

INTER-OFFICE CORRESPONDENCE  
RECOMMENDATION FORM

B 295128  
Permit Number

TO: Director, Office of Planning and Zoning  
Attn: Ervin McDaniel  
County Courts Bldg, Rm 406  
401 Bosley Av  
Towson, MD 21204

FROM: Arnold Jablon, Director, Zoning Administration and Development Management

THIS WAS UNDER A HEARING - (lost)  
CBA-96-172.  
NOW TRYING AGAIN.

RE: **Undersized Lots**  
Pursuant to Section 304.2(Baltimore County Zoning Regulations) effective June 25, 1992; this office is requesting recommendations and comments from the Office of Planning & Zoning prior to this office's approval of a dwelling permit.

MINIMUM APPLICANT SUPPLIED INFORMATION:

F.G. BASSO 928 REGINA DR. BUNTO, MD. 21227 (410) 536-0886  
Print Name of Applicant Address Telephone Number

Lot Address 4109 OLD WASHINGTON RD. Election District 13 Council District 5 Square Feet 8427  
Lot Location NE S W side / corner of LINCOLN AVE. 310 feet from NE S W corner of GRANT ST.  
(street) (street)

Lead Owner CLARENCE BOHN Tax Account Number 13-16-150640

Address 405 SHARDYNOOK AVE. Telephone Number 744-6083  
CAPITOLVILLE, MD 21228

CHECKLIST OF MATERIALS: (to be submitted for design review by the Office of Planning and Zoning)

	PROVIDED?	YES	NO
1. This Recommendation Form (3 copies)		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Permit Application		<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Site Plan		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Property (3 copies)		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Topo Map (available in Rm 306 C.O.B.) (2 copies) (please label site clearly)		<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Building Elevation Drawings		<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Photographs (please label all photos clearly)		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Adjoining Buildings		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Surrounding Neighborhood		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Residential Processing Fee Paid  
Codes 030 & 080 (\$85)  
Accepted by [Signature]  
ZOM  
Date 2/13/97

TO BE FILLED IN BY THE OFFICE OF PLANNING AND ZONING ONLY!

RECOMMENDATIONS/COMMENTS:

Approval     Disapproval     Approval conditioned on required modifications of the permit to conform with the following recommendations:

There is a storm water management problem in this area. Storm water management should be addressed by Public Works or the Department of Environmental Protection and Resource Management.

Signed by: Ervin McDaniel  
for the Director, Office of Planning & Zoning

Date: 3/6/97

OFFICE OF PLANNING AND ZONING

SCHEDULED DATES, CERTIFICATE OF FILING AND POSTING  
FOR A BUILDING PERMIT APPLICATION PURSUANT TO SECTION 304.2  
DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

FOR 4109 OLD  
WASHINGTON RD

The application for your proposed Building Permit Application has been accepted for filing by J. L. LEWIS on 2/13/97 Date (A)

A sign indicating the proposed Building must be posted on the property for fifteen (15) days before a decision can be rendered. The cost of filing is \$50.00 and posting \$35.00; total \$85.00.

In the absence of a request for public hearing during the 15-day posting period, a decision can be expected within approximately four weeks. However, if a valid demand is received by the closing date, then the decision shall only be rendered after the required public special hearing.

\*SUGGESTED POSTING DATE 2/25/97 D (15 Days Before C)  
DATE POSTED \_\_\_\_\_

HEARING REQUESTED-YES \_\_\_\_\_ NO \_\_\_\_\_ -DATE \_\_\_\_\_

CLOSING DAY (LAST DAY FOR HEARING DEMAND) 3/12/97 C (B-3 Work Days)

TENTATIVE DECISION DATE 3/15/97 B (A + 30 Days)

\*Usually within 15 days of filing

CERTIFICATE OF POSTING

District \_\_\_\_\_

Location of property: \_\_\_\_\_

Posted by: \_\_\_\_\_ Date of Posting: \_\_\_\_\_  
Signature

Number of Signs: \_\_\_\_\_

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

No. 008063

DATE 2/13/97 ACCOUNT R0016150

AMOUNT \$ 50.00

RECEIVED FROM: BASSA

FOR: Under sized lot filing

02A91 R0135HTCIRC \$50.00  
86 CR101046802-13-97

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION  
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER



Name

Address

Norman Francis	4110 10 WASHINGTON Blvd.
George Hawk	1923 GRANT Rd
Jamie Rowe	1919 GRANT Rd.
Patricia Brown	1917 GRANT RD
Joel Phillips	1934 Beth Ave.
Edith Brown	1933 Lincoln Ave
William E. Shaw III	1921 Lincoln Ave



Baltimore County  
Zoning Commissioner  
Office of Planning and Zoning

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

April 15, 1997

Arnold R. Silbiger, Esquire  
1338 Sulphur Spring Road  
Baltimore, Maryland 21227

RE: Application for Building Permit For Undersized Lot  
Location: 4109 Old Washington Blvd.  
Permit No. B295128  
Clarence M. Bohn/F.G. Basso, Contractor

Dear Mr. Silbiger:

Enclosed please find the decision rendered in the above captioned case. The Application for Building Permit for Undersized Lot has been denied.

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

Very truly yours,

Lawrence E. Schmidt  
Zoning Commissioner

LES:mmn  
att.

c: Mr. Clarence M. Bohn 405 Shady Nook Avenue, Balto, Md. 21228  
c: Mr. F.G. Basso, 928 Regina Drive, Baltimore, Md. 21227  
c: Melvin Kodenski, Esquire, 19 E. Fayette St., Suite 201, Baltimore, Maryland 21201, Attorney for the Protestants

IN RE: APPLICATION FOR BUILDING PERMIT \* BEFORE THE  
 FOR UNDERSIZED LOT  
 S/S Lincoln Avenue, 106 ft. from \* ZONING COMMISSIONER  
 N corner of Grant Avenue  
 4109 Old Washington Boulevard \* OF BALTIMORE COUNTY  
 13th Election District  
 1st Councilmanic District \* Permit No. B 295128  
 Legal Owner: Clarence M. Bohn  
 Applicant: F.G. Basso \*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner to consider the appropriateness of a single family dwelling on an undersized lot, located at 4109 Old Washington Boulevard in western Baltimore County. The subject property is owned by Clarence M. Bohn and proposed for development by F.G. Basso, builder. The property is also known as lot No. 20 of the subdivision known as Old Park Addition in Halethorpe.

This matter comes before the Zoning Commissioner pursuant to Section 304 of the Baltimore County Code. That section permits the owner of an undersized lot to construct a single family dwelling thereon by right, if certain conditions are satisfied. Pursuant to that section, the subject property was posted with the sign advertising the proposed single family dwelling. Several adjoining property owners petitioned for a public hearing pursuant to Section 304.4 of the BCZR. Thus, this matter was duly scheduled and a public hearing conducted to determine the appropriateness of the proposed use.

Appearing at the requisite hearing was Clarence M. Bohn and F.G. Basso, contractor. There were represented by Arnold R. Silbiger, Esquire. Appearing in opposition to the request were a number of residents of the surrounding locale, including Jamie Rowe, Patricia Brown, Earl Phillips, Edith Pruett, Arthur and Janet Shaw, Norman Farley and George R. Hawk. The Protestants were represented by Melvin Kodenski, Esquire. Tom

ORDER RECEIVED FOR FILING

Date

By

4/16/97  
 M. Basso

Regulski, a Sediment and Erosion Control Inspector from Baltimore County, also appeared and participated at the hearing.

Testimony and evidence presented by the Petitioner was that the subject property is rectangular in shape, with dimensions of 53 ft. wide and 159 ft. deep. Apparently, the property is now zoned D.R.2, having been down zoned from a more intense residential classification during the 1996 quadrennial map process. Testimony was also produced that Mr. Basso commenced construction of a single family dwelling on the subject property in November of 1996. The proposed dwelling will be approximately 47 ft. deep and 28 ft. wide. The site plan shows that a 10 ft. side yard setback will be maintained towards the western property line and an 11 ft. side yard setback towards the eastern property line. Construction was halted and the dwelling remains incomplete at the present time.

Section 304 of the BCZR permits a property owner to construct a single family dwelling by right on a lot with insufficient area and/or width if three conditions are satisfied. First, such lot must have been duly recorded either by deed or in a validly approved subdivision in the Baltimore County Land Records prior to March 30, 1955 (304.1.A). Secondly, the Applicant must comply with all other requirements of the height and area regulations (304.1.B). Third, the owner of the lot cannot own sufficient adjoining land to conform to the width or area requirements contained within the BCZR (304.1.C).

Mr. Bohn testified that he has owned the subject property for 15 years. He also stated that he does not own any adjacent land. His uncontradicted in this regard is persuasive that he complies with that requirement of Section 304.1.C.

The Petitioner also submitted copies of deeds and plats obtained from the Land Records of Baltimore County. Those documents indicate that the

ORDER RECEIVED FOR FILING  
Date 4/16/97  
By M. Good

subject lot was originally plotted as part of the subdivision known as Oak Park addition in 1921. Therefore, these documents are persuasive that the requirement of Section 304.1.A of the BCZR has been satisfied.

The third requirement, as stated above, (304.1.B) relates to compliance with other height and area regulations in the BCZR. The setbacks shown on the plan meet the requirements for a D.R.5.5 zoned lot (apparently, the prior classification). A copy of the zoning map for this vicinity, reflecting the action taken by the County Council during the 1996 quadrennial zoning process, was submitted at the hearing by the Protestants. That map discloses that the subject property is zoned D.R.2. Although it was indicated that that classification represented a change to the prior zoning of the property, there was no evidence presented as to what that prior zoning classification was for this site. Section 1B02.3.C. of the BCZR establishes setbacks for properties in the D.R. zone. For a D.R.2 property, the minimum side yard setback is 15 ft. In this case, it is clear that the Developer's plans do not meet that requirement, thus, the plan does not satisfy the requirements of Section 304.1.B. of the BCZR.

A significant volume of testimony was also received in this case from the Protestants. A number of neighbors testified in opposition to the plan, primarily over concerns relating to storm water runoff. These witnesses testified that they opposed construction on the subject lot and were fearful that the addition of impermeable surface would create storm water runoff onto their yards. A series of photographs were submitted by both sides showing existing conditions. This testimony was obviously offered by the Protestants to establish that the construction of a single family dwelling is not appropriate for the property.

In response to this evidence, testimony was received from Tom Regulski, Sediment and Erosion Control Inspector. Mr. Regulski has been to the

ORDER RECEIVED FOR FILING  
Date 7/16/97  
By M. Gorkh

site several times and indicated that there have been some problems during the course of construction. He agreed with the neighbors' testimony that there was improper runoff at the present time, largely because the necessary sediment controls were not in place. However, he concluded that storm water runoff will not be a problem in the long term. Rather, he testified that conditions would be better if the house was constructed in that the site would be stabilized and water collection devices (e.g. gutters and rain spouts) could be added to control runoff. In his judgment, the existing problems are a temporary condition. In my view, Mr. Regulski's testimony would be persuasive on this issue.

Although the above issues were thoroughly addressed and argued during the hearing, there remains for comment a threshold issue which, in my judgment, is dispositive on this case. This issue was not specifically argued by counsel, however, reference is made to same by the documents in the file. I explain.

The hearing before me was not the first time that this property has been considered for relief under the undersized lot regulations. In fact, the comment received on the current proposal from the Office of Planning references "This was under a hearing (lost) CBA-96-172. Now trying again." Indeed, a review of the County records indicates that an identical application for relief was made by Messrs. Bohn and Basso in the summer of 1996. At that time, building plans were submitted proposing an identically sized building envelope and dwelling for the subject property. The site was posted and by request of Mr. Farley dated September 19, 1996 the matter came in for public hearing before the Deputy Zoning Commissioner, Timothy M. Kotroco. By order of November 12, 1996, Mr. Kotroco granted the relief requested. He determined that the dwelling proposed

ORDER RECEIVED FOR FILING  
Date 4/16/97  
By M. Gork

for the subject site was "appropriate" relying heavily upon the recommendations made by the Office of Planning.

An appeal of Deputy Commissioner Kotroco's decision was timely filed by neighbors to the County Board of Appeals. The Board assumed jurisdiction and heard the case on December 19, 1996. Following the conclusion of the hearing, the Board members conducted open deliberations as required by the Code. The Board lamented that there were ". . . a lot of difficulties in this case . . .", and further stated ". . . that neither side was particularly prepared with what we need to decide the case." Following its open deliberations, the Board issued a written decision and Order on the January 8, 1997. By that decision, the Board held that the Applicant satisfied the standards in Sections 304.1.B. and C. of the BCZR (e.g., compliance with the height and area requirements and that owner does not own sufficient adjoining land.) However, as to what would appear to be the most easily satisfied requirement; that the lot was part of a duly recorded subdivision prior to 1955, the Board held that insufficient evidence had been offered. Apparently, the Board was unwilling to either take judicial notice of this obvious fact or solicit testimony from any of those present that this property was part of an older subdivision which had been recorded and built out many years ago. Rather, the Board chose to apply the strict rules of evidence and procedure to the parties who appeared before it without counsel, and considered only what had been offered.

The file will further show that following the Board's hearing, the Applicant obtained counsel and that a Motion for Reconsideration was filed. That Motion sought to introduce new evidence establishing the fact that the property was part of a duly recorded subdivision prior to 1955. The Protestants then obtained their own counsel, who objected to the

ORDER RECEIVED FOR FILING

Date

4/16/97

By

*M. G. Gosh*

Motion for Reconsideration. The Board reconvened its hearing, received oral argument on the Motion, and issued a brief written Order on February 5, 1997 denying the Motion for Reconsideration. The brief written Order referenced as reasons therefore its statements on the record, but did not amplify same. Inexplicitly, no appeal followed and the Board's Order is now, obviously, final.

At the hearing before me, the parties did not argue the significance of these prior hearings and the Board's Order. These matters came to my attention while considering the impact of the zoning change to the property brought about by the adoption of the zoning maps by the County Council last year. Specifically, I concluded that a decision need be made as to whether this application was somehow vested under the old zoning classification. A determination of this issue, however, is moot when considering the impact of the Board's ruling.

The doctrine of res adjudicata prohibits subsequent litigation between the same parties and their privies upon the same cause of action not only as to all matters which were decided in the original suit, but as to all matters which with propriety could have been litigated in the first suit. See Alvey v. Alvey, 225 Md. 386 (1961). Originally, appellate courts were reluctant to apply this doctrine to decisions of administrative agencies. However, this rule of law has changed over the years. In stated in White v. Prince Georges County, 282 Md. 641 (1978), "Although early cases often made the sweeping statement that decisions of administrative agencies can never be res adjudicata, this court later came to recognize that the principals of public policy underlying the rules of res adjudicata were applicable to some administrative agencies performing quasi judicial functions."(pg.658) Moreover, in Board of County Commissioners of Cecil County v. Racine, 24 Md. App. 435 (1975) it was held

ORDER RECEIVED FOR FILING  
Date 4/16/97  
By M. G. G. G.

that at least some of the principals of the doctrine of res adjudicata are applicable to the decisions by Zoning Boards. The Court concluded that an unreversed final decision by a Zoning Board, passed in the exercise of its discretion upon issues of fact or upon mixed issues of law and fact, are fully binding upon the parties to the cause and their privies as to all issues determined thereby. It is only where there has been a substantial change in conditions or it is shown that the decision was the product of fraud, surprise, mistake or inadvertence, that such an administrative body may reverse the prior decision and litigation between the same parties.

In this case, a review of the files shows that the Applicants (Mr. Bohn and Mr. Basso) and the Protestants (Mr. Farley, et al), are identical. Moreover, the property is obviously the same, as is the application and proposed single family dwelling. In fact, the Applicant apparently started construction shortly after Deputy Commissioner Kotroco's Order, believing (falsely it turned out) that the Protestants' appeal would not be successful. The structure which has been partially completed is identical in all detail to what is proposed for consideration by me and at the prior hearing before Deputy Commissioner Kotroco and the Board of Appeals.

In sum, I hold that the principles of res adjudicata are applicable here. Therefore, the decision of the Board of Appeals, denying the application to permit a single family dwelling on the subject lot, is controlling. Although I question the basis of the Board's decision, the Board's Order is final and was not appealed. Moreover, even if the Board's decision was not controlling, relief cannot be granted pursuant to Section 304. Under the property's present zoning classification, D.R.2, the Applicant fails to meet the requirements of Section 304.1(B), in that the side yard setbacks are deficient. The Petitioner's only potential means

ORDER RECEIVED FOR FILING

Date

By

5/16/97  
*[Signature]*

side yard setbacks are deficient. The Petitioner's only potential means of relief would be pursuant to Section 307, to variance the width and setback requirements. No such request is presently at issue.

Pursuant to the advertising, posting of the property, and public hearing on this Application held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 16<sup>th</sup> day of April 1997 that approval to permit the owner of an undersized lot (4109 Old Washington Boulevard, lot No. 20 of the subdivision known as Old Park Addition in Halethorpe) to construct a single family dwelling, be and is hereby DENIED.

The Applicant is hereby ORDERED to remove the structure on the subject property within 60 days from the date that this Order, or any similar Order on appeal, is final.

Any appeal from this decision must be filed with the Baltimore County Board of Appeals in accordance with the applicable provisions of law and Section 304.6 of the BCZR.

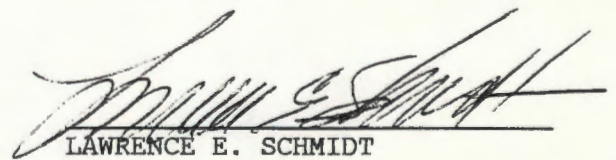
ORDER RECEIVED FOR FILING

Date

By

4/16/97  
L. E. Schmidt

LES:mmn



LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

Exhibit C

Date to be posted: Anytime before but no later than 2/25/97.

Request for Use Permit: Class A Child Care, Parking, Undersized Lot Farmer's Roadside Stand

Format for Use Permit Sign, Black Letters on White Background:

**ZONING NOTICE**  
(FOR REQUEST FOR UNDERSIZED LOT  
APPLY)

**BUILDING PERMIT  
APPLICATION**

TO PERMIT CONSTRUCTION OF A DWELLING ON AN UNDERSIZED LOT  
PURSUANT TO SECTION 304.2 (BCZR)

**PUBLIC HEARING ?**

**PURSUANT TO SECTION 304.4, BALTIMORE COUNTY REGULATIONS,  
AN ELIGIBLE INDIVIDUAL OR GROUP MAY REQUEST A PUBLIC HEARING  
CONCERNING THE PROPOSED BUILDING PERMIT, PROVIDED THE REQUEST  
IS RECEIVED IN THE ZONING REVIEW BUREAU BEFORE 5:00 P.M. ON**

3/12/97

**REQUEST FOR HEARING MUST REFERENCE THE ADDRESS ON THIS SIGN.  
ADDITIONAL INFORMATION IS AVAILABLE AT THE DEPARTMENT OF PERMITS  
AND DEVELOPMENT MANAGEMENT, COUNTY OFFICE BUILDING, 111 WEST  
CHESAPEAKE AVE., TOWSON, MD 21204, (410) 887-3391.**

**DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW**

**HANDICAPPED ACCESSIBLE**



Baltimore County  
Department of Permits and  
Development Management

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

February 21, 1997

**NOTICE OF REQUEST FOR  
HEARING AND HEARING DATE  
FOR UNDERSIZED LOT PERMIT**

Please note that a formal request for a public hearing to be held before the Zoning Commissioner has been filed with this office. Pursuant to Baltimore County Zoning Regulations, such hearing has been scheduled and will take place as follows:

HEARING ON UNDERSIZED LOT  
Permit Number: B295128  
4109 Old Washington Road  
13th Election District - 1st Councilmanic  
Legal Owners: Clarence Bohn  
Applicant: F. G. Basso

Hearing to determine whether the Zoning Commissioner should approve the proposed improvements on an undersized lot.

HEARING: TUESDAY, MARCH 25, 1997 at 9:00 a.m. in Room 118, Old Courthouse, 40 Washington Avenue, Towson, Maryland.

Arnold Jablon  
Director ZADM

cc: F. G. Basso  
Clarence Bohn  
Norman L. Farley  
Richard Brown  
Patricia Brown  
George Hawk  
Edith Pruitt  
Arthur Shaw  
James Rowe  
Earl Phillips



RE: HEARING ON UNDERSIZED LOT \* BEFORE THE  
 4109 Old Washington Blvd, S/S Lincoln \* ZONING COMMISSIONER  
 Avenue, 106' from N corner of Grant Ave. \* OF BALTIMORE COUNTY  
 1st Election District, 1st Councilmanic \* Permit No.: B295128  
 Legal Owner: Clarence M. Bohn \*  
 Applicant: F.G. Basso \*  
 Applicants \*

\* \* \* \* \*

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 27<sup>th</sup> day of March, 1997, a copy of the foregoing Entry of Appearance was mailed to Clarence M. Bohn, 405 Shadynook Avenue, Baltimore, MD 21228, and F.G. Basso, Basso & Basso Masonry Const. Co., 928 Regina Drive, Baltimore, MD 21227, Applicants.

Peter Max Zimmerman  
 PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Arnold R. Silbiger

1338 Sulphur Spring Rd-

Baltimore, Md. 21227

FERRINDO G. BASSO

928 REGINA DR BALTO MD 21222

Doreen M. Bohn

405 Shady Nook Ave Balt 21222



PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Jamie Rowe  
Patricia Brown  
Jarl Phillips  
Edith Pruett  
Arthur + Janet Shaw  
George R Hawk

1919 Grant Ave.  
1917 Grant Ave Balto. Md.  
1934 Bell Ave Balto. Md. 212  
1933 Lincolns Ave 21  
1921 Lincoln Ave 2122  
1923 Grant Rd 2122

OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

DATE 2/19/97 ACCOUNT R001-6150

AMOUNT \$ 40.00

land 21227

RECEIVED FROM: Norman Farley

FOR: Request for Hearing  
4109 Old Washington  
01ADD#0271MICRRC \$40.00  
BA COLL#42AMD2-19-97

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION  
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

We the residents of Oak Park would like to request a public hearing, for the property at 4109 Old Washington Blvd (Lot in question is Number 20) Mr Basso is trying to get a building permit to put a house on an undersize lot of land in the Oak Park Neighborhood.

Sincerely,

Mr. & Mrs Norman Farley

Norman Lee Farley 4111 OLD WASHINGTON BLVD (242-3827)

Roxanne Farley

Harold Brown 4105 OLD WASHINGTON TOWN BLVD 247 1857

Phyllis Brown 1917 GRANT AVE. BALTO MD (247-3849)

George R. Hawk 1923 GRANT RD. BALTIMORE MD 242 2952

Evelyn Prater 1933 Lennox Ave. Balt. Md 242

Brynard V. Prater

Arthur & Janet Shaw 1921 Lincoln Ave 21227

James Rowe

1919 Grant Rd. 21227

Carl C. Phillips 410-242-7109/1934 Bell Ave, Balto. Md. 21227

File copy

IN RE: PETITION FOR *Hearings on*  
*Undersized Lot*  
*4109 Old Washington Road*

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* ~~Case No.~~ *Permit # B295128*

\* \* \* \* \*

TO: *Thomas M. Regulski*  
*C/O Dept. of Environmental Protection and*  
*Resource Management*  
*Room 416*  
*County Courts Building*  
*Towson, Maryland 21204*

SUBPOENA

You are hereby summoned and commanded to be and appear personally  
before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore  
County in Room 118, Old Courthouse, 400 Washington Ave  
Towson, Maryland

and to bring your file pertaining to setment control  
as to the property at 4109 Old Washington Road.

on the 25th day of March 1997, <sup>at 9:00 A.M.</sup> regarding the above captioned  
case, for the purpose of testifying at the request of Clarence Bohu  
owner of the property.

*Donald R. Silbigen*  
ATTY for Clarence Bohu

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule IV(c).

*Janet H. Refraco*  
Zoning Commissioner/Deputy  
Zoning Commissioner  
for Baltimore County

Issued: 3/19/97



Baltimore County  
Department of Permits and  
Development Management

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

May 22, 1997

Arnold R. Silbiger, Esquire  
1338 Sulphur Spring Road  
Baltimore, MD 21227

RE: Application for Building  
Permit for Undersized Lot  
S/S Lincoln Ave, 106 ft.  
from N corner of Grant Ave.  
(4109 Old Washington Blvd)  
13th Election District  
1st Councilmanic District  
Clarence M. Bohn - Legal  
Owner  
F. G. Basso - Applicant  
Permit No. B-295128

Dear Mr. Silbiger:

Please be advised that an appeal of the above-referenced case was filed in this office on May 15, 1997 by F.G. Basso and Clarence Bohn. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,

ARNOLD JABLON  
Director

AJ:rye

c: Melvin Kodenski, Esquire  
People's Counsel





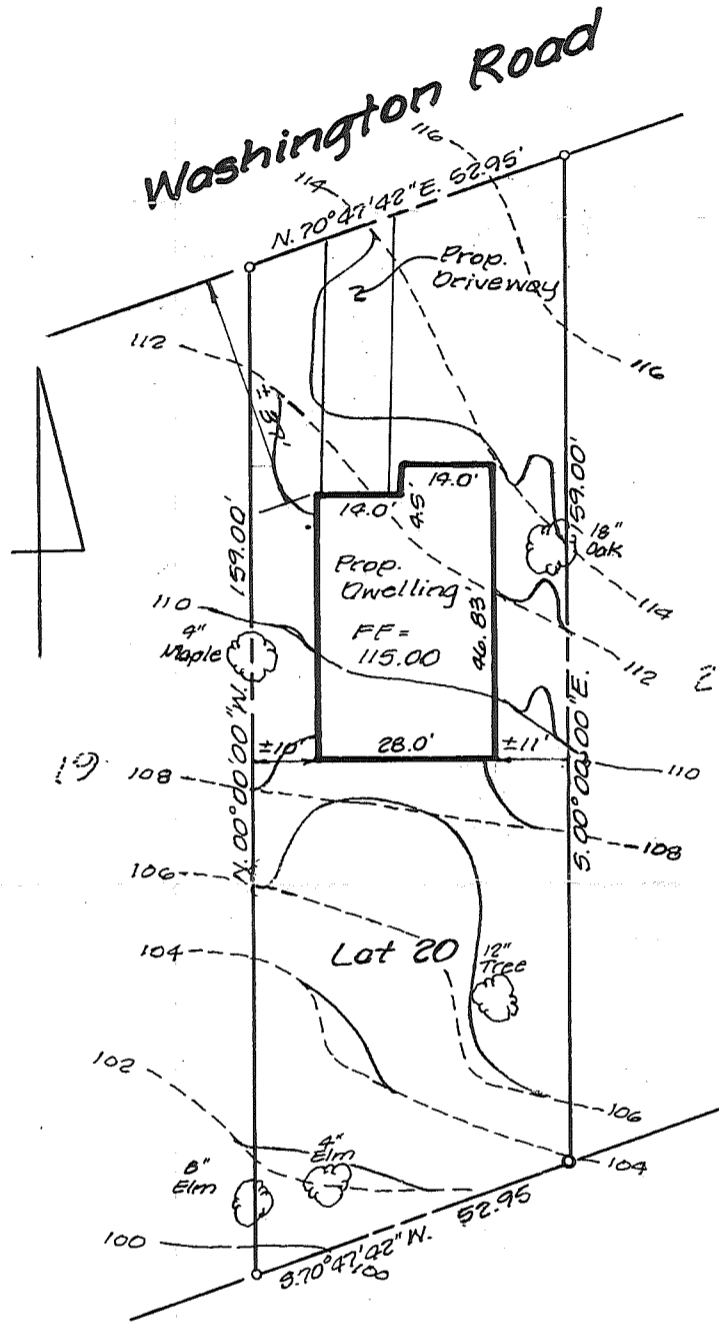
Property known as: Lot 20

Oak Park Addition

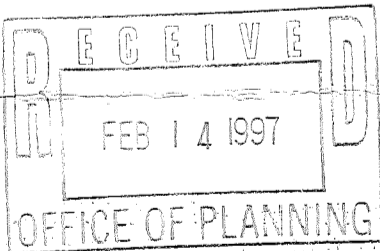
4109 OLD WASHINGTON RD,

Baltimore County, MD.

W.P.C. No. 7 Part 1-23



Note: Downspouts to be routed to drainage swales and to rear of property.



CASE # CBA 96-172

CERTIFICATION

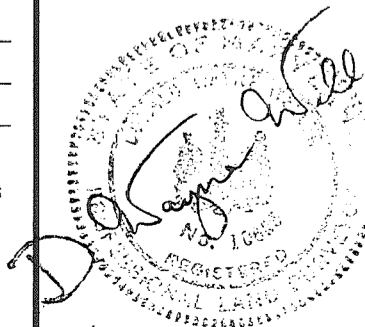
SEAL

SCALE 1" = 30' DATE 8.19.96

This is to certify that I have surveyed the property known as:

Washington Road

for the purpose of locating the improvements thereon, and the improvements are located as shown.



LDE Inc.

9250 Rumsey Road Suite 106  
Columbia, Maryland 21045

(Balt.) 410-715-1070  
(Wash.) 301-596-3424  
(FAX) 410-715-9540

APPEAL

Application for Building Permit for Undersized Lot  
S/S Lincoln Avenue, 106 ft. from N corner of Grant Avenue  
(4109 Old Washington Boulevard)  
13th Election District - 1st Councilmanic District  
Clarence M. Bohn - Legal Owner  
F.G. Basso - Applicant  
Permit No. B-295128

Application for Undersized Lot

No Description of Property Found

No Certificate of Posting Found

No Certificate of Publication Found

Entry of Appearance of People's Counsel

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:      1 - Plat of Oak Park Addition  
                                 2A - Deed dated July 29, 1935  
                                 2B - Deed dated December 26, 1941  
                                 2C - Two Deeds dated April 25, 1955  
                                 2D - Deed dated October 11, 1967  
                                 2E - Deed dated June 18, 1981  
                                 3 - Site Plan  
                                 4 - Five Building Elevation Drawings

Protestants' Exhibits:    1A-C - Three Photographs  
                                 2A-F - Six Photographs  
                                 3 - Nineteen Photographs  
                                 4A-M - Thirteen Photographs  
                                 5-5A - Two Photographs  
                                 6 - Two Photographs  
                                 7 - One Photograph  
                                 8 - One Photograph

Application for Permit dated February 4, 1996

Twenty-seven Photographs not Marked as Exhibits

Request for Public Hearing by Mr. and Mrs. Norman L. Farley, et al  
dated February 15, 1997

Subpoena to Thomas M. Regulski dated March 19, 1997

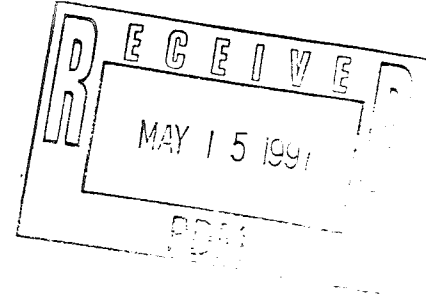
Opinion of the Board of Appeals of Baltimore County on Case #CBA-96-172  
dated January 8, 1997

Zoning Commissioner's Order dated April 16, 1997 (Denied)

Notice of Appeal received on May 15, 1997 from F.G. Basso and  
Clarence Bohn

c: Arnold R. Silbiger, Esquire, 1338 Sulphur Spring Road, Baltimore,  
Maryland 21227  
Mr. Clarence M. Bohn, 405 Shady Nook Avenue, Baltimore, MD 21228  
Mr. F.G. Basso, 928 Regina Drive, Baltimore, MD 21227  
Melvin Kodenski, Esquire, 19 E. Fayette Street, Suite 201,  
Baltimore, MD 21201  
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Lawrence Schmidt, Zoning Commissioner  
Arnold Jablon, Director of DM



May 5, 1997

The Honorable Lawrence E. Schmidt  
Zoning Commissioner  
Court House  
Towson, Maryland 21204

Re: Application for Building Permit for Undersized Lot  
Location: 4109 Old Washington Blvd.  
Permit No. B295128  
Clarence M. Bohn/F.G. Basso, Contractor

Dear Commissioner Schmidt:

On behalf of Clarence M. Bohn, owner, and F.G. "Dino" Basso, contractor, please enter an appeal to the County Board of Appeals from your Findings of Fact and Conclusions of Law dated April 15, 1997, in the above-entitled matter.

A check in the amount of Two Hundred and Ten Dollars (\$210.00) made payable to Baltimore County is enclosed covering the One Hundred and Seventy-Five (\$175.00) appeal fee and the Thirty-Five Dollar (\$35.00) sign posting fee.

Thanking you, and your staff, as well as the Board's staff for its attention to this appeal, I am

Sincerely yours,

F.G. Basso for self and  
Clarence Bohn

FGB/dlp

cc: County Board of Appeals  
Peter J. Zimmerman, Esq.  
Melvin Kodenski, Esq.

bcc: Mr. Clarence Bohn  
Mr. F.G. Basso ✓

IN THE MATTER OF  
F.G. BASSO -APPLICANT; CLARENCE  
M. BOHN - LEGAL OWNER  
4109 OLD WASHINGTON BOULEVARD  
BALTIMORE, MD 21227  
13TH ELECTION DISTRICT  
1ST COUNCILMANIC DISTRICT

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\*  
\* CASE NO. CBA-96-172

RE: APPROVAL OF BUILDING PERMIT / \*  
UNDERSIZED LOT

\* \* \* \* \* \* \* \* \* \* \* \* \*

O P I N I O N

This matter comes before the Board on appeal of a decision of the Deputy Zoning Commissioner approving an undersized lot /building permit for a single-family dwelling. The undersized property at 4109 Old Washington Boulevard is known as Lot 20 of Oak Park Addition in Halethorpe, 1st Councilmanic District. The wooded lot consists of 8,427 sq. ft., and is 52.95 feet wide and 159 feet deep.

The appeal before this Board was filed by Norman Farley, the adjacent property owner, who protests the building permit filed for the owner, Clarence M. Bohn. His objection to the permit was the adverse effect the new house will have on water drainage problems at the site and the long history of existing drainage problems in the neighborhood of no street curbs or gutters.

In this appeal, the property owner of Lot 20, Mr. Bohn, was not represented by legal counsel and did not testify from his position as owner. His construction contractor, Mr. F.G. Basso, served as spokesman, testifying on all issues raised, and cross-examination in this hearing.

Representing himself in this case, Mr. Farley testified to the surface water drainage conditions on his and neighboring properties prior to the issuing of the permit to Mr. Bohn. Photographs

(Exhibits 1 to 3) entered by Appellant and testimony by several protestants emphasized the water drainage problems incurred by residents of the neighborhood.

George R. Hawk testified that water that once skirted the Farley property now flows through or settles in a swamp-like condition in the backyard. With a nearby backyard several hundred feet away, Mr. Hawk now has the same drainage condition. Other witnesses agreed that the removal of numerous large trees and vegetation on the previously wooded lot, coupled with unfinished grading, created the drainage problems. Water that once remained on the site or followed a roadway now was flowing in other directions, particularly to the disadvantage of Mr. Farley.

Appellant further testified to his concern for the distance between dwellings, acknowledging that his house was improperly located only 3-1/2 feet from the Bohn property when built years before. Until the subject lot was surveyed for the permit, Appellant did not know of his setback deficiency. Now he testified that the new dwelling will limit his access.

F. G. Basso, Construction Contractor, testified that once he received the permit to build on the undersized lot he commenced with grading and construction, having cut down trees earlier. In response to Appellant's complaints of incomplete grading on the site, Mr. Basso remarked that his grading study "was approved by DEPRM." He asserted that the final grading will stabilize the property and take care of roof run-off. Sediment control has been in place since construction began, and the silt fences are maintained. The setback requirements satisfy the Baltimore County

Zoning Regulations (BCZR).

The matter before the Board is to determine the appropriateness of building a single-family dwelling on an undersized lot. The controlling standards are the regulations of Section 304.1 (BCZR, 1955; Bill No. 47, 1992). Section 304.1 stipulates that:

"A one-family detached or semi-detached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;
- B. All other requirements of the height and area regulations are complied with; and
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

Applicant appears to satisfy the standards of subsections B and C. The plat for the construction was recommended for approval by the Office of Planning. However, in the proceeding of this hearing, the Board has felt restrained in obtaining certain aspects of evidence, particularly in regard to a grading plan for stormwater run-off managed on-site.

The Board has also had to ask numerous questions to extract certain information needed for the case, as neither side was particularly prepared for the hearing. Near the conclusion of testimony, the entry of the property deed as evidence (Applicant's Exhibit 2) to show compliance with Section 304.1A gave added indication of misunderstanding, as the submitted deed did not give validity to an approved Lot 20 in the subdivision of Oak Park prior

to 1955, but is dated October 11, 1965.

The Board is cognizant of the magnitude of problems remaining at the location of the Farley house and the Bohn property. However, we are governed by Section 304.1 of the BCZR, in which subsection A states that "such lot must be recorded either by deed or in a validly approved subdivision prior to March 30, 1955."

Failing to comply fully with each of the controlling standards of Section 304.1, the Board is persuaded to deny the application for an undersized lot /building permit.


O R D E R

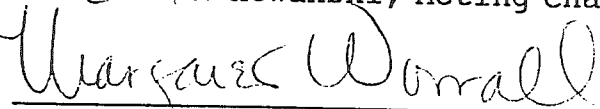
IT IS THEREFORE, this 8th day of January, 1997 by the County Board of Appeals of Baltimore County


ORDERED that the subject property, known as 4109 Old Washington Boulevard, does not satisfy the requirements for approval as an undersized lot as set forth in Section 304.1 of the Baltimore County Zoning Regulations.

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

  
\_\_\_\_\_  
Margaret Worrall

  
\_\_\_\_\_  
Harry E. Buchheister, Jr.

36.00 fee per VIN  
B295128

APPLICATION FOR PERMIT  
BALTIMORE COUNTY MARYLAND  
DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT  
TOWSON, MARYLAND 21204

DATE: 2-4-96  
OEA: DLS/KAP  
HISTORIC DISTRICT/BLDG.

ERMIT #: B295128  
ECEPT #: A322571  
ONTROL #: MK  
REF #:

PROPERTY ADDRESS: 4109 Old Washington Rd  
SUITE/SPACE/FLOOR: YES  NO   
SUBDIV: DAK PARK ADDITION  DO NOT KNOW  
TAX ACCOUNT #: 13-16-150640 DISTRICT/PRECINCT: 13 5  
OWNER'S INFORMATION (LAST, FIRST)  
NAME: BOHN, CHARLENCE  
ADDR: 405 STANNARD AVE. BALTIMORE MD 21220

FEE: 119.00 + 5.00  
AID: 77.40  
AID BY: APP  
INSPECTOR:

DOES THIS BLDG. HAVE SPRINKLERS  
YES  NO

HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

APPLICANT INFORMATION

NAME: FERDINAND G. BASSO  
COMPANY: FFD CONTRACTING CO.  
STREET: 928 REGINA DR.  
CITY, ST, ZIP: BALTO. MD. 21227  
PHONE #: 536-0886 MHIC LICENSE #:

APPLICANT SIGNATURE: [Signature] TRACT: BLOCK:  
PLANS: CONST  PLOT  PLAT  DATA  EL PL  
TENANT: FFD CONTRACTING  
CONTR: ENGR: SELLR:

- BUILDING 1 or 2 FAM. CODE BOCA CODE TYPE OF IMPROVEMENT  
 NEW BLDG CONST  
 ADDITION  
 ALTERATION  
 REPAIR  
 WRECKING  
 MOVING  
 OTHER

DESCRIBE PROPOSED WORK: PLEASE REFER TO SUSPENDED PERMIT # B292634  
~~STABLE FADING DETAILING PROJECT 20442~~  
CONSTRUCT SFD W/3 BEDROOMS, NO FIRE PLACE!

TYPE OF USE

- RESIDENTIAL  
1.  ONE FAMILY  
2.  TWO FAMILY  
3.  THREE AND FOUR FAMILY  
4.  FIVE OR MORE FAMILY (ENTER NO UNITS)  
5.  SWIMMING POOL  
6.  GARAGE  
7.  OTHER

NON-RESIDENTIAL

- 08. AMUSEMENT, RECREATION, PLACE OF ASSEMBLY 247857  
09. CHURCH, OTHER RELIGIOUS BUILDING  
10. FENCE (LENGTH HEIGHT)  
11. INDUSTRIAL, STORAGE BUILDING REFER BACK FOR SITE + CONSTRUCTION  
12. PARKING GARAGE  
13. SERVICE STATION, REPAIR GARAGE  
14. HOSPITAL, INSTITUTIONAL, NURSING HOME  
15. OFFICE, BANK, PROFESSIONAL  
16. PUBLIC UTILITY  
17. SCHOOL, COLLEGE, OTHER EDUCATIONAL  
18. SIGN  
19. STORE MERCANTILE RESTAURANT UNDER ROOF  
20. SWIMMING POOL SPECIFY TYPE STOP WORK ORDER GIVEN NO FEE  
21. TANK, TOWER  
22. TRANSIENT HOTEL, MOTEL (NO. UNITS)  
23. OTHER

TYPE FOUNDATION BASEMENT  
SLAB 1.  FULL  
BLOCK 2.  PARTIAL  
CONCRETE 3.  NONE

TYPE OF CONSTRUCTION

- MASONRY  
 WOOD FRAME  
STRUCTURE STEEL  
REINF. CONCRETE

TYPE OF HEATING FUEL

- 1. GAS 3.  ELECTRICITY  
2. OIL 4. COAL

TYPE OF SEWAGE DISPOSAL

- 1.  PUBLIC SEWER  EXISTS  PROPOSED  
2. PRIVATE SYSTEM  
SEPTIC  EXISTS  PROPOSED  
PRIVY  EXISTS  PROPOSED

CENTRAL AIR: 1.  2. PUBLIC SYSTEM  EXISTS  PROPOSED  
STIMATED COST: \$20,000 2. PRIVATE SYSTEM  EXISTS  PROPOSED

PROPOSED USE: SFD  
EXISTING USE: SFD (UNDER CONSTRUCTION)

OWNERSHIP

- 1.  PRIVATELY OWNED 2. PUBLICLY OWNED 3. SALE 4. RENTAL

RESIDENTIAL CATEGORY: 1.  DETACHED 2. SEMI-DET. 3. GROUP 4. TOWNHSE 5. MIDRISE

FEE: #1BED: #2BED: #3BED: TOT BED: TOT APTS/CONDOS: 6. THIRISE  
FAMILY BEDROOMS: 3  
GARBAGE DISPOSAL I.  2. N BATHROOMS: 2 CLASS: 04  
POWDER ROOMS: 0 KITCHENS: 1 LIBER: FOLIO:

BUILDING SIZE: LOT SIZE AND SETBACKS  
FLOOR: 2478 SIZE: 53 x 159  
WIDTH: 28 FRONT STREET: 42'  
DEPTH: 46.6 SIDE STREET:  
HEIGHT: 26.4 FRONT SETBK: 39  
STORIES: 1 + GARAGE SIDE SETBK: 11' 10"  
LOT #'S: 70 SIDE STR SETBK:  
CORNER LOT: REAR SETBK: 65'  
1. Y 2. N ZONING:

APPROVAL SIGNATURES DATE

BLD INSP	:	:
BLD PLAN	:	:
FIRE	:	:
SEDI CTL	:	:
ZONING	:	:
PUB SERV	:	:
ENVRMNT	:	:
PERMITS	:	:

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

Need HEARING \* Undersized lot approval Again OR

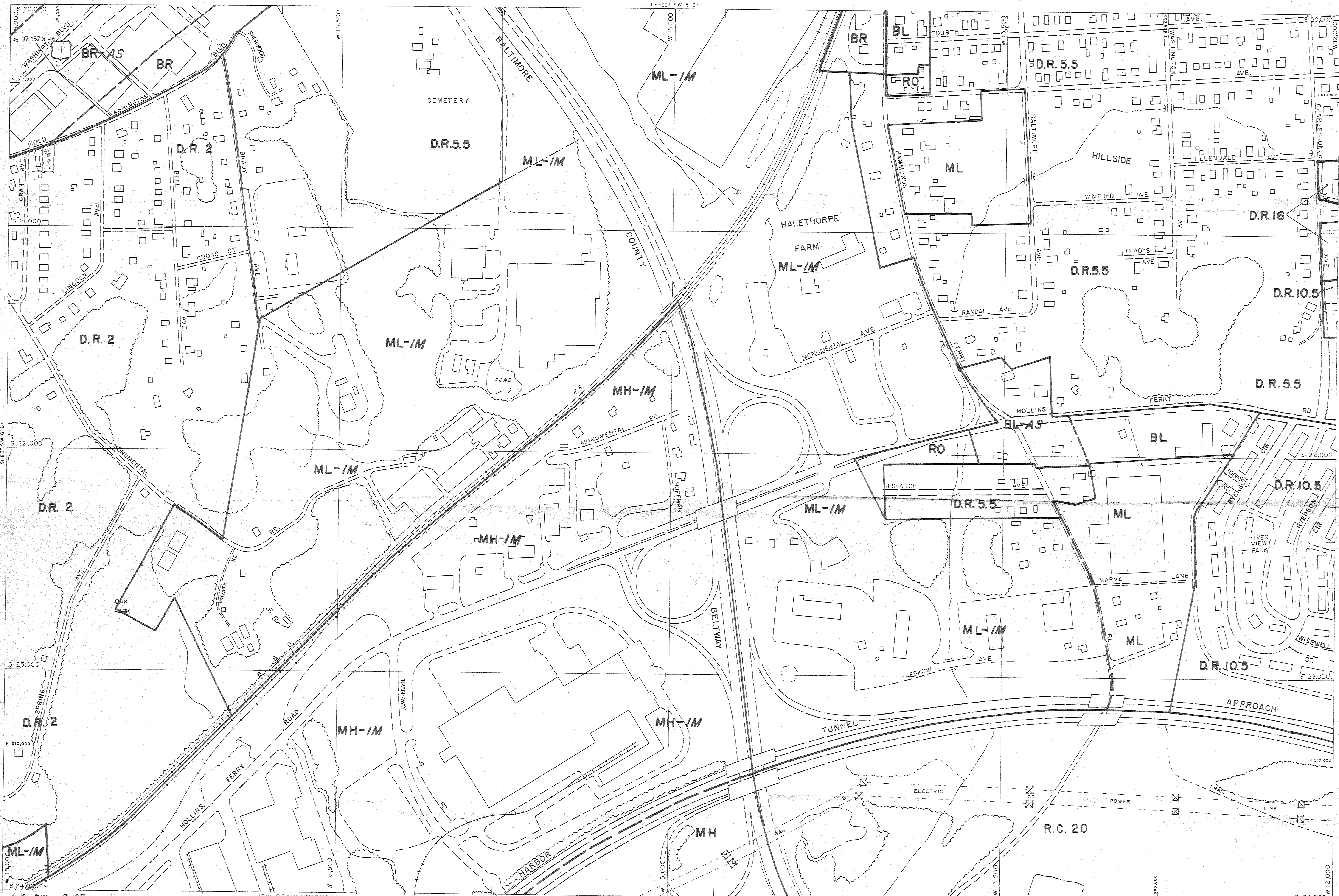


PHOTOGRAMMETRIC MAP OF  
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS		SCALE	LOCATION	SHEET
BY	DATE	1" = 200	MONUMENTAL	S.W. 6-C
	1-5-81	DATE OF PHOTOGRAPHY APRIL 1953		
Topography Compiled By Photogrammetric Methods AERO SERVICE CORPORATION - PHILADELPHIA, PA.				

RECEIVED  
FEB 14 1957  
OFFICE OF PLANNING

8  
11



1996 COMPREHENSIVE ZONING MAP  
 ADOPTED by  
 THE BALTIMORE COUNTY COUNCIL  
 OCTOBER 8, 1996  
 Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

*Kevin Kamanev*  
 Chairman, County Council

**BALTIMORE COUNTY  
 OFFICE OF PLANNING AND ZONING  
 OFFICIAL ZONING MAP**

G-SW C-NW	G-SE C-NE	SCALE 1" = 200' ±	LOCATION MONUMENTAL	SHEET S.W. 6-C
THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210		DATE OF PHOTOGRAPHY JANUARY 1986		

PETITIONER'S  
 EXHIBIT No 3