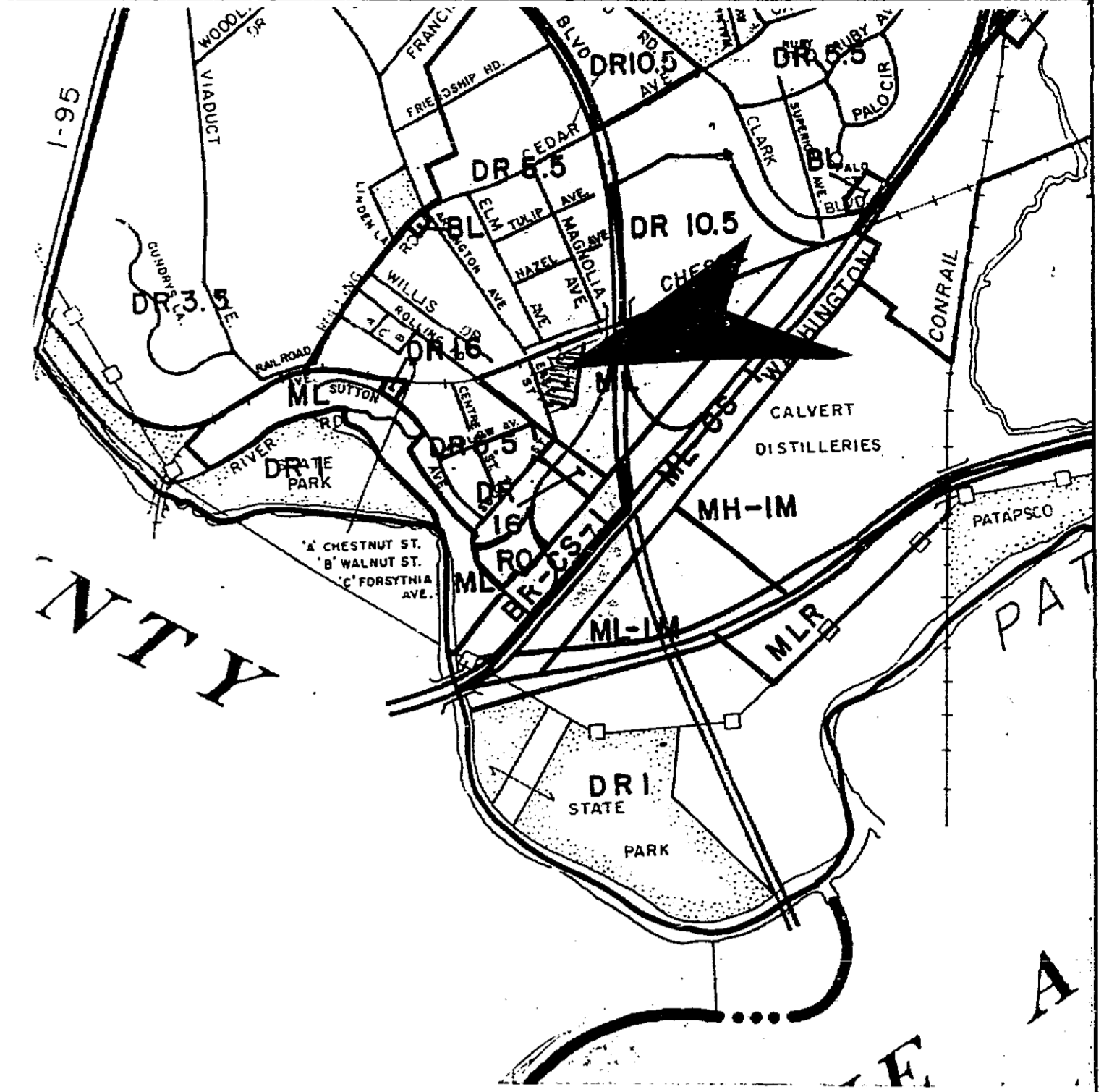
PARKING REQUIREMENTS

OFFICE AREA = 2,045 SF
3.3 SPACES/1,000 SF = 6.4 SPACES

WAREHOUSE

EXISTING = 20,000 SF
NEW = 4,750 SF
TOTAL WAREHOUSE EMPLOYEES = 4 PERSONS
SPACES REQ'D = 4 SPACES

TOTAL SPACES REQ'D = 11 SPACES



- GENERAL NOTES**
SELLMORE INDUSTRIES, INC.
BALTIMORE COUNTY, MARYLAND
1. **BUILDING OWNER:** Robert/Salvatore Yoviene, P.O. Box 804, Buffalo, N.Y. 14240
 2. **SITE:** 2.0037, 1807 East Street 21227
 3. **LOCATION:** St. Denis/East Street N. of Rolling Road
 4. **TAX ACCOUNT #:** 16-00-011318
 5. **PROPOSED CONSTRUCTION:** 4,970 sq. ft. masonry/truss structure B.O.C.A. Construction Class 3-B
 6. **PROPOSED USE:** Roof bingle storage (Fiberglas) B.O.C.A. use group S-2
 7. **ZONING:** ML 25' Front Yard, 30' Rear Yard, 30' Side Yard
 8. **PARKING:** Spaces Provided
 9. **LOADINGS:** 30 lb. Live Load, 20 lb. Wind Load, Fire Hydrant @ corner of street
 10. **SPRINKLERS:** N/A
 11. **HEATING/AC:** N/A
 12. **LIGHTING:** N/A
 13. **INSULATION:** N/A, 3" R-10 in walls
 14. **SANITARY FACILITIES:** Provided in existing building
 15. **UTILITIES:** Privately owned.
 16. **HANDICAPPED FACILITIES:** Building Accessible
 17. **CONTRACTOR:** Smuck Homes MHC #753645

96-210-A

PETITIONER'S EXHIBIT #208

BUILDING CODES:

- 1993 B.O.C.A. Mech Code w/Amend
- 1993 B.O.C.A. Basic Building Code w/Amend
- 1992 NFPA 101 Life Safety Code
- 1986 ANSIA 117-1 Providing Accessibility and Usability for Handicapped People
- 1985 05.02.02 Code of Maryland Regulations Maryland Building Code for Handicapped
- 1993 National Electrical Code
- 1990 National Standard Plumbing Code

DATE: 8-21-95
DRC APPROVAL NO. 0825C

<p>ARCHITECTURAL DRAWINGS</p> <p>SCALE: 1" = 50'</p> <p>DATE: 10-18-95</p>	<p>REVISIONS</p> <p>10/19/95</p>	<p>SMUCK HOMES, INC.</p> <p>P.O. BOX 159</p> <p>SYKESVILLE, MD 21784</p>	<p>4410 JOHN AVENUE - ROCKERY BALTIMORE, MARYLAND 21227 OFC: 410 242-4312 FAX: 410 247-8988</p> <p>PAUL J. GORMAN, ARCHITECT MEMBER OF THE AMERICAN INSTITUTE OF ARCHITECTS</p>	<p>NEW STORAGE BUILDING FOR:</p> <p>SELLMORE INDUSTRIES</p> <p>BALTIMORE COUNTY, MARYLAND</p>	<p>A-1</p>
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