

3/25/99

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
WILLIAM H. MATHEWS	*	
FOR A SPECIAL HEARING ON	*	OF
PROPERTY LOCATED ON THE S/S	*	
LINDEN TERRACE, 500' E OF C/L	*	BALTIMORE COUNTY
YORK RD (10 LINDEN TERRACE)	*	
AND PROPERTY LOCATED ON THE N/	*	CASE NO. 97-326-SPH and
S LINDEN TERRACE, 650' E OF C/	*	CASE NO. 97-327-SPH
L YORK RD (15 LINDEN TERRACE)	*	
* * * * *		

O P I N I O N

This case comes to the Board of Appeals based on an appeal by the Appellant /Property Owner from a decision of the Zoning Commissioner dated March 20, 1998 which granted the Petitions for Special Hearing filed by Hunter Rowe, a Zoning Inspector with the Office of Permits and Development Management, for the property known as 10 Linden Terrace (97-326-SPH) alleging the illegal conversion of a single-family dwelling into seven apartments; and for the property known as 15 Linden Terrace (97-327-SPH) alleging the illegal conversion of a single-family dwelling into seven apartments; exceeding the number of units permitted pursuant to Section 402 of the Baltimore County Zoning Regulations (BCZR).

This matter was heard by this Board de novo on December 2, 1998. In lieu of closing argument, Counsel submitted memoranda on January 7, 1999, and public deliberation was held on January 21, 1999, due notice of which was provided to all interested parties. Counsel for the Appellant /Property Owner was Michael P. Tanczyn, Esquire, and Lee S. Thompson, Assistant County Attorney, represented Baltimore County, Maryland.

The case below involved five separate zoning violations citing those violations as exceeding the number of family units permissible, utilizing the conversion chart for one-family dwellings pursuant to Section 402 of the BCZR. Three of the

individual cases were resolved satisfactorily below.

The instant case on appeal before the Board involves the two remaining properties; namely, 10 Linden Terrace and 15 Linden Terrace; and alleges the illegal conversion of a single-family dwelling into seven apartments in each property, wherein the lot size does not support such a use (pursuant to Section 402, BCZR). The property at 10 Linden Terrace is rectangularly shaped, approximately .288 acre in area, zoned D.R. 16, is improved with a 2-1/2 story frame dwelling, and contains six individual apartments. The property at 15 Linden Terrace is also zoned D.R. 16, is approximately .45 acre in area, and also is improved with a single-family dwelling consisting of seven individual apartments.

The Zoning Commissioner, through his Opinion and Order dated March 20, 1998, found that both properties in question do not qualify as a legal nonconforming use; and therefore required the application of the conversion chart pursuant to Section 402 of the BCZR. He determined that 10 Linden Terrace was permitted four apartment units instead of the six units which currently exist, and that 15 Linden Terrace was permitted six apartments instead of the seven which are currently in use on that particular property.

In the instant case, the Appellant, through his attorney, argues that the correct regulations to be applied in determining the number of apartment units permissible for each of the subject properties should come from density unit calculations contained in the Zoning Commissioner's Guidelines, and not from Section 402 of the BCZR. Regardless of that determination, Appellant argues that both properties should obtain relief from Section 104.1 of the BCZR

as qualifying legal nonconforming uses.

Appellant's first witness was James Watson, whose testimony related to only 10 Linden Terrace. Mr. Watson testified that his parents purchased the subject property in 1948 from Mr. Howard Bregel (which is documented by the Deed of Sale entered as Appellant/Respondent's Exhibit No. 1), stating at the time of purchase there existed six separate apartments consisting of:

- 3 apartments on the first floor;
- 1 apartment in the basement;
- 1 apartment on the second floor; and
- 1 apartment on the third floor.

He testified that each apartment had separate entrances and its own kitchen, bathroom and living quarters. He further stated each apartment remained in its original form from 1948 through 1974 when he and his brothers purchased the subject site by way of Deed (Appellant/Respondent's Exhibit No. 2) from his parents, with the time of sale to Mr. Mathews (the Appellant herein) by way of Deed (Appellant/Respondent's Exhibit No. 3) in 1980. During this time he was personally familiar with 10 Linden Terrace and was absent only for military service between 1953 and 1955. He recalled that each of the apartments was constantly being utilized by either immediate family members, which included his uncle, his parents and brothers, who occupied separate apartments during different periods of their lives (including the time before and after in which he married and lived there with his family) which involved the use of different apartments. He also referenced soldiers stationed at Fort Meade who would, on different occasions, lease individual apartments. He specifically recalled that a Mr. Harris occupied the second floor apartment, reiterating that all the apartment

units were constantly being utilized.

Mr. Frederick Craig also testified in support of the Appellant /Property Owner. Mr. Craig testified that he purchased 31 Linden Terrace in 1967 and resided there with his family until 1990. Mr. Craig further testified that he was familiar with both 10 Linden Terrace and 15 Linden Terrace since the 1970s. At that time he served as President of the Towson Manor Improvement Association, and recalled delivering monthly newsletters to the neighboring houses, including the subject properties.

Mr. Craig recalled that 10 Linden Terrace had six mailboxes, and that 15 Linden Terrace had seven mailboxes; and also housed the law office of a Mr. Barton Benson in the basement. He further testified that he would help his son deliver newspapers to these addresses as part of his route. Mr. Craig further stated that, acting on behalf of State Farm Insurance, he had inspected and insured 10 Linden Terrace for six apartments and 15 Linden Terrace for seven apartments from 1982 until the present. These inspections occurred after Mr. Mathews purchased both properties and made substantial improvements, especially to the electrical wiring, which brought each property up to the current Code requirements for Baltimore County, and also satisfied State Farm's stringent requirements relating to apartment units.

Mr. Paul Wynn, a general contractor, also testified in support of the Appellant /Property Owner, stating that since the purchase of both properties by Mr. Mathews in 1980 he had performed the rehabilitation work and general maintenance on both sites, and indicated that the original configuration of 10 Linden Terrace was

for six apartments and for 15 Linden Terrace was seven apartments, and has remained unchanged; the only improvements occurring to both being to modernize or correct deteriorating conditions that pre-existed, thus improving the overall quality of both properties.

Mr. Wynn opined that the construction of both properties dated between 1930 and 1940, based upon the construction methods used in both properties, and the outdated appliances and materials, such as tin sinks and cast iron used throughout.

Mr. Wynn also stated that both properties have remained fully rented since 1980 through the present, except for periods of approximately 1 month when general maintenance would be performed in between tenants.

Ms. Anne Martin, who has resided at 12 Linden Terrace since 1987, was next to testify. She referenced Appellant/Respondent's Exhibit No. 5, a letter from the Office of Planning and Zoning dated September 26, 1990 in which she was cited for having seven apartments on a D.R. 16 lot in which the zoning maps showed no reference for a special exception to allow such activity to exist; and she was required to file for a special hearing or face civil penalties. Ms. Martin went on to say that seven apartments existed when she purchased the property, and upon receipt of the letter, she hired the firm of Venable, Baetjer & Howard to represent her along with the engineering firm of Spellman and Larson, who satisfied Baltimore County that the 1981 permit satisfied density unit calculations, and that Baltimore County withdrew its objection. She also indicated that 12 Linden Terrace would not have met the requirements of Section 402.1.

Mr. William Mathews, testifying on his own behalf, stated he currently resides at 17 Linden Terrace, having moved there between 1970 and 1972. His overall knowledge of the neighborhood dates back to at least 1957, when he resided in the immediate neighborhood on Willow Avenue while he attended Towson State University.

He stated while a student there, he would, on occasion, visit friends living at 10 Linden Terrace, indicating it was then configured for six apartments. However, his first-hand knowledge pertaining to 15 Linden Terrace only dated to the time he moved to his current residence in approximately 1970. Mr. Mathews further stated upon his inspection and purchase of both properties in 1980, and due to the deteriorating condition of both, he had made substantial improvements, including upgrading the electrical services to both properties, in order to bring each into compliance with current codes, as well as to meet the standards of the State Farm Apartment Program; but that at no time was the original configuration of either property changed.

Mr. Mathews detailed the configuration of both properties, echoing the testimony of previous witnesses, in that each apartment unit at both properties in question was serviced by separate entrances, and contained its own kitchen, living space, and bathroom facilities during the entire time of his ownership. He further testified as to his familiarity with both properties, at least since 1970, when he moved into his current residence, and that both sites have remained continually rented without interruption.

Mr. Mathews also stated that he was cited in 1992 by way of letter (Appellant/Respondent's Exhibit No. 13) from the Office of Zoning Administration and Development Management challenging the use of seven apartments at 15 Linden Terrace, and alleging that the lot size did not support such a use pursuant to Section 402.2 of the BCZR.

He recalled that upon receipt of the letter he met with representatives of the Code Enforcement Office and the Office of Planning & Zoning, who utilized density unit calculations to determine that seven apartments were permitted in 15 Linden Terrace. Finally, he stated that Baltimore County took no further action with regard to this alleged violation until 1997 when the Petition for Special Hearing was filed with the Zoning Commissioner on five of his properties, and which resulted in this appeal.

There are two issues presented in this case. The first is whether or not the subject properties qualify as a "nonconforming use," and the second is whether or not the use of these properties is governed by Section 402 of the BCZR. Absent any finding that both properties on appeal qualify as a legal nonconforming use, the Board must then either apply the conversion chart which lists the minimum lot area in square feet for the conversion of one family dwellings into multi-family units, pursuant to Section 402 of the BCZR, or as Appellant contends, the correct application of the Code which should fall under the density calculation chart contained within the BCZR.

In determining a legal nonconforming use, it becomes the burden of the Appellant/Property Owner to establish that a

nonconforming use, as defined in Section 101 of the BCZR, had existed prior to the adoption of the D.R. zoning classification and meets the requirements of Section 104.1, which states in pertinent part:

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more...the right to continue or resume such nonconforming use shall terminate....

As a result of testimony from both the Appellant /Respondent and his witnesses, especially the testimony of Mr. Watson, it is clear that 10 Linden Terrace was in use as a six-apartment dwelling prior to the adoption of the D.R. classification, and that use has remained uninterrupted to the present. Baltimore County offered no witnesses to rebut the testimony of any of Appellant's witnesses. In conclusion, therefore, the Board finds that Appellant has met his burden in establishing that 10 Linden Terrace is a legal nonconforming use, thus satisfying Section 104.1 of the BCZR, and that the use of six apartments as it currently exists today be permitted.

Turning to the second property in question; namely, 15 Linden Terrace, the Board finds that the Appellant /Property Owner has failed to meet his burden to establish a nonconforming use. The earliest testimony relating to the subject site was offered by Mr. Craig which dates back to the early 1970s, in which his knowledge of the property only confirmed that a law office existed in the basement, and that there were seven mailboxes, but could not specify to either the number of apartment units or to their actual

use. His only conclusive knowledge relating to the subject site dated to 1982 when, while acting as an agent for State Farm, he had personally inspected the property, which resulted in coverage for seven apartments.

Mr. Mathews' earliest recollection pertaining to 15 Linden Terrace also dates to between 1970 and 1972, when he moved to the neighborhood. Thus, the Board finds that the Appellant has failed to meet his burden of proof in qualifying 15 Linden Terrace as a nonconforming use pursuant to Section 104.1 of the BCZR. There was no testimony presented to account for the specific use of seven apartments for a period of 15 years plus, from 1955 to 1970-72; and that the use would have continued without interruption or abandonment for a period of one year or more.

As the Appellant has satisfied the requirements for a nonconforming use as to 10 Linden Terrace, the only property in question remains 15 Linden Terrace. The Appellant, in his support of using the density unit calculation contained in the BCZR to allow the seven existing apartments, offered not only the testimony of Ms. Martin but also submitted additional exhibits relative to 14 Linden Terrace, entered by stipulation of the parties, indicating a like result.

The Board finds that Section 402.1 is applicable in this matter. In 1955, the Baltimore County Council adopted Section 402 of the BCZR for the purpose of regulating the conversion of single-family dwellings into multi-family dwellings.

In 1970, the County Council enacted Bill 100 which revised the BCZR but did not repeal Section 402. We find that the Council

intended Section 402 to remain in effect and be used to determine the density use in the conversion of the single-family structure at issue here. We therefore recognize the stipulation of both parties that 15 Linden Terrace does not qualify for seven apartments under the requirements of Section 402 but is limited to a total of six apartments.

O R D E R

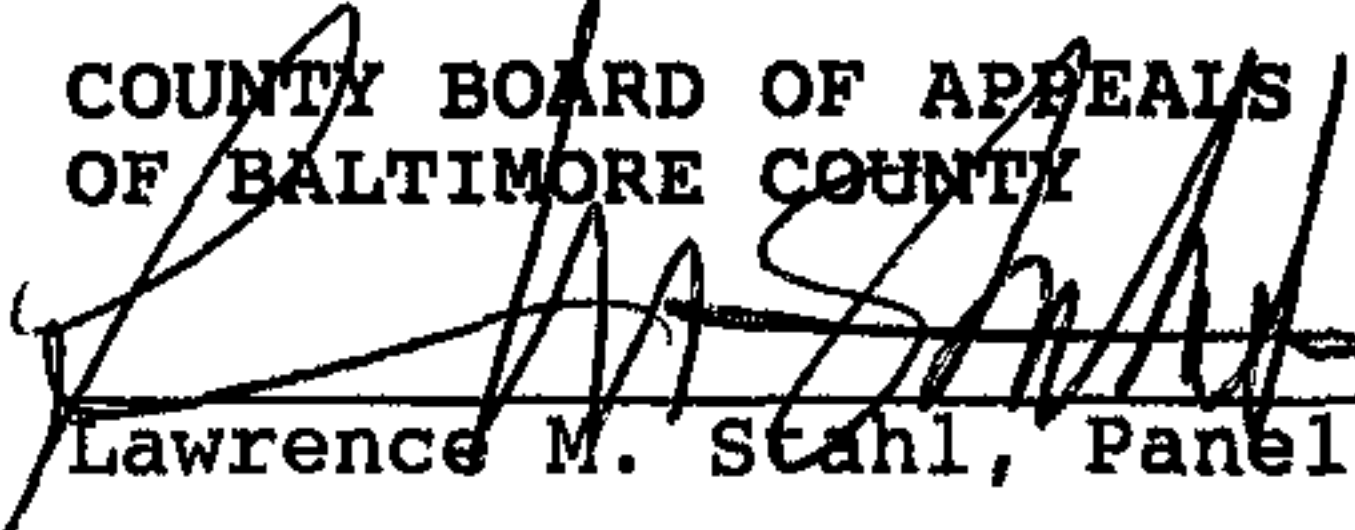
IT IS THEREFORE this 25th day of March, 1999 by the County Board of Appeals of Baltimore County

ORDERED that the property known as 10 Linden Terrace is approved as a legal nonconforming use for a total of six (6) apartment units; and it is further

ORDERED that the property known as 15 Linden Terrace is limited to a total of six (6) apartment units pursuant to Section 402 of the BCZR.

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


Lawrence M. Stahl, Panel Chairman


Thomas P. Melvin


Donna M. Felling



County Board of Appeals of Baltimore County

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

March 25, 1999

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

RE: In the Matter of William H. Mathews
Case No. 97-326-SPH and Case No. 97-327-SPH

Dear Mr. Tanczyn:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script, reading "Kathleen C. Bianco".

Kathleen C. Bianco
Administrator

encl.

cc: William H. Mathews
Lee S. Thomson, Assistant County Attorney
Virginia W. Barnhart, County Attorney
Hunter Rowe, Zoning Inspector /PDM
Arnold Jablon, Director /PDM
Lisa Keir MS 2201
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C



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IN RE: THE PETITION OF
BALTIMORE COUNTY FOR A
SPECIAL HEARING

BEFORE THE
BOARD OF APPEALS

Petitioner

FOR BALTIMORE COUNTY

10 Linden Terrace
15 Linden Terrace

CASE NO. 97-326-SPH

CASE NO. 97-327-SPH

* * * * *

RESPONDENT'S MEMORANDUM

William Mathews, Respondent, by his attorney, Michael P. Tanczyn, respectfully submits the within Memorandum to assist the Board of Appeals in its deliberation of this matter.

STATEMENT OF THE CASE

Baltimore County petitioned Special Hearings in Cases 97-326-SPH through 97-330-SPH for five residential properties, owned by William H. Mathews, located in Towson. Three of the petitions were resolved by stipulations of the parties or denial of the Special Hearing Petition by the March 18, 1998 Order of the Zoning Commissioner. Mr. Mathews, the property owner, noted a timely appeal in cases 97-326-SPH 10 Linden Terrace, and 97-327-SPH 15 Linden Terrace, which was heard by the Board of Appeals for Baltimore County on December 2, 1998.

QUESTIONS PRESENTED

1. Whether Baltimore County met its burden of proof as Petitioner to show conversion to seven (7) apartments at both 10 and 15 Linden Terrace since Section 402 became effective in 1955 as it alleged in its Petition since multifamily dwellings are otherwise permitted of right in DR-16 zones as they were under Section V-C Residence zones in the 1945 Zoning Regulations for apartments.

2. Whether the properties at 10 Linden Terrace and 15 Linden Terrace are valid non-conforming uses since 10 Linden Terrace was configured for six (6) apartments prior to 1948 and 15 Linden Terrace was configured for seven (7) apartment units prior to 1955 when Section 402 was adopted and effective regarding prospective conversions of existing single family dwelling units to multi-family housing units.

3. Whether Baltimore County's prior interpretation of its conversion regulations utilizing density units for 12 Linden Terrace in 1981 and 14 Linden Terrace in 1985, mandate approval for Respondent's continued use of 10 Linden Terrace for six (6) apartments and 15 Linden Terrace for seven (7) apartments as would be proper utilizing the density unit calculations as was done for those other property owners.

STATEMENT OF FACTS

By stipulation of the parties, all of the exhibits introduced before the Zoning Commissioner relating to 10 and 15 Linden Terrace were admitted by stipulation before the Board of Appeals of Baltimore County. Those included photographic evidence of the existence of seven mailboxes and seven electric meters at 15 Linden Terrace *Exhibit 6C (ZC)*, and six mailboxes and six electric meters at 10 Linden Terrace *Exhibit 5E (ZC)*, and a stipulation by the Respondent that both properties were configured for the respective number of apartments attributed to them and were rented as such at present. Exhibits also included drawings prepared by the Baltimore County Surveyor for 10 and 15 Linden Terrace showing the lot dimensions and location of improvements thereon *Exhibit 5B, 6B (ZC)*, surveyor's certificate as to the square footage contained on the respective lots, the plat of Bowen recorded in 1897 in the Land Records of Baltimore County which was *Exhibit 14 (ZC)*, and on which Linden Terrace is then referred to as May Avenue, and proof of alley closing adjacent to 10 Linden in 1985 *Exhibit 5C (ZC)*. Petitioner called no witnesses for its case in chief or in rebuttal.

Respondent called the following witnesses whose testimony is summarized in chronological order as follows:

Mr. James Watson. Mr. Watson authenticated Respondent's *Exhibits 1 through 3* which were a 1948 Deed by which his parents purchased 10 Linden Terrace from Mr. Bregel; and 1974 Deed by which he and his brothers purchased 10 Linden Terrace from their parents and the 1980 Deed by which they sold 10 Linden Terrace to William Mathews. Mr. Watson testified in detail that when his parents purchased the property, there were three separate apartments on the first floor, one in the basement, one on the second floor, and one on the third floor. He testified as to the separate entrances to each of those apartments and that each of them had kitchen facilities and a separate bathroom and that they were utilized as separate dwelling units by members of his family and by tenants for the entire time that his parents owned the property and for the time that he and his brothers rented out the properties until they sold the property to Mr. Mathews in 1980. He further testified that there were no reconfigurations or additions to create more dwelling units during the time of his parents' ownership or the time when his brothers and he owned the property, and that it was configured throughout for six (6) apartments when they owned it and when it was sold to Mr. Mathews. Except for the time when he was serving in the United States Armed Forces in the Korean conflict, he testified that the property was always rented out, usually to at least five different parties in addition to his family, and that he had lived in various apartments in the house at various times of his life, both before and after he was married and had a family. Mr. Watson testified that he would have been 13 years old in 1948 when his parents purchased the property and moved to the first floor unit.

Mr. Frederick Craig. Mr. Craig next testified that he and his wife had purchased 31 Linden Terrace in 1967 and resided there until 1990 with their family. He testified that he had served on the Community Association for that community known as Towson Manor Improvement Association which he recalled was reformed in the early '70s. He had served in the offices of President of the Association, and in the 1970s, as Vice President of Zoning Matters. He also testified he had been a Block Captain, and in that capacity had delivered monthly newsletters within the area of his responsibility which included both 10 and 15 Linden Terrace, and had delivered as many newsletters

as there were mailboxes and that he recalled there being six (6) at 10 Linden Terrace and seven (7) at 15 Linden Terrace. He also testified that he helped his son with a newspaper route which his son had in the early '70s, and that he would personally deliver newspapers to not all residents of 10 and 15 Linden Terrace, but to three or four customers at each location, and that he was aware that the apartments were configured for six (6) at 10 Linden Terrace and seven (7) at 15 Linden Terrace. He also testified that in his occupation as a State Farm Insurance sales person, he had inspected and insured these properties since Bill Mathews had come into ownership and confirmed that it was insured for above average improvements as made by Mr. Mathews at both locations and for six (6) units at Linden Terrace and seven (7) units at 15 Linden Terrace. He testified as to the upgrades to the property made by Mr. Mathews to bring the properties up to code so that they could be insured under the more stringent State Farm requirements which would only insure average or above average improvements. He expressed his opinion that the work done by Mr. Mathews on the properties not only upgraded the condition of the premises, but made them an attractive multi-family housing in keeping with the neighborhood.

Mr. Craig knew Barton Benson and knew that he resided and had a law office in part of 15 Linden Terrace and that he rented out all of the premises for apartments.

Ms. Virginia Duncan. Ms. Duncan next testified that she had resided in the neighborhood since 1961 and that she and her husband from 1961 until her husband's death in 1977 operated a neighborhood cab service, with first one and then two cabs, which serviced the immediate neighborhood primarily, and she was aware of numerous calls to pick-up fares at both 10 and 15 Linden Terrace from residents who were there. After being shown pictures of the improvements, she expressed her opinion that the improvements were attractive at 10 and 15 Linden Terrace although she was not familiar with exactly what improvements had been made by Mr. Mathews since he purchased the property.

Anne Martien. Anne Martien appeared to testify as the owner of 12 Linden Terrace since she purchased it by Deed from Barton Benson in 1987. The extensive proffer concerning her proposed testimony and related exhibits was accepted by the County. The exhibits included the Deed by which she purchased the property, a 1990 letter from Baltimore County challenging the existence of seven (7) apartments at 12 Linden Terrace, and the microfilm record of Building Permit B-33460, approved in May of 1981, for an addition for more apartments, calculated under the density unit definition and a site plan with those calculations approved by Planning and Zoning in May 1981. Ms. Martien testified that the building had seven (7) apartments in it when she purchased it and continued to have that number, and that the County withdrew its objection after she hired Venable, Baetjer, and Howard to represent her along with Spellman and Larson, Engineers, who satisfied Baltimore County that the 1981 permit, based on the density unit calculations, was approved. The proffer included the stipulation that 12 Linden Terrace would not have met the requirements of Section 402 for conversions of residential units for multi-family dwellings under the requirements of that Section. Respondent's *Exhibit 4-6* were the 2/27/87 deed of her purchase; the 9/26/90 letter from Baltimore County challenging the seven (7) units; and Permit 33460 with microfilmed site plan with density units calculated.

Paul Wynn. Paul Wynn next testified that he was a building contractor and had done rehab, maintenance, and repair work generally and on Mr. Mathews' properties including 10 and 15 Linden

Terrace since Mathews had purchased them. He testified based on his extensive contracting experience that the properties were configured for six (6) apartments at 10 Linden Terrace, and seven (7) apartments at 15 Linden Terrace when he first viewed them after Mr. Mathews purchased these properties. He further testified that he had recently been in both properties and frequently over the term of Mr. Mathews' ownership, and that the properties had not been reconfigured or any additional units created over the time of Mr. Mathews' ownership, and that the properties were rented out throughout the time of Mr. Mathews' ownership for the respective apartments indicated at each location.

In answer to questions from the Board, he testified that the construction of the apartments would be old style in terms of the materials and style of construction utilized as opposed to more modern conversion or renovation of the properties, and he testified as to illustrative examples of that the size of rooms, use of cast iron enameled sinks and tin in the improvements would have been representative of construction from the '30s and '40s and he expressed his opinion that these houses were sixty to eighty years old based on his observations of the improvements as constructed.

William Mathews. Mr. Mathews then testified that he was born in 1938 and had attended Towson State University between 1957 and 1961. He testified that he had visited 10 Linden Terrace to know that it was configured for six (6) apartments during the time that he attended Towson State and that he had lived in this immediate neighborhood first on Willow Avenue and later at 17 Linden Terrace beginning somewhere between 1970 and 1972 to the present.

He identified Respondent's *Exhibit 7* as the records he had obtained from Baltimore County concerning a building permit for 14 Linden Terrace with excerpts from the County's microfilm record showing the lot dimensions and the three apartment addition called for under that permit application as approved by Baltimore County in 1985.

He further testified as on personal knowledge of the existence of seven (7) apartments in 14 Linden Terrace and 12 Linden Terrace and that his efforts to obtain print copies of Baltimore County Building Permits B-77201 and B-77802 had been frustrated by the printer being broken in the Zoning Enforcement Office where the microfilm cassettes were located. By agreement by counsel, copies of those permits will be obtained and after review by Mr. Lee Thomson, Esquire, will be submitted to the Board for inclusion in this record with regard to 14 Linden Terrace.

Mr. Mathews testified in detail as to the configuration layout of both 10 and 15 Linden Terrace and the access to each apartment from the outside. He further testified as to the type of electrical service, being the fuse box type, in place when he purchased each property, and his efforts to upgrade both properties not only as to electrical service but as to meet current code requirements so that they could be insured under the State Farm apartment program. He further testified that since he moved into the neighborhood in 1970-1972, he knew that the properties had been rented out for multiple units and that when he inspected them before purchasing them, that there were six (6) units in 10 Linden Terrace and seven (7) units in 15 Linden Terrace and that he had made no additions since he purchased them to add additional units and that they were still configured with those same numbers of apartment units.

He testified that in 1992 he received a letter *Exhibit 13 (ZC)* challenging the seven (7) apartments in 15 Linden Terrace and that he met with representatives of the Code Enforcement Office Mr. Timothy Fitts and a representative of the Office of Planning and Zoning, Larry Goetz, who utilized density unit calculations to calculate seven (7) apartments would be permitted in 15 Linden Terrace and that the County took no further action with regard to that alleged code violation until filing these Special Hearing Petitions in 1997 on five of his properties. He testified that during the time from 1970 through the present of his personal knowledge, that the properties at 10 and 15 Linden Terrace were continuously rented out. He identified photos which were accepted into evidence of 15 Linden Terrace, 12 Linden Terrace, and 14 Linden Terrace to show the improvements existing thereon as of November 25, 1998 *Exhibit 8A-C*. Additional photos were admitted before the Zoning Commissioner below to show the improvements of 10 and 15 Linden Terrace which are part of the exhibits before the Board *Exhibit 11 (ZC)*.

Mr. Mathews identified the Deed *Exhibit 10* by which he purchased 15 Linden Terrace from the Estate of Barton Benson, as well as the earlier Deed conveying the property to Mr. and Mrs. Benson from 1961 *Exhibit 11*.

ARGUMENT 1

WHETHER BALTIMORE COUNTY MET ITS BURDEN OF PROOF AS PETITIONER TO SHOW CONVERSION TO SEVEN (7) APARTMENTS AT BOTH 10 AND 15 LINDEN TERRACE SINCE SECTION 402 BECAME EFFECTIVE IN 1955 AS IT ALLEGED IN ITS PETITION SINCE MULTIFAMILY DWELLINGS ARE OTHERWISE PERMITTED OF RIGHT IN DR-16 ZONES AS THEY WERE UNDER SECTION V-C RESIDENCE ZONES IN THE 1945 ZONING REGULATIONS FOR APARTMENTS.

Baltimore County, which bore the Burden of Proof as the Petitioner to prove the allegations of its Petition, failed to do so in its failure to show conversion of a single family dwelling into seven (7) apartments, wherein the lot area does not support such a use, which was the common allegation by way of description in the County Petitions for both 10 and 15 Linden Terrace. Both Petitions 97-326 as to 10 Linden Terrace and 97-327 as to 15 Linden Terrace contain identical allegations, except for the different property address, namely that Baltimore County, by Special Hearing, petitioned first the Zoning Commissioner and now the County Board of Appeals to find that William Mathews converted the above properties into seven (7) apartments therein where the lot area requirements of Section 402 would not support such a use.

Although the County's boiler plate stamped information on the Petition form references Sections 26-3 and 26-121A of the County Code, as well as reciting the nature of violations, it is clear that the County intended to, by its Petition for Special Hearing, request under Section 500.6 of the Zoning Regulations to ask the Zoning Commissioner to interpret the enumerated sections in light of the County's allegation aforesaid as to both properties. That is so because if the County were treating this as a violation case, it would have been filed in the District Court for Baltimore County under current law and practice. The Burden of Proof in the case of a Special Hearing is on the Petitioner who seeks an affirmative ruling from either the Zoning Commissioner or the Board of Appeals that its allegations are sustained on the evidence presented.

In this case the exhibits pertinent to these two properties, admitted before the Zoning Commissioner below, were also introduced by joint stipulation of the parties. The excerpts of the zoning maps showed that both 10 and 15 Linden Terrace are presently zoned DR-16 *Exhibits 1-A and B*. Mr. Mathews purchased 10 Linden by Deed dated September 15, 1980, but the County closed the alley adjacent to 10 Linden Terrace adding square footage back to the property by actions culminating in August 28, 1985 *Exhibit 5-C*, and *Exhibit 6-A* was the Deed by which Mr. Mathews purchased 15 Linden Terrace June 15, 1987. Photos showing six electric meters and six mailboxes at 10 Linden *Exhibit 5-E* and seven mailboxes at 15 Linden *Exhibit 6-C* were admitted as well as site plans showing square footage for 10 Linden (5-B), and 15 Linden (6-B). A survey by W. T. Sadler showing lot line adjustment to account for the alley closing at 10 Linden adding 1,200 square feet plus or minus to that property was *Exhibit 5-D*. The plat of Bowen showing both properties as platted in 1897 and photos of the two houses, as well as a letter from Baltimore County Code Enforcement Timothy Fitts to Mr. Mathews regarding 15 Linden dated November 16, 1992 *Exhibit 13*, represented the exhibits before the Zoning Commissioner and introduced in this case by stipulation of the parties. The County rested and called no other witnesses.

In a light most favorable to Baltimore County as the moving party, those bits of evidence establish the present existence of seven (7) apartments at 15 Linden and six (6) apartments (rather than the seven (7) alleged) at 10 Linden. There was no testimony adduced by that evidence to prove or establish the County's allegation that Mr. Mathews had converted these properties to seven (7) apartment units. Indeed the overwhelming evidence was to the contrary in the form of testimony of witnesses called by the Respondent as well as the Respondent, William Mathews', own testimony. Their testimony will be discussed in detail in Question 2.

Multifamily buildings and group houses are permitted of right in DR-10.5 and DR-16 zones (BCZR 1B01.1 A1 D) as well as in the previous zones applicable to these properties under prior zoning regulations, namely RA zones (Section 100.3A, zones heretofore classified as RA are now classified as DR-16), and under the 1945 Regulations, C Residence Zone an apartment was permitted use under Section V C Residence Zone, which became the RA Zone under Section 100.3 found at page 1-3 of the Zoning Regulations. Because apartments or multifamily units or group houses are permitted uses in a DR-16 Zone, it was critical for the County to show conversion of a single family dwelling after the effective date of Section 402 in 1955 of the Zoning Regulations which specifically dealt with conversions of single family dwellings to multifamily dwellings. Imposition of zoning is prospective as applied to existing properties or uses at the time of enactment Amereihn v. Kotras, 194 Md. @ 591, 71 A2d 865, @ 868 (1950) as noted in that case,

"the Zoning Regulations under the authority of this Act in Baltimore County were adopted and approved by the County Commissioners effective January 2, 1945, and until that date there were no Zoning Regulations in Baltimore County. Property owners until that date were privileged to use their property for any lawful purpose...the effect of Zoning Regulations is in the future -- their operation is prospective, to protect and preserve, not destroy quoting Dal Maso v. Board of County Commissioners 182 Md. 200, 34 A2d 464 and Kahl v. Consolidated Gas and Electric Company 60 A2d 754, (1948)."

Therefore, if the County failed to prove a crucial element, namely that the conversion took place since the Section 402 was effective in 1955, then it would fail in its allegations to provisions of Section 402 were applicable and its Petition ought be dismissed.

This is not a Petition for a Nonconforming Use brought by the property owner who in that case, would bear the Burden of Proof to establish that his property met the requirements of Section 104 of the Baltimore County Zoning Regulations. In this case, the local Government, Baltimore County, as the moving party, bears the burden as the Petitioner to prove its allegations as any Petitioner must in order to prevail for its requested relief. There is no proof of a conversion after 1955, for either property, brought in the County's case, and therefore, the County's Petition ought be denied.

WHETHER THE PROPERTIES AT 10 LINDEN TERRACE AND 15 LINDEN TERRACE ARE VALID NON-CONFORMING USES SINCE 10 LINDEN TERRACE WAS CONFIGURED FOR (6) APARTMENTS PRIOR TO 1948 AND 15 LINDEN TERRACE WAS CONFIGURED FOR SEVEN (7) APARTMENT UNITS PRIOR TO 1955 WHEN SECTION 402 WAS ADOPTED AND EFFECTIVE REGARDING PROSPECTIVE CONVERSIONS OF EXISTING SINGLE FAMILY DWELLING UNITS TO MULTI-FAMILY HOUSING UNITS.

The properties at 10 Linden Terrace and 15 Linden Terrace are valid nonconforming uses since 10 Linden Terrace was configured for six (6) apartments prior to its purchase by the Watsons in 1948 and 15 Linden Terrace was configured for seven (7) apartment units prior to 1955 when Section 402 was adopted and effective regarding prospective conversions of existing single family dwellings into multifamily housing units.

To establish that 10 and 15 Linden Terrace were converted prior to the adoption of Section 402 in 1955, the Respondents, who had no burden to prove that point, called as to 10 Linden Terrace Mr. James Watson. Mr. Watson authenticated *Exhibits 1 through 3* which were the 1948 Deed by which his parents purchased 10 Linden Terrace from a Mr. Bregel. Mr. Watson testified in detail and at length in answer to all questions asked that his family had moved into the property after it was purchased and had rented out the other units. He also testified to the configuration of the interior at the time they moved in when he would have been thirteen (13) years old. There were three separate apartments on the first floor, one in the basement, one on the second floor, and one on the third floor. He also testified as to separate entrances to each of those apartments and that each of them had kitchen facilities and separate bathrooms and that they had been utilized as separate dwelling units by members of his family and tenants for the entire time that his parents had owned the property and from the time that he and his brothers had rented out the property after they purchased it from their parents in 1974, until the time when he and his brothers sold it to Mr. Mathews in 1980.

Paul Wynn, a building contractor, was also called as a witness and testified that since Mr. Mathews owned both properties, he had worked on both 10 and 15 Linden Terrace for Mr. Mathews between tenancies and that there had been no conversion of the properties to create more apartments in the time Mr. Mathews had owned them, which is significant on the County's allegations of a conversion of the properties by Mr. Mathews during his time of ownership. He further testified that the properties were configured for six (6) apartments at 10 Linden Terrace at

time of purchase and seven (7) apartments at 15 Linden Terrace when he first viewed them after Mr. Mathews purchased the properties and that they were so configured at present. In answer to questions from the Board members, he testified that based on the materials used and style of construction utilized, he characterized the construction as being old as opposed to renovation construction to create the apartments and gave his estimate that the houses were 60 to 80 years old based on his observations of the improvements as constructed.

Mr. Frederick Craig, who resided in the neighborhood from 1967 until 1990 and served on his local community association, including the Office of President, and in charge of zoning matters as Vice President, and had been a Block Captain. Those responsibilities, and particularly that of Block Captain, entailed delivering monthly newsletters to both 10 and 15 Linden Terrace, and he testified he had delivered as many newsletters as there were mailboxes and he recalls there being six (6) at 10 Linden and seven (7) at 15 Linden. He also helped his son deliver papers on his newspaper route and was familiar with 10 and 15 Linden Terrace and the rental units because of that. He was also aware, because of his position as a State Farm Insurance sales person, in which capacity he had inspected these properties since Mr. Mathews had come into ownership and found six (6) units at 10 Linden Terrace and seven (7) units at 15 Linden Terrace. He testified about upgrades made to the property by Mr. Mathews to improve them under current building codes so that they could be insured under State Farm's stringent requirements, which would only insure average or above average improvements. He expressed his opinion that the work done by Mr. Mathews on the properties not only upgraded the condition of the premises, but made them attractive, multifamily housing in keeping with the neighborhood. Mr. Craig also had know Barton Benson when he owned 15 Linden Terrace and that Mr. Benson had rented out all of the premises for apartments as well as maintaining his law office in there.

Finally, Mr. Mathews testified not only based on his experience since owning both properties, but that he had attended Towson State University between 1957 and 1961, and that he had visited 10 Linden Terrace to know that it had six (6) apartments during the time that he had attended Towson State, and that from the time he moved into the neighborhood beginning sometime between 1970 and 1972, he was familiar with 10 Linden Terrace and its configuration as well as the apartments in 15 Linden Terrace. Mr. Mathews testified in detail as to the configuration layout for both 10 and 15 Linden Terrace, not at variance with Mr. Watson as to 10 Linden Terrace, and as to the access to each apartment from the outside. He further testified as to the electrical service at the time he purchased each property and the upgrades he had made not only as to electrical service, but to meet code requirements so that they could be insured under the State Farm program and he knew that there had been six (6) units in 10 Linden Terrace and seven (7) units in 15 Linden Terrace since the time he had lived in the neighborhood. He also testified he had made no additions to either property to create new units since he purchased them. They were still configured with the same numbers of apartment units as they had at the time he purchased them. He also recalls receiving in late 1992 a letter from Code Enforcement in Baltimore County challenging the seven (7) apartments in 15 Linden Terrace. As a result of receiving that letter, he met with not only Mr. Timothy Fitts of Code Enforcement, but also a Planner, Larry Goetz, who together calculated that seven (7) apartments would be permitted under density unit calculations in 15 Linden Terrace. From the time that occurred in late 1992, the County took no further action with regard to 15 Linden Terrace until filing the instant Special Hearing Petition on these properties and three others in 1997. He further

testified that from the time he had lived in the neighborhood in the early seventies to the present, on his own personal knowledge, that the properties had been continuously rented out.

The Baltimore County Zoning Regulations shall apply as of the date of their adoption, but the provisions pertaining to use, height, area and density of population shall not apply to any development, subdivision or parcel of land, the preliminary plan for which was originally submitted to the Baltimore County Planning Commission, now Planning Board, and approved or tentatively approved under the then existing official procedure in Baltimore County prior to the adoption of these regulations Section 103.1 adopted March 30, 1955. In the case of both 10 and 15 Linden Terrace the only testimony before the Board dates their construction to the 1930s or 1940s prior to the adoption of the Zoning Regulations. Assuming, only for the sake of presenting this argument, that those houses were built and configured prior to March 30, 1955 when Section 402 became law, the provisions of Section 104.1 would come into play concerning nonconforming uses. That regulation well known to this Board allows legally existing nonconforming uses to continue provided that any change from a nonconforming use to any other use or upon abandonment or discontinuance for more than one year the right to continue or resume, such nonconforming use shall terminate. That is not at odds at all with the provisions of Section 402 which specifically was written for and to deal with conversions of property made after the effective date of the adoption of Section 402 of the zoning regulations, namely March 30, 1955. The County produced no evidence to establish that since March 30, 1955 either of these properties had undergone conversion in violation of the provisions of Section 402 from single family dwelling to multiple family dwelling. Therefore, to read the code sections in harmony, existing multifamily dwellings, including apartments, as allowed under the 1945 Regulations in C Residence Zones, could continue to exist after the adoption of the Section 402 in 1955 since that section only dealt and was only intended to deal prospectively with future conversions from single family dwellings. Even more significantly, the County, after hearing all of the witnesses of the Respondent, did not present any rebuttal evidence or call any witnesses to rebut any of the testimony of Respondent's witnesses. Since the County was the moving party, if it had any such evidence, it surely would have brought it to the Board and asked for its admission in order to establish a conversion since 1955 in order to maintain the allegations under its complaint.

Notwithstanding that, the evidence admitted represented the best available evidence showed both properties were utilized for multifamily dwellings prior to the adoption of Section 402 and continuously thereafter. Indeed in the case of 10 Linden Terrace when the Watson family purchased it in 1948, it was already configured for six (6) dwelling units with separate entrances and separate kitchens and bathroom facilities and remained so all the way through their time of ownership, which linked with Mr. Mathews to the present providing common ownership since 1948 with the property configured for six (6) apartment units.

Mr. Paul Wynn, the contractor in his testimony corroborated the configuration of the units and that they have been continuously rented out and that they were originally built in the thirties and forties and configured as multifamily dwellings as initially constructed. Since Towson Normal School, which became Towson State Teachers College and now Towson University, was already in existence before any of these structures would have been built, there is a logical inference that the properties were specifically built in order to house an existing population, namely those attending college nearby within close walking distance at the time of their original construction.

Because of all of the evidence and testimony that was presented before the Board is consistent, the units would easily qualify as legal existing units and the provisions of Section 402 would only be applicable to them if the conversions took place after March 30, 1955 Daniels v. Board of Zoning Appeals of Baltimore County 205 Md. 36, 106 A2d 57 (1954).

WHETHER BALTIMORE COUNTY'S PRIOR INTERPRETATION OF ITS CONVERSION REGULATIONS UTILIZING DENSITY UNITS FOR 12 LINDEN TERRACE IN 1981 AND 14 LINDEN TERRACE IN 1985, MANDATE APPROVAL FOR RESPONDENT'S CONTINUED USE OF 10 LINDEN TERRACE FOR SIX (6) APARTMENTS AND 15 LINDEN TERRACE FOR (7) APARTMENTS AS WOULD BE PROPER UTILIZING THE DENSITY UNIT CALCULATIONS AS WAS DONE FOR THOSE OTHER PROPERTY OWNERS.

Baltimore County's prior interpretation of its conversion regulations utilizing density units as a basis for adding apartments for 12 Linden Terrace in 1981 and 14 Linden Terrace in 1985, mandates approval of Respondent's continued use of 10 Linden Terrace for six (6) apartments and 15 Linden Terrace for seven (7) apartments as would be proper utilizing the density unit calculations as was done for those other property owners.

As was shown by the documentary evidence and the testimony of William Mathews, the County has on at least two occasions in the immediate neighborhood and on the same street, chosen to allow expansions to allow seven (7) units in 12 Linden Terrace in 1981 and seven (7) units in 14 Linden Terrace in 1985. In both cases, the property owners had petitioned for expansion of multifamily units by the additional units, and the County on each occasion utilized what would properly be called using the Zoning Commissioner's guidelines at page A-21 density unit calculations. These density unit calculations are done by computing the net lot size, which for both of the aforementioned properties, was 100 feet frontage by 167 feet depth for a cumulative total of 16,700 square feet. Then the result is divided by 43,560 square feet (1 acre) and the acreage computed is multiplied by 16 based on 16 units per acre for DR-16 zone. In the case of Ms. Martien at 12 Linden Terrace, the conversions had been done by the prior owner, Barton Benson, Esquire, under Baltimore County Permit B33460. The existing apartment usage for the seven (7) units were two two bedrooms and five one bedroom apartments. When utilizing the Baltimore County guidelines contained in the definition section of Section 101 under "density unit," a one bedroom dwelling is equivalent to .75 density units, and a two bedroom dwelling unit is equivalent to one density unit, and an efficiency is equivalent of .50 density unit. When multiplying the acreage times DR-16, six (6) net density units are the result for 12 Linden Terrace and for 14 Linden Terrace as well. When converting the actual apartments into density units, the total for 12 Linden Terrace is calculated at 5.75, and for 14 Linden Terrace the seven (7) apartments including four two bedrooms, two one bedroom, and one efficiency, total six (6) density units. The permits by which Mr. Turlington converted 14 Linden Terrace in 1985 were added to the record for two of them, B77201 and B77202, by letter after they had been reviewed by the Assistant County Attorney, Mr. Lee Thomson, Esquire. The third permit, B77802, was not available from the County's Code Enforcement Records from which the other two permits were obtained, since it was not a Code Enforcement Case, and as the Board was advised at the time of the hearing, Baltimore County Permit records are not retained beyond three years so that the last permit, B77802, if obtained from the property owner and will be forwarded to Mr. Thomson and if acceptable to the Board, submitted to the Board when received.

The Board may recall that part of the stipulation or proffer which was accepted of Ms. Martien's testimony was that her property was configured for seven (7) apartments. If the Board reviews the site plan and permits submitted for 14 Linden Terrace beginning with B77201, under Subsection A, the Board will see "change of occupancy" and below that, "from single family dwelling to three apartments for the main structure." The alterations were to be done in the existing single family dwelling, and in addition with additional apartments was also approved in permit B77202, which was also obtained and forwarded to the County Board of Appeals. That is entitled an "addition" under type of improvement and calls for "construction of a two story and basement addition on the rear of an existing dwelling to be used for two apartments, with the basement to be storage." It cross references Permit B77201 for change of occupancy. The site plan corroborates and confirms the dimensions of the lot as used in the density unit calculation, as does the microfilmed site plan for Ms. Martien's property under Permit B33460, and the Board will note on the site plan the density unit calculations utilized in granting the approval.

Mr. Mathews seeks similar treatment for each of his properties located on the same street. In considering 10 Linden Terrace *Exhibit 5-A*, the lot size is calculated at 15,525 square feet including the portion attributable to the alley closing for that property. Multiplied by the DR-16 units per acre, that would yield 5.55 allowable density units. The existing density units under the Baltimore County Zoning Regulations for that property total 4.75 and are, as testified to, one efficiency in the attic, three two bedrooms and two two bedrooms, are well within the density unit calculation for existing structures for DR-16 zoned land.

With regard to 15 Linden Terrace as depicted on the site plan in 6B and divided by the square footage in the acreage, that calculates out when multiplied to 7.29 density units. The testimony concerning the use of and configuration of 15 Linden Terrace was that it had four efficiencies, one two bedroom, and two one bedroom units for a total of 4.50 density units utilizing the density unit calculation definition under the Baltimore County Zoning Regulations. For structures existing in DR-16 zones, the use of the property by Mr. Mathews, unless converted after 1955, would be permitted under the Zoning Regulations. Even if done after 1955 as in the case of the other neighbors, the density unit calculations were utilized in order to allow them to have seven (7) apartment units.

The irony in this situation is while it is clear that others obtained their approvals for additions constructed well after 1955, it is equally clear if not clearer that Mr. Mathews' units at both 10 and 15 Linden Terrace were original construction and configured when built for six (6) and seven (7) units respectively. The greater irony is that if that is so, the County is imposing or seeking to impose the conversion regulations applicable to prospective conversions after March 30, 1955 to his properties while the County utilized density unit calculations for neighboring properties on the same street in 1981 and 1985 respectively.

To summarize, if 10 and 15 Linden Terrace were on March 30, 1955, in existence and configured for six (6) and seven (7) apartments, they would be allowed to continue to be so used even with the adoption of Section 402 because they pre-existed the adoption of that regulation, were already multifamily housing and therefore, would not represent a conversion from single family dwelling to multifamily housing.

The County's actions in this case to seek reduction in units at 10 and 15 Linden Terrace when it had previously approved additions utilizing density unit calculations for the adjoining structures, encourages Mr. Mathews to ask to be treated the same as his neighbors, and to be allowed continued use for yet another reason, because he meets the criteria under density unit calculations for the existing square footage on each of his large tracts.

CONCLUSION

The County's Petitions should be denied because:

1. It failed to meet its Burden of Proof to show a conversion of either 10 or 15 Linden Terrace since March 30, 1955 from single family dwelling to multifamily dwelling.
2. The un rebutted evidence was that the multifamily structures at 10 and 15 Linden Terrace were constructed sixty (60) to eighty (80) years ago, were configured for six (6) and seven (7) units as of March 30, 1955 and have been continuously rented out and maintained for that purpose through the present and therefore, qualify as nonconforming uses.
3. Utilizing density unit calculations as defined under the Baltimore County Zoning Regulations, the Respondent's properties at 10 and 15 Linden Terrace are well within the allowable density units for the acreage on site and whether or not configured for six (6) and seven (7) apartment units prior to March 30, 1955, should be treated as were the owners at 12 and 14 Linden Terrace who established seven (7) apartment units utilizing density units calculations with County approval.

Respectfully submitted,



Michael P. Tanczyn, Esquire

Attorney for the Respondent, William Mathews

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 7th day of January 1999 a copy of the foregoing was mailed by first class mail, postage prepaid, to Lee Stuart Thomson, Esquire, Assistant County Attorney, Room 200, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, Attorney for the Petitioner.



Michael P. Tanczyn, Esquire
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823

1/7/99
IN THE MATTER OF
WILLIAM H. MATHEWS
10 Linden Terrace
9th Election District
4th Council manic District

Petitioner

* BEFORE THE
* COUNTY BOARD OF
* APPEALS OF
* BALTIMORE COUNTY
*
* Case No. 97-326-SPH
*
*

IN THE MATTER OF
WILLIAM H. MATHEWS
15 Linden Terrace
9th Election District
4TH Council manic District

Petitioner

* BEFORE THE
* COUNTY BOARD OF
* APPEALS OF
* BALTIMORE COUNTY
*
* Case No. 97-327-SPH
*
*

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COUNTY BOARD OF APPEALS

* * * * *

MEMORANDUM OF BALTIMORE COUNTY, MARYLAND

Posture of Case

These cases arose initially upon the Petition of Baltimore County, Maryland (County) for a Special Hearing before the Zoning Commissioner for the purpose of determining whether or not a violation of the Baltimore County Zoning Regulations (BCZR) existed on either property by virtue of the conversion of a single family dwelling thereon into a multiple dwelling containing "family" units in excess of those permitted under Section 402 of the BCZR relating to the conversion of single family dwellings into multi-family dwellings. Upon the evidence submitted to him the Zoning Commissioner found that, in each case, a violation of Section 402 in fact

existed. William H. Mathews, the property owner (Respondent) duly noted his appeal to the Board.

At the outset of the proceeding before the Board it was stipulated that each property was in a D.R.16 zone. It was further stipulated that, as to 10 Linden Terrace, four units would be permitted under Section 402 while there were in fact six units upon the property. As to 15 Linden Terrace, it was stipulated that six units would be permitted under Section 402 while in fact there were seven units on the property. Thus it was conceded at the outset that each property was in violation of Section 402 of the BCZR.

While conceding that the number of units upon the properties exceeds that permitted by Section 402 of the BCZR, Respondent nonetheless contends that he is not in violation of the BCZR. He bases this conclusion upon two premises. First, he states that he is the beneficiary of a non-conforming use. Failing that, he contends that the Zoning Commissioner erred in his interpretation of the BCZR as applied to these cases in utilizing Section 402 to determine the maximum number of permitted units upon the properties when in fact a determination of the permitted "density units" within a D.R.16 zone would have resulted in a conclusion that no violation exists on either property.

Burden of Proof

Unquestionably, when the County initially filed its Petition for a Special Hearing before the Zoning Commissioner, seeking to have that official determine that Respondent was in violation of the BCZR, the County assumed the burden of proving its assertions. In finding the two properties in violation, the Zoning Commissioner apparently concluded that the County had met its burden. While the Respondent filed this appeal, Section 501.6 of the BCZR provides that such appeals shall be heard by the Board denovo. The provision for a denovo hearing would necessarily impose upon the County the same burden of proof that it has assumed in the original proceeding before the Zoning Commissioner to the extent of persuading the trier of the fact that Respondent was in violation of Section 402 of the BCZR. In the instant case the County has clearly met that burden by virtue of the stipulation entered into at the outset that Respondent was in violation of Section 402 of the BCZR as to each of the two properties.

In advancing the contention that he is shielded from the affect of Section 402 by the existence of a non-conforming use, it is well settled that Respondent assumes the burden of proving the existence of that state of facts. In the case of Calhoun v. County Board of Appeals, 262 Md. 265, 277 A.2d 589 (1971), the Court of Appeals, speaking through Chief Judge Hall Hammond, and in reversing the Zoning

Commissioner, this Board and the Circuit Court for Baltimore County, said:

“The burden of proving a non-conforming use is on the claimant of the use.... ‘There can be little doubt that each claimant must assume the burden of establishing the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance’.” (Citations omitted.)

In discussing the extent of the burden imposed upon the property owner the Court of Special Appeals, in the 1991 case of Lone v. Montgomery County, 85 Md. App. 477, 584 A.2d 142, opined:

“An owner of land may establish a ‘lawful nonconforming use’ if the evidence conclusively establishes that before and at the time of the adoption of the original zoning ordinance, he was using substantially all of his tract of land in a then-lawful manner for a use which by a later legislative action became nonpermitted.” (Emphasis supplied.)

As to Respondent’s contention that no violation exists upon the properties because the number of permitted units in each building should be determined by the application of the “density unit” formula rather than the application of the provisions of Section 402, while conceding the existence of a violation of Section 402 he advances an alternate legal theory and thereby assumes the burden of persuading the Board of its applicability in the instance case. To hold otherwise would impose a burden upon the County to demonstrate to the Board not only the existence of a violation of a given Section of the BCZR, but also the absence of any provision therein which might in any way be construed as permitting the existence of the

violation alleged.

Issue of Non-Conforming Use

The Court of Special Appeals stated in Lone vs. Montgomery County, supra, that the standard of proof of the existence of a non-conforming use is “evidence” which “conclusively establishes” its existence. The County submits that the evidence submitted to the Board by Respondent doesn’t rise to that standard.

Section 402 of the BCZR was adopted in 1955. The only testimony offered by the Respondent with respect to the use of either property during the year 1955 and prior was that of James Watson who testified as to 10 Linden Terrace to the effect that that property had been the residence of the Watson family from August of 1948 up through and including 1955. Mr. Watson testified that to his knowledge there had been three separate units on the first floor of 10 Linden and one each in the basement, second floor and third floor. Mr. Watson testified that his family had usually occupied two of the units on the first floor as well as either the third floor or the second floor of the building. According to Mr. Watson the basement had always been rented. He recalled the back unit on the first floor and from time to time, either the second floor or the third floor as having been rented to others. It seemed clear from Mr. Watson’s testimony however that during the period prior to and through 1955 when his family occupied the building that it had always used at least two units on the

first floor and either all or part of the second floor or the third floor for family living thus reducing the number of "families" occupying the building to four. Section 402 speaks in terms of "family unit" and "families" and not dwelling units. In short the regulation appears to regulate the number of families, as defined in the BCZR, who could occupy the converted dwelling requiring only that each "family unit" have a separate bathroom and cooking facilities. Mr. Watson's testimony did not establish the use of 10 Linden Terrace by more than four families during the period in question, although he did allude to the possibility, without so stating definitely, that there could have been as many as five families on the premises at one point or another.

Frederick Craig, who is an insurance agent insuring the properties in question for the Respondent, testified that his company had issued policies insuring 10 Linden with six units from 1982 forward and 15 Linden with seven units from 1984 forward. Additionally he lived at 31 Linden from 1967 through 1990 and held a number of offices in the community association during that period time. Mr. Craig had a recollection of delivering newspapers for the community association and recalled that there were a number of boxes at 15 Linden Avenue which he stated to be six or seven. He also stated that his son had a paper route in the neighborhood between 1974 and 1977 and that there were always a number of papers delivered to each of the properties. His best guess was three papers at 10 and three to four papers at 15. Mr.

Craig had no knowledge of the use of these properties in 1955 nor at any other time prior to his moving to the neighborhood in 1967.

Virginia Dunkin testified on behalf of the Respondent that she had lived at 101 Linden Terrace continuously since 1961. Ms. Dunkin's testimony was unable to shed any definitive light on the number of units existing in either property during the time that she lived in the neighborhood, other than to suggest that they contained multiple dwelling units. She had no knowledge of the properties prior to 1961.

Paul Wind, the Respondent's contractor testified as to his maintenance of the properties on behalf of the Respondent during the time that the Respondent had owned them and his involvement in renovations done to each property. Mr. Wind's testimony confirmed the existence of the number of units in each property at the time that they had been acquired by the Respondent, indicating that the same number of units existed there today. Mr. Wind had no knowledge of the properties prior to the time that the Respondent had acquired them. In response to the questioning of the Chairman and of Respondent's counsel, Mr. Wind stated that many of the fixtures on the property (i.e. sinks, appliances, etc.) were old. His testimony, particularly in response to questions propounded by the Chairman, appeared to infer that the fixtures were of a type likely to have been installed prior to 1955. Mr. Wind's testimony in this respect however was cursory and vague. He did not testify that all of the fixtures

in all of the units were of a type that predated 1955. Had this been the case it would have been simple for the witness to so testify as the Board had apparently already accepted him as having sufficient knowledge to offer testimony in this respect upon which the Board could rely. Given that 10 Linden would have been permitted four units, and 15 Linden six units, under the provisions of Section 402, and given the age of the neighborhood and the nearby student population, it is certainly reasonable to assume that both of these properties were used as multiple dwellings prior to 1955 and, as to 10 Linden, that was certainly the testimony of Mr. Watson. What is not resolved by any of the testimony is precisely how many units existed in each of the properties in 1955.

Respondent testified and described the makeup of each property at the present time and at the time that he acquired the same. Respondent first moved to the neighborhood residing at 26 Willow Avenue between 1970 and 1972. It was at this time that he acquired his first definitive knowledge relating to the two properties at issue here. Patently Mr. Matthews had no knowledge with respect to the number of units existing in either of these properties prior to the time that he moved to 26 Willow Avenue and he did not offer any testimony in that respect.

In sum, the County submits that there was no definitive or reliable testimony as to the number of units existing at 15 Linden Terrace in 1955 and, with respect to

10 Linden Terrace, while Mr. Watson's testimony would appear to establish the existence of six separate units at 10 Linden in 1955, this did not extend to "family units" as his testimony was to the effect that his family occupied at least three of the units, as a family, during the period in question. The County submits that the testimony offered to the Board did not "conclusively" establish the existence of a non-conforming use as to either property.

Application of Density Unit Formula

Respondent contends that the use and configuration of the subject properties is governed not by Section 402 of the BCZR but rather by the application of "density units" as defined in the BCZR and as permitted under Section 1B02.2. By way of evidentiary support for this conclusion Respondent brings to the attention of the Board two incidents in which building permits were approved by the County for conversions permitting units in excess of those allowed by Section 402 and one incident in which the County apparently terminated an enforcement effort under Section 402 when the density unit theory was advanced as a defense.

The County believes that the Respondent's reliance upon this theory is misplaced for a number of reasons. First, Respondent has consistently contended that both properties contained the present number of units in 1955, when Section 402 was first enacted. The term "density unit" however first surfaced and was subsequently

defined in the BCZR by virtue of Bill 100 adopted by the County Council in 1970. That Bill, which accomplished a sweeping revision of the BCZR, with many new additions thereto, referenced "density unit" in a number of different contexts. Section 100.1.A.2 of the Regulations, establishing the zones, provided for a D.R.16 zone in which there were permitted 16.0 density units per acre. The D.R.16 zone was in lieu of the former R.A. zone (an abbreviation for "Residential Apartments"). Bill 100 does not contain any language which implies or infers an intention on the part of the council to apply the newly adopted language to then existing properties and the County would submit that the use of the term "density units" was prospective in its nature, application and enforcement.

Secondly, and of greater import, is the clear inference arising from the evidence that both 15 Linden and 10 Linden were originally constructed as single family dwellings. At some time thereafter they were converted into multi-family dwellings. Section 402 of the BCZR was adopted originally in 1955 for the purpose of addressing and regulating the conversion of single family dwellings into multi-family dwellings. In adopting Bill 100 in 1970 the County Council did not see fit to repeal Section 402 thereby demonstrating a legislative intent that the provisions of Section 402 were intended to continue to apply to the conversion of single family dwellings into multi-family dwellings and, in any event, to the conversion of those single family

dwellings which existed prior to the adoption of Bill 100.

Thirdly, the fact that the County may have in two instances approved the use of the density unit formula in determining the issuance of a permit for a permitted conversion and in one instance forbore to take enforcement action upon the same premise does not provide a foundation upon which Respondent may rely in the instant cases. The County is not infallible. The issuance of a permit upon a faulty premise does not create an entitlement upon the part of others seeking a permit upon the same premise. Particularly where, as is the case here, there is no prejudice to the individual seeking to assert the entitlement. Respondent does not assert that he himself obtained a permit for the conversion of these properties upon a faulty premise which the County now seeks to disavow to his detriment. Neither does he assert that he sought or received any assurances prior to the purchase or acquisition of either of these properties that the number of family units contained in the property was a number permitted by the BCZR.

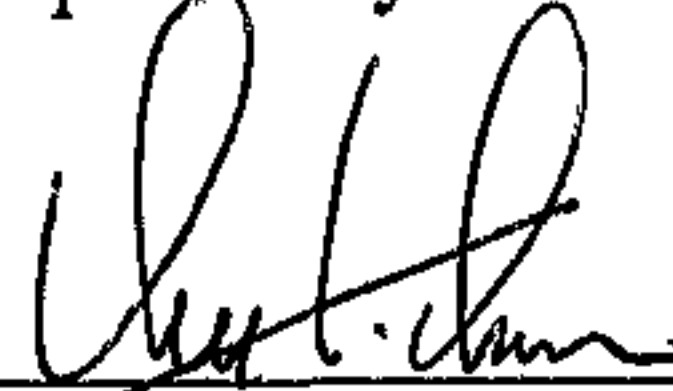
In sum, as to this contention, Respondent owns multi-family dwellings which were converted to such from single family dwellings and are subject to the provisions of Section 402 of the BCZR, they were in existence long prior to the adoption of Bill 100 which first created the concept of density units and their application within a D.R.16 zone and Respondent has failed to demonstrate that he in any way relied upon

density units as an appropriate formula to his detriment in such fashion as would raise any issue of estoppel.

Conclusion

In asserting that Respondent was in violation of Section 402 of the BCZR, the County had the burden of proof. It met that burden. Respondent had the burden of proving the existence of a non-conforming use. He failed to provide conclusive evidence of the existence of a non-conforming use on either property. Having the burden of persuasion, Respondent failed to demonstrate that the application of the density unit formula was an appropriate manner in which to determine the permitted number of units upon the conversion of a single family dwelling to a multi-family dwelling, as contemplated in Section 402 of the BCZR. For the reasons stated the decision of the Zoning Commissioner should be affirmed in each case.

Respectfully submitted,



LEE S. THOMSON
Assistant County Attorney
Courthouse, 2nd Floor
Towson, Maryland 21204
410/887-4420

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of January, 1999, I caused a copy of the foregoing Memorandum to be mailed, first class mail, postage prepaid, to Michael P. Tanczyn, Esquire, Suite 106, 606 Baltimore Avenue, Towson, Maryland 21204, Attorney for the Respondent.



LEE S. THOMSON
Assistant County Attorney

3/20/93

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
S/S Linden Terrace, 500 ft.
E of c/l York Road * ZONING COMMISSIONER
10 Linden Terrace
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District
William H. Mathews * Case No. 97-326-SPH
Petitioner

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
N/S Linden Terrace, 650 ft.
E of c/l York Road * ZONING COMMISSIONER
15 Linden Terrace
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District
William H. Mathews * Case No. 97-327-SPH
Petitioner

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
N/S Burke Avenue, 340 ft.
E of c/l York Road * ZONING COMMISSIONER
10 Burke Avenue
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District
William H. Mathews * Case No. 97-328-SPH
Petitioner

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
N/S Burke Avenue, 450 ft.
E of c/l York Road * ZONING COMMISSIONER
16 Burke Avenue
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District
William H. Mathews * Case No. 97-329-SPH
Petitioner

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW cor. Aigburth and Willow
Avenues * ZONING COMMISSIONER
122 Willow Avenue
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District
William H. Mathews * Case No. 97-330-SPH
Petitioner

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before the Zoning Commissioner for a single public hearing to consider five separate lots of record, all owned by William H. Mathews and located in Towson. Each of the five properties is subject to

DATE RECEIVED FOR FILING
3/20/98
[Signature]

a Petition for Special Hearing filed by Mr. Hunter Rowe, a Zoning Inspector, with the Office of Permits and Development Management. Under case No. 97-326-SPH, a Petition for Special Hearing has been filed for the property known as 10 Linden Terrace, alleging the illegal conversion of a single family dwelling thereon into seven apartments; wherein the lot area does not support such a use. Under case No. 97-327-SPH, regarding 15 Linden Terrace, an illegal conversion of a single family dwelling into 7 apartments is alleged; wherein the lot area does not support such a use. In case No. 97-328-SPH, regarding 10 Burke Avenue, an illegal conversion of a single family dwelling into three apartments is alleged, wherein the lot area does not support such a use. Under case No. 97-329-SPH, regarding 16 Burke Avenue, an illegal conversion of a single family dwelling into 3 apartments is alleged; wherein the lot area does not support such a use. Finally, under case No. 97-330-SPH, regarding 122 Willow Avenue, an illegal conversion of a single family dwelling into 3 apartments is alleged; wherein the lot area does not support such a use.

At the public hearing held for these matters, the Petitioner, Baltimore County Department of Permits and Development Management, was represented by Lee S. Thompson, Esquire, Assistant County Attorney. The property owner was represented by Michael Tanczyn, Esquire.

Testimony was received from Hunter Rowe, a Code Enforcement Officer, employed with Baltimore County since 1987. Mr. Rowe described each of the properties in general, as well as his inspection of same and findings. He also offered a series of photographs of the properties and rendered opinions, based upon his inspections, as to the current and past uses of the properties. In addition to Mr. Rowe's testimony, testimony was also received from a number of former/current residents of one or more of the properties at issue. Among those testifying was Whitney Dance a former

resident of 10 Burke Avenue; Steve Bavett, who resided at 16 E. Burke Avenue; and Keith O'Brien, who has lived in the area for many years and formerly worked in the neighborhood delivering the Baltimore Sun newspaper. Mr. O'Brien testified about his recollections as to the number of apartment units at 10 Linden Terrace and 122 Willow Avenue. Also testifying was Paul J. Wynn, who has done maintenance on the dwelling at 122 Willow Avenue and the buildings at 10 Linden Terrace and 15 Linden Terrace. Also, testimony was received from Robert Derbyshire, who lives at 118 Willow Avenue, adjacent to the property at 122 Willow Avenue. Finally, a tape of a recorded interview with Mrs. Hilda Wilson was received and considered by this Zoning Commissioner. Mrs. Wilson is elderly and was a student at the former Towson Normal School (now Towson University) in the 1920s. She resided at 10 Linden Avenue and made statements about her recollections of the use of that premises. In addition to all of the testimony from the witnesses identified above, a significant volume of documentary evidence was offered which will be more specifically referred to in discussing each property. As importantly, certain stipulations were reached by and between the parties regarding the uses of the properties.

Turning first to the matters most easily resolved, a stipulation was entered by and between the parties regarding the property known as 10 Burke Avenue. That subject property is .138 acres in area, zoned D.R.16. It is improved with a residential dwelling (duplex unit) known as 10 Burke Avenue. The parties stipulated that only one residential unit is permitted in this dwelling. Moreover, it appears that the property has been previously used for three apartments. In fact, a photograph of the site was submitted (Petitioner's Exhibit 3C) which shows that the dwelling is served by three separate utility meters. However, in view of the parties' stipulation, the future permitted use of this property is not in dispute.

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Date 3/20/98
By M. G. G. G.

The County's Petition for Special Hearing shall be granted and the use of the property hereafter is restricted to but a single unit. The property cannot be converted to a multi apartment use under any legal theory, either pursuant to Section 402 (conversion of dwellings) of the BCZR, as a nonconforming use (Section 101) or under any other regulation. The parties' stipulation resolves the issue for this property.

A similar result is reached as to 16 Burke Avenue. This property is immediately down the street from 10 Burke Avenue. The property is also zoned D.R.16, is .15 acres in area and is improved with a residential dwelling (duplex) structure. As was the case with 10 Burke Avenue, the parties also stipulated that only one residential unit is permitted on this property. Testimony and evidence presented was persuasive that the property has been used in the past for three apartments. A photograph was submitted (Petitioner's Exhibit 2C) indicating the existence of three electric utility meters. Pursuant to the parties' stipulation, it is found that the use of the property for anything other than a single residential unit is illegal and not permitted under any provision of the BCZR.

Turning next to the disputed cases, consideration is next given to the property at 10 Linden Terrace (Case No. 97-326-SPH). The lot known as 10 Linden Terrace is a rectangularly shaped lot, approximately .288 acres in area, zoned D.R.16. The property is improved with a 2-1/2 story frame dwelling. It was stipulated that the property presently contains six different apartment units. Photographs were submitted of the building, showing six separate utility meters (Petitioner's Exhibit 5E). Also, Mr. Rowe described the structure in some detail but indicated that he had not been inside of the property or visited same in the months immediately prior to hearing.

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Date 3/20/98
M. G. G. G.

Testimony regarding the history of this property was also offered by Mr. O'Brien. As noted above, he has lived in the neighborhood for many years, since approximately 1935. Prior to his retirement he delivered the Baltimore Sun newspaper for years to approximately 3,000 customers in the Towson area. He offered testimony regarding his deliveries to 6 apartments at 10 Linden Terrace while he was so employed from approximately 1935 to 1965. He indicated that he recalls putting newspapers on the porch of this building in that it was not allowed by the Sunpaper regulations to throw them into the yard.

Testimony was also offered about the history of 10 Linden Terrace by Mr. Mathews. He described the condition of the property when he purchased same in 1980 and his improvements and rehabilitation of the property.

The recorded interview of Ms. Hilda Wilson also related to 10 Linden Terrace. A review of her testimony indicates that her memory is less than concise as to the use of the dwelling. Although she recalls residing at that property in an apartment therein, her testimony was not detailed as to the exact number of units in the building. Testimony was also received regarding this property from Paul Wynn who had performed maintenance on the site since the mid 1970s.

Apparently, it is the Petitioner's theory that the six apartments which presently exist at 10 Linden Terrace are permitted as a nonconforming use. This assertion is contested by Baltimore County. Through counsel, the County asserts that only four units are permitted, pursuant to Section 402 of the BCZR (conversion table). Moreover, the County asserts that a nonconforming use designation cannot attach to this property and that there is insufficient evidence to support such a finding.

A nonconforming use is defined in Section 101 of the BCZR as "A legal use that does not conform to a use regulation for the zone in which it is

ORDER REVEREND FOR FILED
3/20/88
M. G. G. G. G.
6213

located or to a special regulation applicable to such a use". Nonconforming uses are regulated by Section 104 of the BCZR. Section 104.1 provides that nonconforming uses may be permitted, pursuant to the requirements provided therein. Essentially, the nonconforming use designation is utilized to grandfather an otherwise illegal use. If the use existed prior to the time the property's zoning classification was adopted which prohibits the use, the use may continue.

In this case, I am not persuaded that competent evidence was offered to support a finding that 10 Linden Terrace is nonconforming for six apartments. Ms. Wilson's memory was understandably unclear and never established a precise number of apartment units. Mr. Mathews' recollection dates only to the mid 1970s; several years prior to the time he purchased the property in 1980. Likewise, Mr. Wynn has been familiar with the property only since the mid 1970s. For the nonconforming use designation to attach here, testimony need be offered as to the property's use as a 6 apartment unit since at least 1955, the date the comprehensive zoning regulations were enacted.

Mr. O'Brien's testimony must be considered, however, in the end, was rejected. Although I do not doubt the sincerity of the witness, his ability to recall a single building among 3,000 customers over a period of thirty years must be questioned. Moreover, his testimony was frequently contradictory, specifically regarding the dates he resided in the neighborhood. For all of these reasons, I decline to enter a finding that the property at 10 Linden Terrace is nonconforming. Thus, the Petition for Special Hearing in this case (No. 97-326-SPH) must be granted and the property's use must therefore be restricted to four units only.

The next property under consideration is 15 Linden Terrace (case No. 97-327-SPH). This property is .45 acres in area, zoned D.R.16. The

ORDER RECORDED FOR FILING
3/20/98
Date
By: M. Mathews

property is improved with a single family dwelling. Mr. Mathews acquired this property in his sole name from other family members in October of 1992. By stipulation, the parties agreed that the structure contains seven apartment units. Through counsel, the County contends that only six units are permitted, pursuant to the density/area regulations. I agree with the County's position that only six units are permitted under the density/area regulations and the conversion table (Section 402). Moreover, I do not find that the property is nonconforming or is otherwise exempt from the density/area regulations. Thus, the Petition for Special Hearing shall be granted and the property's use limited to six units.

The final case for consideration relates to the property at 122 Willow Avenue (case No. 97-330-SPH). This property is .14 acres in area zoned D.R.5.5. Mr. Mathews acquired the property on September 30, 1974. A stipulation entered into by and between the parties was that the property is used for three apartments. The County contends that only one unit is allowed. The respondent avers that three units are permitted. His argument has two basis; that the property is nonconforming use and that such a finding has already been established. Specifically, the respondent argues that the consideration of this issue, at this time, is barred by res adjudicata.

Evidence presented was that in 1980, Mr. Mathews responded to a complaint filed with the Zoning Office of Baltimore County regarding the use of the property for three apartments. In his response to the complaint, Mr. Mathews submitted three affidavits which collectively stated that the building at 122 Willow Avenue had been used for three apartments since since 1941. Based upon the documentation, then Zoning Commissioner Hammond issued a conditional Order stating, in part, "... a rebuttable presumption has been raised indicating that a nonconforming use exists on

the subject property, subject, however, to be rebutted by testimony produced by others at a Special Hearing to determine the existence of a nonconforming use subsequent to posting and advertising the property for such purpose." Commissioner Hammond's conclusion was essentially updated by letter dated December 10, 1991 by John J. Sullivan, Jr., on behalf of Arnold Jablon, Director of Zoning Administration and Development Management. That letter affirmed that a nonconforming use had been conditionally approved for three apartments.

By its very terms, Commissioner Hammond's Order was a conditional finding only and thus not a final judgment on the matter at issue. As is well settled, res adjudicata attaches only when a final judgment has been entered. Thus, Commissioner Hammond's Order cannot be the basis for the conclusion that res adjudicata bars consideration of this issue.

However, as to the merits of the nonconforming use, I find the evidence presented by Mr. Mathews, in the case at bar, persuasive. In my judgment, the Petitioner here (i.e., Baltimore County) has failed to produce evidence sufficient to rebut the presumption of the existence of a nonconforming use found by Commissioner Hammond. Thus, the Petition for Special Hearing is denied for 122 Willow Avenue (Case No. 97-330-SPH) and the use of the property for three apartments is permitted as a nonconforming use.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of March, 1998 that, pursuant to the Petition for Special Hearing, under case No. 97-326-SPH, the property at 10 Linden Terrace may hereafter be used for not more than 4 apartments; and,

ORDER RECOMMENDED FOR FILING
Date 3/20/98
By M. J. G. [Signature]

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-327-SPH, the property at 15 Linden Terrace, may hereafter be used for not more than 6 apartments; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-328-SPH, the property at 10 Burke Avenue may hereafter be used for not more than 1 dwelling unit; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-329-SPH, the property at 16 Burke Avenue may hereafter be used for not more than 1 dwelling unit; and,

IT IS FURTHER ORDERED that the Petitions for Special Hearing are, therefore, granted in cases 97-326-SPH, 97-327-SPH, 97-328-SPH and 97-329-SPH; and

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-330-SPH, the property at 122 Willow Avenue is nonconforming and may hereafter be used for up to 3 apartments and that, as such, the Petition for Special Hearing be and is hereby DENIED.

Any appeal from this decision must be made in accordance with the applicable provisions of law.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mmn

ORDER RECORDED FOR FILING
Date 3/20/98
By M. G. G. G.



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

March 19, 1998

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204

Lee S. Thomson, Esquire
Asst. County Attorney
Office of Law
400 Washington Avenue
Towson, Maryland 21204

RE: Petitions for Special Hearing
Case Nos. 97-326-SPH, 97-327-SPH, 97-328-SPH, 97-329-SPH &
97-330-SPH
William H. Mathews/Legal Owner

Gentlemen:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing have been granted, in part and denied in part, in accordance with the attached Order.

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

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt".
Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.

c: Lisa Keir, Aide to Councilman Riley

c: Mr. William H. Mathews
8 Linden Terrace
Baltimore, Maryland 21286



Petition for Special Hearing

Case #: 97-326-SPH

to the Zoning Commissioner of Baltimore County

for the property located at

10 Linden Terrace

which is presently zoned D.R. 16

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

Baltimore County hereby petitions for a Special Hearing under Sections 26-3 and 26-121(a) of the County Code and Section 500.6 of the Zoning Regulations of Baltimore County, for the Zoning Commissioner to conduct a hearing involving a violation or alleged violation or non-compliance with any zoning regulations or order issued by the Zoning Commissioner, Board of Appeals or Court, or for the proper interpretation thereof, more specifically:

Section number(s): 101 - "Dwelling"; "Family"; Lot, Interior"; "Lot of Record"
102.1; 1B01.1A; 402

Nature of violation(s): Conversion of a single family dwelling into seven (7) apartments, wherein, the lot area does not support such a use.

I do solemnly affirm that the contents stated above are correct to the best of my knowledge, information and belief.

2/5/97
Date

[Signature]
Office of Zoning Administration Representative

SUMMONS

ISSUED TO: William H. Mathews

ADDRESS: 8 Linden Terrace

Baltimore, Maryland 21286

To appear and testify in the matter of an alleged zoning violation or for the purpose of a proper interpretation of the zoning regulations or order of the Zoning Commissioner, Board of Appeals or Court.

Baltimore County Office Building
111 W. Chesapeake Avenue, Room 106

Hearing Date: March 19, 1997 Time: 2:00 am / pm Location: Towson, Maryland 21204

[Signature]
Lawrence E. Schmidt
Zoning Commissioner, for Baltimore County

Please be advised that your failure to appear at the date, time and location stated above could result in your attachment.



Baltimore County
Department of Permits and
Development Management

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 056021

DATE 4/28/98 ACCOUNT R-001-6150

AMOUNT \$ 350.00

RECEIVED FROM: Michael P. Tanczyn, P.A.

FOR: Appeal - Case #97-326-SPH & #97-327-SPH

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

RUE

PAID RECEIPT

PROCESS ACTUAL TIME
4/28/1998 4/28/1998 14:30:02

REF: 0502 CASHIER JRIC JMR DRAMER

5 MISCELLANEOUS CASH RECEIPT

Receipt # 043350

CR NO. 050821

350.00 CHECK

Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 056023

DATE 4/29/98 ACCOUNT R-001-6150

AMOUNT \$ 35.00

RECEIVED FROM: Michael P. Tanczyn, Esq.

FOR: Appeal Sign Fee - Cases 97-326-SPH
97-327-SPH

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

RUE

PAID RECEIPT

PROCESS ACTUAL TIME
4/29/1998 4/29/1998 10:30:45

REF: 0502 CASHIER JRIC JMR DRAMER

5 MISCELLANEOUS CASH RECEIPT

Receipt # 043477

CR NO. 050823

35.00 CHECK

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 97-326 SPH

Petitioner/Developer: _____

WM. MATHEWS

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at 10 LINDEN TERR.

The sign(s) were posted on _____

6/8/98

(Month, Day, Year)

Sincerely,

Gary Freund 6/8/98

(Signature of Sign Poster and Date)

GARY FREUND

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

CERTIFICATE OF POSTING

RE: Case No.: 97-326-SPH

Petitioner/Developer: _____

Date of Hearing/Closing: March 19, 1997

Wednesday

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at 10 Linden Terrace

The sign(s) were posted on February 28, 1997

(Month, Day, Year)

Sincerely,


(Signature of Sign Poster and Date)

Hunter Rowe

(Printed Name)

111 W. CHESAPEAKE AVE
(Address)

TOWSON MD 21204
(City, State, Zip Code)

887-3373
(Telephone Number)

To: MAR. 17, 1997
Ms. Gwen S., B.C.Z.D.
From: W.H. MATHEWS
Box 5501, Towson 21285

For: Postponement of
MAR. 19.97 Hearing

ZONING NOTICE

Case # : 97-328-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE : ROOM 106, COUNTY OFFICE BUILDING
TIME & DATE : WED. MARCH 19, 1997 AT 2:00 P.M.

SPECIAL HEARING

FOR A DETERMINATION TO SUPPORT THAT THE LOT AREA
CANNOT PERMIT THE CONVERSION OF A SINGLE FAMILY
DWELLING INTO

POSTPONED

MR GWEN S.

RETURN SIGN AND POST TO ROOM 106, COUNTY OFFICE BUILDING

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING
CALL 807-3301 THE DAY BEFORE THE SCHEDULED HEARING DATE
IF YOU ARE HANDICAPPED ACCESSIBLE

IN TOWSON, MD.

ROOM 106, COUNTY OFFICE BUILDING

DATE : WED. MARCH 19, 1997 AT 2:00 P.M.

SPECIAL HEARING

FOR A DETERMINATION TO SUPPORT THAT THE LOT AREA
CANNOT PERMIT THE CONVERSION OF A SINGLE FAMILY
DWELLING INTO 7 APARTMENTS

POSTPONED
MR GWEN S.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING
CALL 807-3301 THE DAY BEFORE THE SCHEDULED HEARING DATE
IF YOU ARE HANDICAPPED ACCESSIBLE

ZONING NOTICE

Case # : 97-330-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE : ROOM 106, COUNTY OFFICE BUILDING
TIME & DATE : WED. MARCH 19, 1997 AT 2:00 P.M.

SPECIAL HEARING

FOR A DETERMINATION TO SUPPORT THAT THE LOT AREA
CANNOT PERMIT THE CONVERSION OF A SINGLE FAMILY
DWELLING INTO 3 APARTMENTS.

POSTPONED
MR GWEN S.

RETURN SIGN AND

CE. BUILDING

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING
CALL 807-3301 THE DAY BEFORE THE SCHEDULED HEARING DATE
IF YOU ARE HANDICAPPED ACCESSIBLE

Posted 3/15/97
@ prapieria

10 Linden Terrace

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than 3-4-97

Format for Sign Printing, Black Letters on White Background:

ITEM 326

ZONING NOTICE

Case No.: 97-326-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: 111 W. CHESAPEAKE AVE, ROOM 106, COUNTY OFFICE BUILDING

DATE AND TIME: WEDNESDAY, MARCH 19, 1997 at 2:00 P.M.

REQUEST: SPECIAL HEARING FOR A
DETERMINATION TO SUPPORT THAT THE LOT
AREA CANNOT PERMIT THE CONVERSION OF A
SINGLE FAMILY DWELLING INTO
7 APARTMENTS.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 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

May 1, 1997

NOTICE OF REASSIGNMENT

VIOLATION HEARING

CASE NUMBER: 97-326-SPH

10 Linden Terrace

Legal Owner(s): William Mathews

Petitioner: Baltimore County/Permits and Development Management/Code
Enforcement

Special Hearing involving an alleged violation or non-compliance of
Sections 101 , 102.1; 1B01.1A; and 402 Baltimore County Zoning
Regulations; specifically, the conversion of a single family dwelling
into seven apartments, wherein, the lot area does not support such use.

HEARING: THURSDAY, JUNE 26, 1997 at 9:00 a.m., 4th Floor Hearing Room
Courts Bldg., 401 Bosley Avenue.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON
DIRECTOR

cc: William Mathews
Michael P. Tanczyn, Esq.
Code Enforcement/Law Office

PLEASE NOTE THAT THE ZONING SIGN ON THE PROPERTY MUST BE ALTERED TO
GIVE NOTICE OF THE ABOVE HEARING ON OR BEFORE JUNE 11, 1997 AND
CERTIFICATION OF SAME FILED WITH THIS OFFICE. PLEASE CONTACT THE SIGN
VENDOR USED FOR THE ORIGINAL POSTING.





County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

August 25, 1998

NOTICE OF ASSIGNMENT

CASE #: 97-326-SPH

IN THE MATTER OF: WILLIAM H. MATHEWS -Petitioner
10 Linden Terrace 9th E; 4th C

(Petition for Special Hearing filed by Baltimore County DPDM; restricted to 4 apartment units pursuant to BCZR 402 per ZC's Order 3/20/98.)

and

CASE #: 97-327-SPH

IN THE MATTER OF: WILLIAM H. MATHEWS -Petitioner
15 Linden Terrace 9th E; 4th C

(Petition for Special Hearing filed by Baltimore County DPDM; restricted to 6 apartment units pursuant to BCZR 402 per ZC's Order 3/20/98.)

ASSIGNED FOR:

WEDNESDAY, DECEMBER 2, 1998 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

cc: Counsel for Appellant /Property Owner: Michael P. Tanczyn, Esquire
Appellant /Property Owner: William H. Mathews

Lee S. Thomson, Assistant County Attorney
Virginia W. Barnhart, County Attorney
Hunter Rowe, Zoning Inspector /PDM
Arnold Jablon, Director /PDM

Lisa Keir MS 2201
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C





County Board of Appeals of Baltimore County

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

January 11, 1999

NOTICE OF DELIBERATION

IN THE MATTER OF:

WILLIAM H. MATHEWS -Petitioner

Case Nos. 97-326-SPH and 97-327-SPH

Having concluded the hearing in this matter on December 2, 1999, closing memos filed by Counsel on January 7, 1999, public deliberation has been scheduled as follows:

DATE AND TIME : THURSDAY, JANUARY 21, 1999 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

Kathleen C. Bianco
Administrator

cc: Counsel for Appellant /Property Owner: Michael P. Tanczyn, Esquire
Appellant /Property Owner: William H. Mathews

Lee S. Thomson, Assistant County Attorney
Virginia W. Barnhart, County Attorney
Hunter Rowe, Zoning Inspector /PDM
Arnold Jablon, Director /PDM

Lisa Keir MS 2201
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C

copies: L.F.M.





Baltimore County
Department of Permits and
Development Management

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

May 6, 1998

Mr. Lee S. Thomson
Assistant County Attorney
Baltimore County Office of Law
400 Washington Avenue
Towson, MD 21204

RE: Petition for Special Hearing
Case No. 97-326-SPH
10 Linden Terrace
9c4
William H. Mathews - Petitioners

Dear Mr. Thomson:

Please be advised that an appeal of the above referenced case was filed in this office on April 17, 1998 by Michael P. Tanczyn, Esquire, on behalf of William H. Mathews. 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 the Board of Appeals at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold Jablon". The signature is fluid and cursive, with a large, stylized "J" and "A".

Arnold Jablon
Director

AJ:scj

c: Ms. Lisa Keir
People's Counsel



APPEAL

Petition for Special Hearing
10 Linden Terrace
S/S Linden Terrace, 500' E of centerline York Road
9th Election District - 4th Councilmanic District
William H. Mathews - Petitioner
Case Number: 97-326-SPH

Petition for Special Hearing

(No Description of Property Found)

Certificate of Posting

(No Certificate of Publication Found)

(No Zoning Advisory Committee Comments Found)

Petitioners' Exhibits:

- 1A -- Copy of Portion of Zoning Map (15 Linden Terrace)
- 1B -- Copy of Portion of Zoning Map (10 Linden Terrace)

- 2A -- Deed between Raymond Hooper Mathews, Mary W. Mathews, and William H. Mathews dated January 25, 1993 (16 Burke Avenue)
- 2B -- Site Plan (16 Burke Avenue)
- 2C -- One Photograph of Electric Meters (16 Burke Avenue)

- 3A -- Deed between Virginia Isabelle Justice and William H. Mathews dated August 8, 1994 (10 Burke Avenue)
- 3B -- Site Plan (10 Burke Avenue)
- 3C -- One Photograph of Electric Meters (10 Burke Avenue)

- 4A -- Deed between Margaret H. Daughton and William H. Mathews dated September 30, 1974 (122 Willow Ave.)
- 4B -- Site Plan (122 Willow Avenue)
- 4C -- One Photograph of Electric Meters (122 Willow Ave.)

- 5A -- Deed between James S. Watson, Joseph W. Watson, Robert C. Watson, and William H. Mathews dated September 15, 1980 (10 Linden Terrace)
- 5B -- Site Plan (10 Linden Terrace)
- 5C -- Notice of Alley Closing dated August 28, 1985
- 5D -- Lot Line Adjustment with attachments from W.T. Sadler Surveyors to Arnold Jablon dated February 20, 1997 (10 Linden Terrace)
- 5E -- Two Photographs of Electric Meters (10 Linden Terr.)

- 6A -- Deed between William H. Mathews, Raymond H. Mathews, Mary Mathews, and William H. Mathews dated October 19, 1992 (15 Linden Terrace)
- 6B -- Site Plan (15 Linden Terrace)
- 6C -- One Photograph of Mailboxes (15 Linden Terrace)

- 7 -- Zoning Commissioner's Order for Case #80-278-V dated April 15, 1980 (Dismissed)

- 8 -- Letter from John J. Sullivan, Jr., Planner II, to William Mathews dated December 10, 1991
- 9 -- One Photograph of Second Floor (10 Burke Avenue)
- 10 -- One Photograph of First Floor (10 Burke Avenue)
- 11 -- Two Photographs (15 & 17 Linden Terrace)
- 12 -- Request for Zoning Clarification from William H. Mathews to Arnold Jablon, Director of Permits, Development Management, dated October 14, 1996
- 13 -- Letter from Timothy L. Fitts, Zoning Inspector, to Messgrs. William H. and Raymond H. Mathews, et al dated November 16, 1992
- 14 -- Plat of Land belonging to Henry L. Bowen, Esquire
- 15 -- One Photograph (15 Linden Terrace)

Seven Subpoenas

Affidavit for Service for Hilda Wilson

Zoning Commissioner's Order dated March 20, 1998 (Granted in Part, Denied in Part)

Notice of Appeal received on April 17, 1998 from Michael P. Tanczyn, Esquire, on behalf of William H. Mathews

c: Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, MD 21204
Lee S. Thomson, Esquire, Asst. County Attorney, Office of Law, 400 Washington Avenue, Towson, MD 21204
Lisa Keir, Aide to Councilman Riley
William H. Mathews, 8 Linden Terrace, Baltimore, MD 21286
People's Counsel of Baltimore County, MS #2010
Lawrence Schmidt, Zoning Commissioner
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

CASE #: 97-326-SPH

WILLIAM H. MATHEWS -Petitioner
10 Linden Terrace 9th E; 4th C

Petition for Special Hearing filed by Baltimore
County Department of Permits & Development
Management /Hunter Rowe, Zoning Inspector -- zoning
violation /6 apartments

3/20/98 -Order of the ZC -- restricted to 4
apartment units pursuant to BCZR 402

and

Case # 97-327-SPH

WILLIAM H. MATHEWS -Petitioner
15 Linden Terrace 9th E; 4th C

Petition for Special Hearing filed by Baltimore
County Department of Permits & Development
Management /Hunter Rowe, Zoning Inspector -- zoning
violation /7 apartments

3/20/98 -Order of the ZC -- restricted to 6
apartment units pursuant to BCZR 402.

8/25/98 - Notice of Assignment for hearing scheduled for Wednesday,
December 2, 1998 at 10:00 a.m. sent to following:

Michael P. Tanczyn, Esquire
William H. Mathews
Lee S. Thomson, Assistant County Attorney
Virginia W. Barnhart, County Attorney
Hunter Rowe, Zoning Inspector /PDM
Arnold Jablon, Director /PDM
Lisa Keir MS 2201
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C

12/02/98 -Hearing concluded; closing briefs due January 7, 1999; deliberation
to be scheduled (L.F.M.)

CASE #: 97-326-SPH

WILLIAM H. MATHEWS -Petitioner
10 Linden Terrace 9th E; 4th C

Petition for Special Hearing filed by Baltimore County Department of Permits & Development Management /Hunter Rowe, Zoning Inspector -- zoning violation /6 apartments
3/20/98 -Order of the ZC -- restricted to 4 apartment units pursuant to BCZR 402

and

Case # 97-327-SPH

WILLIAM H. MATHEWS -Petitioner
15 Linden Terrace 9th E; 4th C

Petition for Special Hearing filed by Baltimore County Department of Permits & Development Management /Hunter Rowe, Zoning Inspector -- zoning violation /7 apartments
3/20/98 -Order of the ZC -- restricted to 6 apartment units pursuant to BCZR 402.

8/25/98 - Notice of Assignment for hearing scheduled for Wednesday, December 2, 1998 at 10:00 a.m. sent to following:

Michael P. Tanczyn, Esquire
William H. Mathews
Lee S. Thomson, Assistant County Attorney
Virginia W. Barnhart, County Attorney
Hunter Rowe, Zoning Inspector /PDM
Arnold Jablon, Director /PDM
Lisa Keir MS 2201
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C

12/02/98 -Hearing concluded; closing briefs due January 7, 1999; deliberation to be scheduled (L.F.M.)

1/05/99 -Building permits 77201 and 77202 provided by Mr. Tanczyn, per Board's instructions, by letter dated January 5, 1999.

1/07/99 -Supplement from M. Tanczyn to be included with above; supplement consists of letter from L. Thomson -- objected to similar evidence on the record; said objection overruled by Board. Would enter same objection with respect to documents Mr. Tanczyn now proposes to enter into record as to relevance. Will address this matter more fully in his Memorandum to be submitted. Requests that his 1/06/99 letter to Mr. Tanczyn, as well as his objection as stated in that letter, become a part of the record.

1/07/99 -Memorandum filed by Baltimore County 1/07/99
Memo filed by M. Tanczyn 1/07/99

1/11/99 -Notice of Deliberation sent to parties; scheduled for Thursday, January 21, 1999 at 9:30 a.m. Copy to L.F.M. with copies of memos.

Page 2

CASE #: 97-326-SPH

WILLIAM H. MATHEWS -Petitioner
10 Linden Terrace 9th E; 4th C

and

Case # 97-327-SPH

WILLIAM H. MATHEWS -Petitioner
15 Linden Terrace 9th E; 4th C

1/15/99 -Letter from Michael Tanczyn, Esquire -- enclosing legible photocopy of Building Permit No. 77802 to supplement record as authorized by the Board. Also stating that it was reviewed by Lee Thomson, counsel for Baltimore County, who reiterates his objection to this as to relevance as more fully stated in his prior letter of 1/06/99.



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

September 9, 1997

Lee S. Thomson
Assistant County Attorney
Baltimore County Office of Law
400 Washington Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
10 Linden Terrace
William Mathews - Owner
Case No. 97-326-SPH

Dear Ms. Thomson:

In response to your letter dated August 20, 1997 concerning the above-captioned matter, please be advised that I have reviewed the taped recording of the interview conducted by you and Michael Tanczyn, Esquire in the presence of Mr. William Mathews of Mrs. Hilda Wilson concerning her knowledge of the above-referenced property.

Based upon the information contained thereon, I have scheduled a continued hearing for Thursday, September 25, 1997 at 3:00 PM in Room 407 of the New Courts Building. It is my understanding that there will be no additional testimony offered at that time, but rather you and Mr. Tanczyn will have the opportunity to present final argument in this case and the associated cases.

Should you have any further questions concerning this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106, Towson, Md. 21204

Lisa Keir, Aide to Councilman Riley

Case File



RE: PETITIONS FOR SPECIAL HEARING
(VIOLATION HEARINGS)
10 Linden Terrace
15 Linden Terrace
10 Burke Avenue
16 Burke Avenue
122 Willow Avenue
9th Election District, 4th Councilmanic

Legal Owner(s): William Matthews
Petitioner: Baltimore County/Permits and
Development Management/Code Enforcement

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NOS. 97-326-SPH
* 97-327-SPH
* 97-328-SPH
* 97-329-SPH
* 97-330-SPH

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of March, 1997, a copy of the foregoing Entry of Appearance was mailed to William H. Mathews, 8 Linden Terrace, Baltimore, MD 21286, Legal Owner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

DATE: 02/13/97
TIME: 11:45:30
PROPERTY NO. DIST GROUP CLASS OCC. HISTORIC DEL FM DATE
09 23 000680 09 2-2 04-00 N NO 11/28/96
MATHEWS WILLIAM H
DESC-1.. IMPSLT SS LINDEN TERRAC
DESC-2.. 450 E YORK ROAD
P O BX 5501 PREMISE. 00010 LINDEN TER
00000-0000

BALTIMORE MD 21285-5501 FORMER OWNER: WATSON JAMES S WATSON JOSE

----- FCV -----			----- PHASED IN -----			
	PRIOR	PROPOSED		CURR	CURR	PRIOR
LAND:	42,130	44,880		FCV	ASSESS	ASSESS
IMPV:	85,360	79,040	TOTAL..	123,920	49,560	49,560
TOTL:	127,490	123,920	PREF...	0	0	0
PREF:	0	0	CURT...	0	0	0
CURT:	0	0	EXEMPT.		0	0
DATE:	10/92	10/95				

---- TAXABLE BASIS ----		FM DATE
97/98 ASSESS:	49,560	11/28/96
96/97 ASSESS:	49,560	11/28/96
95/96 ASSESS:	50,990	08/21/95

ENTER-INQUIRY2 PA1-PRINT PF4-MENU PF5-QUIT PF7-CROSS REF
01-01 SA MW KS IM II S1 S1019666 KB

Baltimore County Government
Department of Community Development
Livability Code Enforcement Office



One Investment Place Suite 825
Towson, MD 21204

(410) 887-4032
Fax: (410) 887-5696

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: William H. Mathews -Appellant /Property Owner
Case No. 97-326-SPH and Case No. 97-327-SPH

DATE : Thursday, January 21, 1999

BOARD /PANEL : Lawrence M. Stahl (LMS)
Donna M. Felling (DMF)
Thomas P. Melvin (TPM)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 97-326-SPH and Case No. 97-327-SPH
/Petition for Special Hearing /determination of number of
apartments allowed.

The Board discussed and deliberated issues as to this matter and testimony and evidence produced, including testimony and evidence received as to the number of apartments existing and the length of time; requirements necessary for nonconforming use, including continuing uninterrupted with no abandonment or discontinuance for a period of one year or more.

Upon conclusion of deliberation among panel members, the following decisions were reached by each Board member:

As to 10 Linden Terrace -- 6 apartments approved; found from testimony and evidence that these units were continuously rented out; okay on 6 apartments for #10. As to 6: LMS -Yes; DMF -Yes; TPM -Yes.

As to 15 Linden Terrace -- 6 apartments approved; no testimony as to 1955 to 1980; both insurance and construction starts with 1980; left with gap in time. As to 6: LMS -Yes; DMF -Yes; TPM -Yes.

Board also concluded (unanimously), in reaching above decision, that Section 402 was applicable in this case; therefore 15 Linden must be reduced by one unit. As to 402: LMS -Yes; DMF -Yes; TPM -Yes

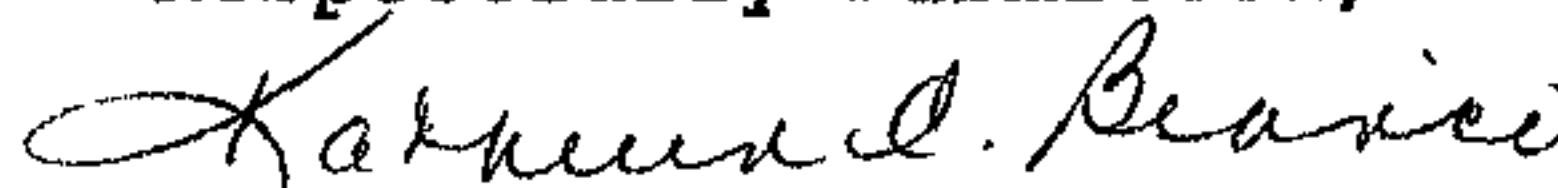
The Board's unanimous decision based on testimony and evidence produced at hearing and after public deliberation: APPROVED legal nonconforming use as to 10 Linden Terrace for six (6) units; As to 15 Linden Terrace, APPROVED for six (6) units pursuant to Section 402; did not prove legal nonconforming use.

Written Opinion and Order to be issued by the Board as required by statute. Appellate period to run from date of written Order; anyone feeling aggrieved by the Board's decision may appeal to Circuit Court.

These minutes indicate public deliberation in this matter was held this date in the subject matter and a final decision rendered by the Board of Appeals.

~~~~~

Respectfully submitted,



Kathleen C. Bianco  
Administrator

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: L. Stahl  
T. Melvin  
D. Felling

DATE: January 11, 1999

FROM: Kathi

SUBJECT: Case No. 97-326-SPH and 97-327-SPH /William H. Mathews

The subject matter has been scheduled for public deliberation on Thursday, January 21, 1999 at 9:30 a.m. Attached are copies of:

1. Memorandum of Baltimore County, Maryland filed by Lee. S. Thomson, Assistant County Attorney; and
2. Respondent's Memorandum filed by Michael P. Tanczyn, Esquire, on behalf of William H. Mathews, Petitioner.

Please note that Mr. Tanczyn has also filed copies of Permit No. 77201 and Permit No. 77202, along with a letter from Mr. Thomson in response to that filing. These documents have been placed in the subject file.

Should you have any questions regarding the above, or need any additional information, please call me.

kathi

Attachments

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director                      DATE: September 29, 1999  
Permits & Development Management

FROM: Charlotte E. Radcliffe *WR*  
County Board of Appeals

SUBJECT: Closed Files:  
97-326-SPH & 97-327-SPH /William H. Mathews

Since no further appeal was taken from the Board's Opinion dated March 25, 1999, and the 30-day appellate period has expired, we are hereby closing the files and returning same herewith.

Attachment (File No. 97-326-SPH & 97-327-SPH)



Baltimore County  
Department of Permits and Development Management  
Bureau of Code Enforcement  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Deed Shows  
15,925<sup>sq</sup>

### CODE VIOLATION NOTICE

NAME: WILLIAM MATTHEWS

DATE: 9/23/96

ADDRESS: 8 LINDEN TERR

CITY-ZIP: BALT MD. 21286

RE: Case No. \_\_\_\_\_

LOCATION: 10 LINDEN TERR  
DISTRICT: 9

Dear Mr. Matthews:

In accordance with the Baltimore County Code, Article IV, Section 402. (d), an inspection was conducted of the above location, zoned DR/6. This inspection revealed violation(s) according to the following code(s):

X Baltimore County Zoning Regulations (BCZR), Section 102.1. ; 1B01.1A; 402

\_\_\_\_\_ Building Code of Baltimore County, Maryland, Section 102.1.

\_\_\_\_\_ Livability Code, Baltimore County, Section 18-68.

\_\_\_\_\_ Other \_\_\_\_\_

The following correction(s) is/are required:

Under the present zoning, a lot size of 23050 sq ft  
is required to support 7 Apartments. Our records  
indicate this site to be 12525 sq. ft. Either reduce  
the number of apts. to comply with section 402  
(enclosed) or file for a special hearing, wherein a  
determination can be made as to whether the use  
is non-conforming

The above violation(s) must be corrected on or before 10/25/96 or further legal action will proceed, in which you may be subject to a civil penalty. Should you need further clarification, please contact

Hunter Rowe, Code Inspector, at (410) 887- 3373

IN RE: THE PETITION OF  
BALTIMORE COUNTY FOR A  
SPECIAL HEARING

\* BEFORE THE  
98 DEC -1 AM 11:11  
\* BOARD OF APPEALS  
\* FOR BALTIMORE COUNTY  
\* CASE NO. 97-326-SPH

Petitioner

10 Linden Terrace

\* \* \* \* \*

**SUBPOENA DUCES TECUM**

PLEASE issue a Subpoena for the following:

Custodian of Records for Permits  
County Office Building  
Towson, MD 21204

to appear and bring the following records:

- Building Permit B33460 from 1981 for 12 Linden Terrace
- Building Permit B77201 and 77802 for 14 Linden Terrace

and to testify for the Respondent, William Mathews on December 2, 1998 at 10:00 a.m. in Room 49, Old Court House, Towson, Maryland, 21204 before the Board of Appeals.

This Subpoena is requested by Michael P. Tanczyn, Esquire, who may be contacted at 410-296-8823.

DATE

12-01-98

*Kathleen D. Brando*  
BOARD OF APPEALS FOR  
BALTIMORE COUNTY

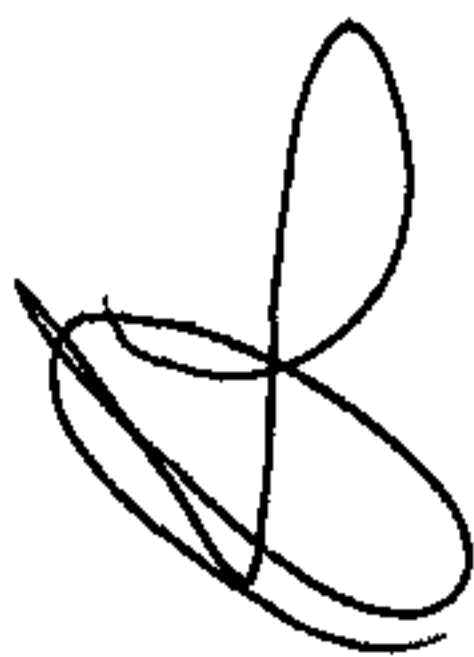
B033460  
B077201  
B077802 } ?

*See notes on  
revised  
12/02/98*

12-2-98

Letter

Dovall appeared from Davy Swamp  
office — could find no record  
as requested in Subpoena —  
May be too old —



IN RE: THE PETITION OF  
BALTIMORE COUNTY FOR A  
SPECIAL HEARING

RECEIVED  
COUNTY BOARD OF APPEALS  
\* BEFORE THE  
98 DEC -1 AM 11:10  
\* BOARD OF APPEALS  
\* FOR BALTIMORE COUNTY  
\* CASE NO. 97-326-SPH

Petitioner

10 Linden Terrace

\* \* \* \* \*

**SUBPOENA DUCES TECUM**

PLEASE issue a Subpoena for the following:

Custodian of Records for Zoning  
Room 109, County Office Building  
Towson, MD 21204

to appear and bring the following records:

- Case C90-246 – 12 Linden Terrace and
- Case C93-641 – 15 Linden Terrace

and to testify for the Respondent, William Mathews on December 2, 1998 at 10:00 a.m. in Room 49, Old Court House, Towson, Maryland, 21204 before the Board of Appeals.

This Subpoena is requested by Michael P. Tanczyn, Esquire, who may be contacted at 410-296-8823.

12-01-98  
DATE

Kathleen D. Benice  
BOARD OF APPEALS FOR  
BALTIMORE COUNTY

IN RE: THE PETITION OF  
WILLIAM H. MATHEWS FOR A  
SPECIAL HEARING

Petitioner

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* Case No. 97-326 SPH

\* \* \* \* \*

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that he/she executed service of process pursuant to the authority granted by the Baltimore County Zoning Commissioner of the Subpoena to Hilda Wilson, by delivering to and leaving with him/her a copy of same on the 25th day of June, 1997, at 6:00 a.m./p.m. at 800 Southerly Rd., Towson.

A description of the person served is as follows:

|            |                  |
|------------|------------------|
| Height     | <u>5'4</u>       |
| Weight     | <u>130</u>       |
| Sex        | <u>F</u>         |
| Age        | <u>92</u>        |
| Hair Color | <u>White</u>     |
| Other      | <u>Caucasian</u> |

The undersigned further certifies that he/she is over eighteen years of age and is not a party to this action.

Printed Name  
Address

SSA ZAVALA  
7714 Greenview Terr Apt 238 Towson MD 21204

Telephone No.

STATE OF Maryland, COUNTY OF Baltimore; to wit:

I HEREBY CERTIFY that on this 26<sup>th</sup> day of June, 1997, before me the subscriber, a Notary Public in and for the State

Eva M. S. Krehmer  
NOTARY PUBLIC  
My Commission Expires 7-1-00

IN RE: THE PETITION OF  
WILLIAM H. MATHEWS FOR A  
SPECIAL HEARING

Petitioner

10 Linden Terrace

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* Case No. 97-326-SPH

\* \* \* \* \*

SUBPOENA

PLEASE issue a Subpoena for a hearing in the above matter to be held on Thursday, June 26, 1997, at 9:00 a.m. before the Zoning Commissioner for Baltimore County at Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204, for:

PAT WHITE  
21 Linden Terrace  
Towson, Maryland 21286

to appear and testify.

This Subpoena is requested by the Petitioner. If there are any questions, please contact Michael P. Tanczyn, Esq., attorney for the Petitioner, at 606 Baltimore Avenue, Suite 106, Towson, Maryland, 21204, telephone (410) 296-8823.

Date: June 24, 1997

  
ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

IN RE: THE PETITION OF  
WILLIAM H. MATHEWS FOR A  
SPECIAL HEARING

Petitioner

10 Linden Terrace

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* Case No. 97-326-SPH

\* \* \* \* \*

SUBPOENA

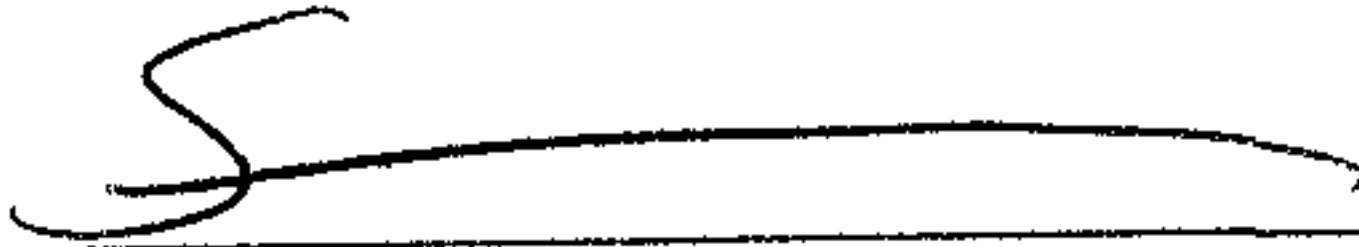
PLEASE issue a Subpoena for a hearing in the above matter to be held on Thursday, June 26, 1997, at 9:00 a.m. before the Zoning Commissioner for Baltimore County at Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204, for:

VIRGINIA E. DUNCAN  
101 Linden Terrace  
Towson, Maryland 21286

to appear and testify.

This Subpoena is requested by the Petitioner. If there are any questions, please contact Michael P. Tanczyn, Esq., attorney for the Petitioner, at 606 Baltimore Avenue, Suite 106, Towson, Maryland, 21204, telephone (410) 296-8823.

Date: June 24, 1997

  
ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

IN RE: THE PETITION OF  
WILLIAM H. MATHEWS FOR A  
SPECIAL HEARING

Petitioner

10 Linden Terrace

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* Case No. 97-326-SPH

\* \* \* \* \*

SUBPOENA

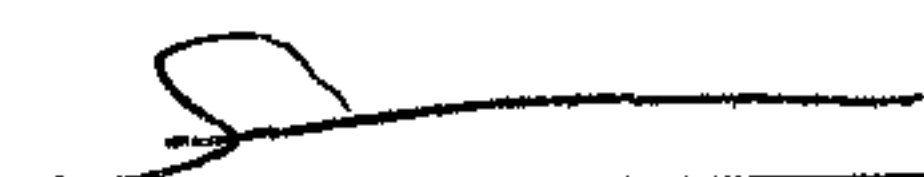
PLEASE issue a Subpoena for a hearing in the above matter to be held on Thursday, June 26, 1997, at 9:00 a.m. before the Zoning Commissioner for Baltimore County at Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204, for:

JIM WATSON  
14 Landings  
Key Largo, Florida 33037

to appear and testify.

This Subpoena is requested by the Petitioner. If there are any questions, please contact Michael P. Tanczyn, Esq., attorney for the Petitioner, at 606 Baltimore Avenue, Suite 106, Towson, Maryland, 21204, telephone (410) 296-8823.

Date: June 24, 1997

  
ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

IN RE: THE PETITION OF  
WILLIAM H. MATHEWS FOR A  
SPECIAL HEARING

Petitioner

10 Linden Terrace

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* Case No. 97-326-SPH

\* \* \* \* \*

SUBPOENA

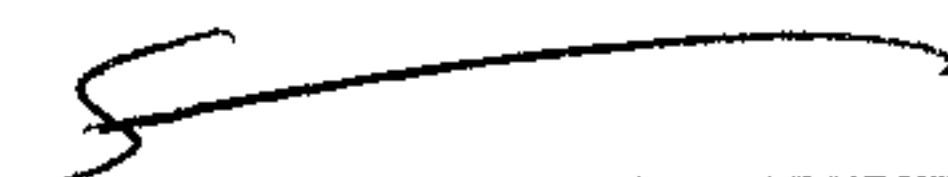
PLEASE issue a Subpoena for a hearing in the above matter to be held on Thursday, June 26, 1997, at 9:00 a.m. before the Zoning Commissioner for Baltimore County at Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204, for:

BEULAH B. WALKER  
3444 Jarrettsville Pike  
Baltimore, Maryland

to appear and testify.

This Subpoena is requested by the Petitioner. If there are any questions, please contact Michael P. Tanczyn, Esq., attorney for the Petitioner, at 606 Baltimore Avenue, Suite 106, Towson, Maryland, 21204, telephone (410) 296-8823.

Date: June 24, 1997

  
\_\_\_\_\_  
ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

IN RE: THE PETITION OF  
WILLIAM H. MATHEWS FOR A  
SPECIAL HEARING

Petitioner

10 Linden Terrace

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* Case No. 97-326-SPH

\* \* \* \* \*

SUBPOENA

PLEASE issue a Subpoena for a hearing in the above matter to be held on Thursday, June 26, 1997, at 9:00 a.m. before the Zoning Commissioner for Baltimore County at Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204, for:

MAY MADDOX  
14-1/2 Linden Terrace  
Towson, Maryland 21286

to appear and testify.

This Subpoena is requested by the Petitioner. If there are any questions, please contact Michael P. Tanczyn, Esq., attorney for the Petitioner, at 606 Baltimore Avenue, Suite 106, Towson, Maryland, 21204, telephone (410) 296-8823.

Date: June 24, 1997

  
ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

IN RE: THE PETITION OF  
WILLIAM H. MATHEWS FOR A  
SPECIAL HEARING

Petitioner

10 Linden Terrace

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* Case No. 97-326-SPH

\* \* \* \* \*

SUBPOENA

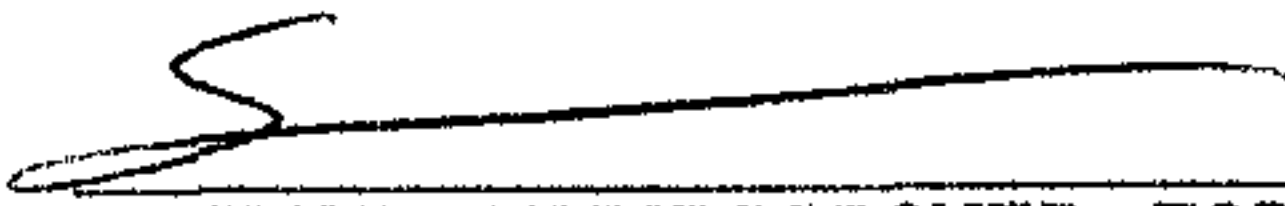
PLEASE issue a Subpoena for a hearing in the above matter to be held on Thursday, June 26, 1997, at 9:00 a.m. before the Zoning Commissioner for Baltimore County at Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204, for:

JOSEPH KEITH O'BRIEN, SR.  
102 Linden Terrace  
Towson, Maryland 21286

to appear and testify.

This Subpoena is requested by the Petitioner. If there are any questions, please contact Michael P. Tanczyn, Esq., attorney for the Petitioner, at 606 Baltimore Avenue, Suite 106, Towson, Maryland, 21204, telephone (410) 296-8823.

Date: June 24, 1997

  
ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

IN RE: THE PETITION OF  
WILLIAM H. MATHEWS FOR A  
SPECIAL HEARING

Petitioner

10 Linden Terrace

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* Case No. 97-326-SPH

\* \* \* \* \*

SUBPOENA

PLEASE issue a Subpoena for a hearing in the above matter to be held on Thursday, June 26, 1997, at 9:00 a.m. before the Zoning Commissioner for Baltimore County at Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204, for:

HILDA WILSON  
800 Southerly Road  
Towson, Maryland 21286

to appear and testify.

This Subpoena is requested by the Petitioner. If there are any questions, please contact Michael P. Tanczyn, Esq., attorney for the Petitioner, at 606 Baltimore Avenue, Suite 106, Towson, Maryland, 21204, telephone (410) 296-8823.

Date: June 25, 1997

Deputy

Anthony Kotroco  
ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

# AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Director of Department of Permits and Development Management (PDM), as follows:

That the information herein given is within the personal knowledge of the Affiant and the Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Paul J. Wynn  
AFFIANT (Handwritten Signature)

PAUL J. WYNN  
AFFIANT (Printed Name)

1313 WARWICK DR  
ADDRESS (Printed) LUTHERVILLE, MD 21093

410-828-6839  
TELEPHONE NUMBER

## BASED UPON YOUR PERSONAL KNOWLEDGE, PLEASE ANSWER THE FOLLOWING:

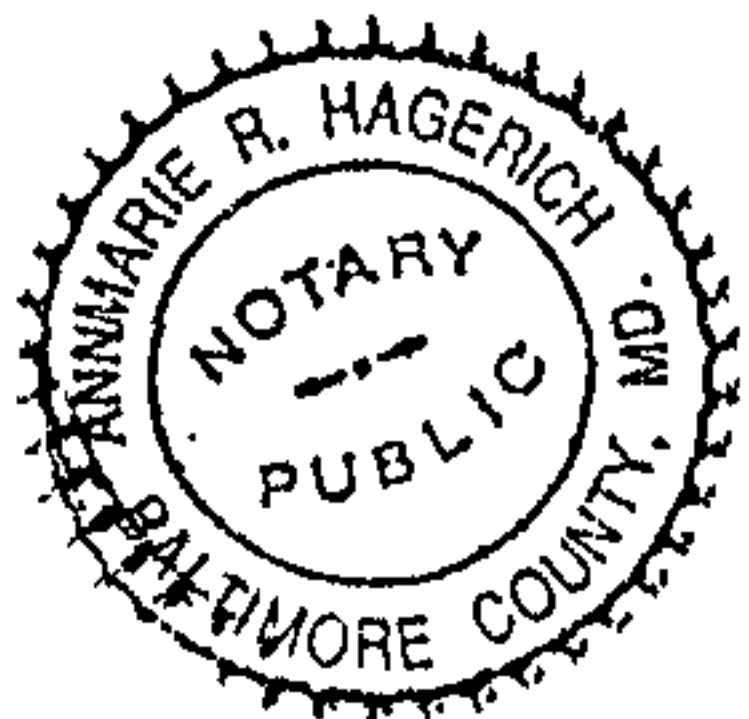
1. Can you verify by this affidavit and/or testify in court, if necessary, that the home located at 122 WILLOW AVE has been occupied as a 3 apartment dwelling since 1974 ? YES  
(address) (month) (year) (2, etc.) (answer)
2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since 1974 ? YES  
(month) (year) (answer)
3. Will you realize any gain from the sale of this property? No \*  
(answer)

\*If the answer is yes, this form cannot be approved.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY this 10 day of OCTOBER, 1996 before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared PAUL J. WYNN, the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts herein above set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.



Annmarie Hagerich  
NOTARY PUBLIC  
My Commission Expires AUGUST 20, 1998  
MY COMMISSION EXPIRES AUGUST 20, 1998

# AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Director of Department of Permits and Development Management (PDM), as follows:

That the information herein given is within the personal knowledge of the Affiant and the Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

[Handwritten Signature]  
AFFIANT (Handwritten Signature)

ROBERT C. FOLTZ  
AFFIANT (Printed Name)

3029 OAKCREST AVE  
ADDRESS (Printed)

296-7415  
TELEPHONE NUMBER

## BASED UPON YOUR PERSONAL KNOWLEDGE, PLEASE ANSWER THE FOLLOWING:

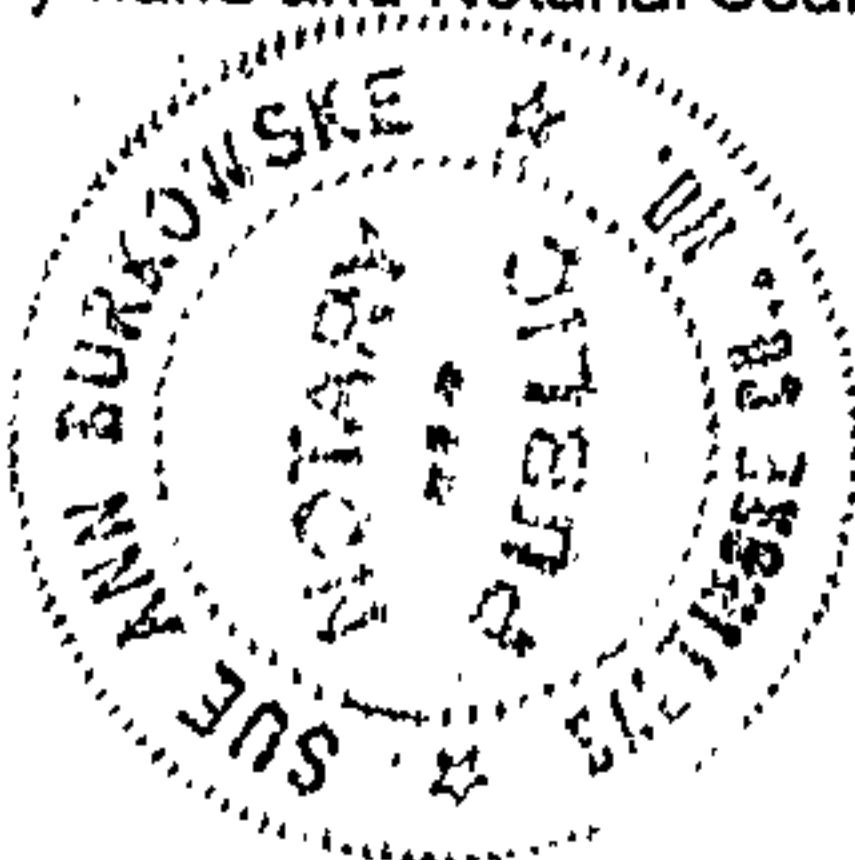
1. Can you verify by this affidavit and/or testify in court, if necessary, that the home located at 122 WILLOW AVE has been occupied as a 3 apartment dwelling since 1976? YES  
(address) (month) (year) (2, etc.) (answer)
2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since 1976? YES  
(month) (year) (answer)
3. Will you realize any gain from the sale of this property? No \*  
(answer)

\*If the answer is yes, this form cannot be approved.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY this 10<sup>th</sup> day of October, 1996 before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Robert C. Foltz, the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts herein above set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.



Sue Ann Burkowske  
NOTARY PUBLIC  
My Commission Expires January 1, 2000

# AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Director of Department of Permits and Development Management (PDM), as follows:

That the information herein given is within the personal knowledge of the Affiant and the Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

John T. Turlington  
AFFIANT (Handwritten Signature)

John Turlington  
AFFIANT (Printed Name)

1122 Powers Ave  
ADDRESS (Printed)

667-1093  
TELEPHONE NUMBER

## BASED UPON YOUR PERSONAL KNOWLEDGE, PLEASE ANSWER THE FOLLOWING:

1. Can you verify by this affidavit and/or testify in court, if necessary, that the home located at 122 Willow Ave has been occupied as a 3 apartment.  
(address) (2, etc.)  
dwelling since \_\_\_\_\_, 1961? yes  
(month) (year) (answer)
2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since \_\_\_\_\_, 1961? yes  
(month) (year) (answer)
3. Will you realize any gain from the sale of this property? NO  
(answer)

\*If the answer is yes, this form cannot be approved.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY this 7<sup>th</sup> day of October, 1996, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared John T. Turlington, the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts herein above set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

Sue Ann Burkowski  
NOTARY PUBLIC  
My Commission Expires January 10, 2000

# AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Director of Department of Permits and Development Management (PDM), as follows:

That the information herein given is within the personal knowledge of the Affiant and the Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Wm M Turlington  
AFFIANT (Handwritten Signature)

Wm M. TURLINGTON  
AFFIANT (Printed Name)

14 Linden Terr.  
ADDRESS (Printed)  
TOWSON

321-7475  
TELEPHONE NUMBER

## BASED UPON YOUR PERSONAL KNOWLEDGE, PLEASE ANSWER THE FOLLOWING:

1. Can you verify by this affidavit and/or testify in court, if necessary, that the home located at 122 Willow Ave Towson (address) has been occupied as a 3 (2, etc.) apartment dwelling since \_\_\_\_\_ (month), 1961? (year) YES (answer)
2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since \_\_\_\_\_ (month), 1961? (year) YES (answer)
3. Will you realize any gain from the sale of this property? NO (answer) \*

\*If the answer is yes, this form cannot be approved.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY this 7<sup>th</sup> day of October, 1996 before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared William M. Turlington, the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts herein above set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

Sue Ann Burkowske  
NOTARY PUBLIC  
My Commission Expires January 1, 2000

# AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Director of Department of Permits and Development Management (PDM), as follows:

That the information herein given is within the personal knowledge of the Affiant and the Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

John E. Bleach  
AFFIANT (Handwritten Signature)

JOHN E. BLEACH  
AFFIANT (Printed Name)

201 1/2 MARYLAND AVE.  
ADDRESS (Printed) TOWSON, MD, 21286

828-0331  
TELEPHONE NUMBER

## BASED UPON YOUR PERSONAL KNOWLEDGE, PLEASE ANSWER THE FOLLOWING:

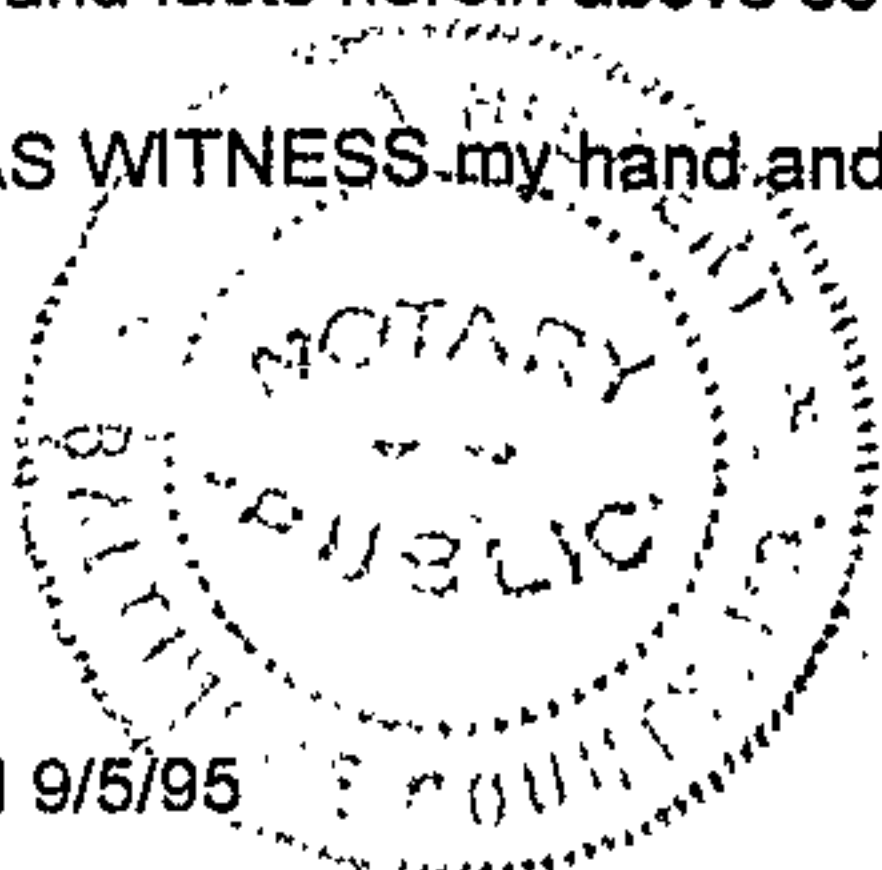
1. Can you verify by this affidavit and/or testify in court, if necessary, that the home located at 172 WILLOW AVE. (TOWSON) has been occupied as a 3 apartment dwelling since 1935? YES  
(address) (month) (year) (2, etc.) (answer)
2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since 1935? YES  
(month) (year) (answer)
3. Will you realize any gain from the sale of this property? NO \*  
(answer)

\*If the answer is yes, this form cannot be approved.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY this 11 day of OCTOBER, 1996, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared \_\_\_\_\_, the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts herein above set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.



Licia Hubert  
NOTARY PUBLIC LICIA HUBERT  
My Commission Expires 2-1-97



Baltimore County  
Office of Law

400 Washington Avenue  
Towson, Maryland 21204  
(410) 887-4420  
Fax: (410) 296-0931

August 20, 1997

The Honorable Lawrence E. Schmidt  
Zoning Commissioner  
401 Bosley Avenue  
Towson, Maryland 21204

RE: Case No. 97-326-SPH  
Petition for Special Hearing  
10 Linden Terrace

Dear Commissioner:

On July 29, 1997 Michael P. Tanczyn, Esquire, and the undersigned interviewed Mrs. Hilda Wilson at Edenwald in Towson in the presence of Mr. William Mathews. A recording of that interview was made by Mr. Tanczyn and an effort was made by his office to prepare a transcript from the tape. Thereafter Mr. Tanczyn furnished both the transcript and the tape to this office. I then reviewed the tape.

After further discussion it was agreed between Mr. Tanczyn and the writer that you should have the opportunity to hear the tape rather than review the transcript in order for you to hear her testimony in her own words and to form your own opinion as to the weight which ought to be given to that testimony.

Accordingly, and by agreement with Mr. Tanczyn, the tape of the interview is enclosed with this letter. Both Mr. Tanczyn and I have machines which can be made available to you in the event that you do not have a machine on which you can listen to a micro cassette. Additionally, Mr. Tanczyn and the writer are prepared to argue this and the associated cases which were heard before you at the same time, at your convenience. Dates which are available to both Mr. Tanczyn and the writer, as of this time, are: Friday, August 22nd, a.m.; Tuesday, August 26th, a.m.; Friday, September 5th, all day; Tuesday, September 9th, a.m., and, Thursday, September 25th, all day.

Very truly yours,

Lee S. Thomson  
Assistant County Attorney

LST/ile  
Enclosures

cc: Michael P. Tanczyn, Esquire

✓ 296-8823

*Can I hear this  
sometime this  
day 9/25/97  
3PM?*



4/17/98  
8 To: ROS

Law Offices  
**MICHAEL P. TANCZYN, P.A.**

Suite 106, 606 Baltimore Avenue  
Towson, Maryland 21204  
(410) 296-8823 - (410) 296-8824  
Fax: (410) 296-8827  
Computer Fax: (410) 296-2848

April 17, 1998

Honorable Lawrence E. Schmidt  
Zoning Commissioner  
Baltimore County  
Suite 405, County Courts Building  
401 Bosley Avenue  
Towson, MD 21204

RE: Petition for Special Hearing 10 Linden Terrace  
Case No: 97-326-SPH

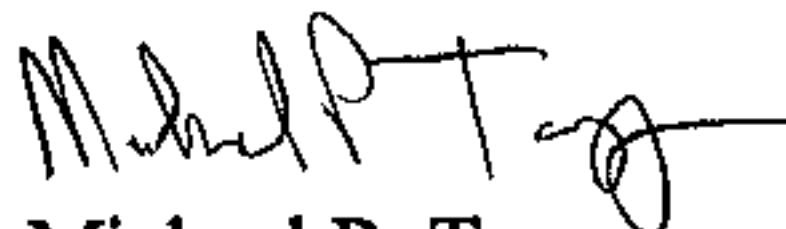
RE: Petition for Special Hearing 15 Linden Terrace  
Case No: 97-327-SPH  
William H. Mathews Box 5501 Towson, Maryland 21285/ Legal Owner

Dear Mr. Commissioner:

Please enter an appeal from your decision in the above cases to the Board of Appeals for Baltimore County on behalf of the property owner William H. Mathews, my client.

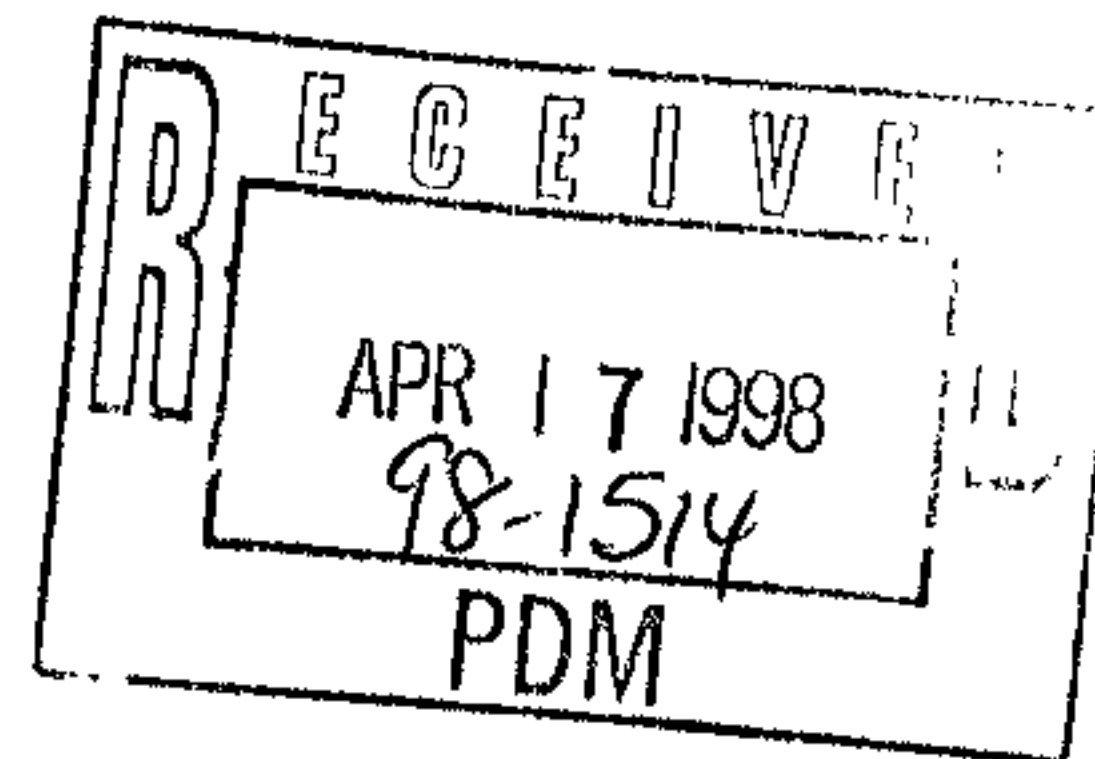
I enclose my check made payable to Baltimore County in the amount of \$350.00 for the filing costs. Thank you very much for your assistance in this regard.

Very truly yours,

  
Michael P. Tanczyn

MPT: kc

cc: William H. Mathews  
Mr. Lee S. Thomson, Esq., Asst. County Attorney





**Baltimore County  
Office of Law**

400 Washington Avenue  
Towson, Maryland 21204  
410-887-4420  
Fax: 410-296-0931

January 6, 1999

Michael P. Tanczyn, Esquire  
606 Baltimore Avenue, Ste. 106  
Towson, Maryland 21204

RE: Board of Appeals  
Case Nos. 97-326-SPH and 97-327-SPH  
William Mathews

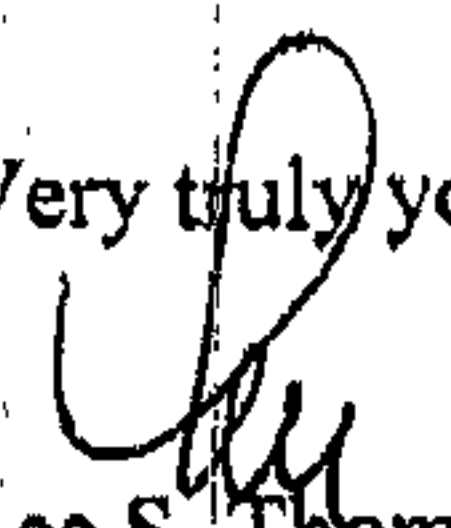
Dear Mike:

By way of a formal response to your letters of December 30, 1998 and January 4, 1999, it is my understanding that your purpose in proffering the evidence referenced therein to the Board of Appeals is to demonstrate that the County had, on a past occasion (1985) approved the issuance of building permits allowing construction and conversion on the property referred to therein into a number of units in excess of those which would have been permitted under Section 402 of the Baltimore County Zoning Regulations. The copies which you provided to me were not sufficiently legible to establish those facts however you have assured me that the originals from which they were made, and which you had an opportunity to view, would in fact reflect the facts which you have stated and based on that advice I would not object to these documents because of imperfections in the copies.

It is my recollection (my notes are sadly lacking in that regard) that I objected to similar evidence which you put in the record as to another property at the time of the hearing, on the ground of its relevance, and that the objection was over-ruled by the Board. I would enter the same objection with respect to the documents which you now propose to add to the record, i.e. relevance. As I have addressed that issue in the Memorandum which I will submit to the Board, I see no reason to belabor it in this letter.

In order that you not be delayed in your submission, I am faxing a copy of this letter to you and will request that you include it with your submission in order that the Board may be aware of my objection on the issue of relevance and that that objection may be part of the record. Thank you for your continuing courtesies in the presentation of these cases.

Very truly yours,

  
Lee S. Thomson  
Assistant County Attorney

LST/ile

Come visit the County's Website at [www.co.ba.md.us](http://www.co.ba.md.us)



Case No. 97-326-SPH and Case No. 97-327-  
SPH /William Mathews

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Attached includes:

- Supplements to the Record filed by  
Michael P. Tanczyn, Esquire
- Objection to same as indicated in  
attached copy of 1/06/99 letter from  
Lee Thomson, Assistant County  
Attorney.

LAW OFFICES  
**MICHAEL P. TANCZYN, P.A.**  
Suite 106 • 606 Baltimore Avenue  
Towson, Maryland 21204  
Phone: (410) 296-8823 • (410) 296-8824  
Fax: (410) 296-8827 • Computer Fax: (410) 296-2848

---

January 5, 1999

County Board of Appeals of Baltimore County  
Attn: Kathy Bianco  
Old Courthouse, Room 49  
400 Washington Avenue  
Towson, MD 21204

*Re: Special Hearing Petitions of Baltimore County*  
*My Client: William Mathews – Case No. 97-326-SPH & 97-327-SPH*

RECEIVED  
COUNTY BOARD OF APPEALS  
99 JAN -5 PM 1:41

Dear Kathy:

With regard to the above cases per the Board's instructions to Counsel and after Mr. Thomson's review, I have enclosed for inclusion in this record the following building permits:

1. Permit 77201 – To change 14 Linden Terrace from a single family dwelling to three apartments and site plan.
2. Permit 77202 – To construct two story and basement addition on rear of existing dwelling to be used for two apartments, basement to be used for storage and site plan.

The original structure has three apartments as reflected in 77201, and the addition is now used for four apartments including the basement, per Mr. Mathew's eye witness testimony. I believe there was also a photograph admitted into evidence illustrating 14 Linden as presently configured from the outside. Permit 77802 for the other apartments existing at 14 Linden was unavailable from Permits or Zoning records, although the apartments exist.

Thank you for your assistance in this matter.

Very truly yours,

  
Michael P. Tanczyn, Esquire

MPT/gr

Enclosures

cc: Mr. Lee Stuart Thomson, Esq.  
Mr. William Mathews

LAW OFFICES  
**MICHAEL P. TANCZYN, P.A.**  
Suite 106 • 606 Baltimore Avenue  
Towson, Maryland 21204  
Phone: (410) 296-8823 • (410) 296-8824  
Fax: (410) 296-8827 • Computer Fax: (410) 296-2848

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December 30, 1998

**HAND DELIVERED**

Mr. Lee Stuart Thomson, Esq.  
Old Courthouse, Room 2  
400 Washington Avenue  
Towson, MD 21204-4606

*Re: Special Hearing Petitions of Baltimore County*  
*My Client: William Mathews -- Case No. 97-326-SPH & 97-327-SPH*

Dear Lee:

I hope that you enjoyed a pleasant Christmas Holiday and will accept my best wishes for a safe, healthy and Happy New Year.

With regard to the above cases, after much digging in the Code Enforcement Archives, I have unearthed the following for your perusal with regard to building permits 77201 and 77202 which are:

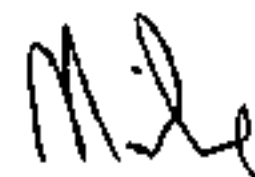
1. Permit 77201 – To change 14 Linden Terrace from a single family dwelling to three apartments and site plan.
2. Permit 77202 – To construct two story and basement addition on rear of existing dwelling to be used for two apartments, basement to be used for storage and site plan.

You will recall from Mr. Mathews' testimony that the original structure has three apartments as reflected in 77201, and the addition is now used for three apartments including the basement. I believe there was also a photograph admitted into evidence illustrating 14 Linden as presently configured from the outside. Permit 77802 for the other three apartments existing at 14 Linden was unavailable from Permits or Zoning records, although the apartments exist.

Please let me know if these are legible enough to be submitted to the Board of Appeals for inclusion in this record and I will get copies to the Board only after I hear from you.

If you have any questions concerning this, please do not hesitate to call me.

Very truly yours,



Michael P. Tanczyn, Esquire

MPT/gr

LAW OFFICES  
**MICHAEL P. TANCZYN, P.A.**

Suite 106 • 606 Baltimore Avenue

Towson, Maryland 21204

Phone: (410) 296-8823 • (410) 296-8824

Fax: (410) 296-8827 • Computer Fax: (410) 296-2848

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January 6, 1999

County Board of Appeals of Baltimore County  
Attn: Kathy Bianco  
Old Courthouse, Room 49  
400 Washington Avenue  
Towson, MD 21204

RECEIVED  
COUNTY BOARD OF APPEALS  
99 JAN -7 PM 12:22

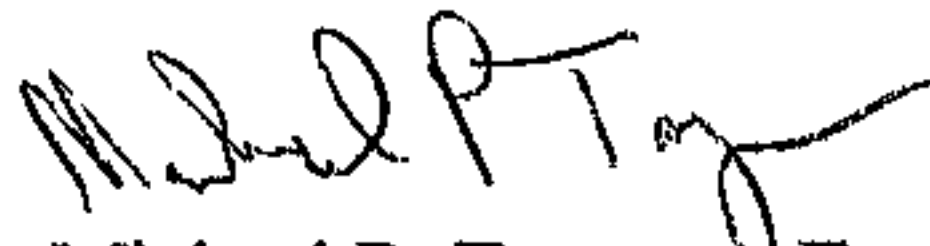
*Re: Special Hearing Petitions of Baltimore County*

*My Client: William Mathews – Case No. 97-326-SPH & 97-327-SPH*

Dear Kathy:

Enclosed herewith please find a letter and fax cover sheet from Mr. Lee S. Thomson, Esquire, to be added as a supplement to my submission of the permit documents.

Very truly yours,



Michael P. Tanczyn, Esquire

MPT/gr  
Enclosures

cc: Mr. Lee Stuart Thomson, Esq.  
Mr. William Mathews

Law Offices  
**MICHAEL P. TANCZYN, P.A.**  
Suite 106, 606 Baltimore Avenue  
Towson, Maryland 21204  
(410) 296-8823 - (410) 296-8824  
Fax: (410) 296-8827  
Computer Fax: (410) 296-2848

March 10, 1997

Lawrence E. Schmidt, Zoning Commissioner  
Old Courthouse, Room 113  
400 Washington Avenue  
Towson, MD 21204

Re: Cases Numbered SPH-97-326; SPH-97-327;  
SPH-97-328; SPH-97-329; SPH-97-330

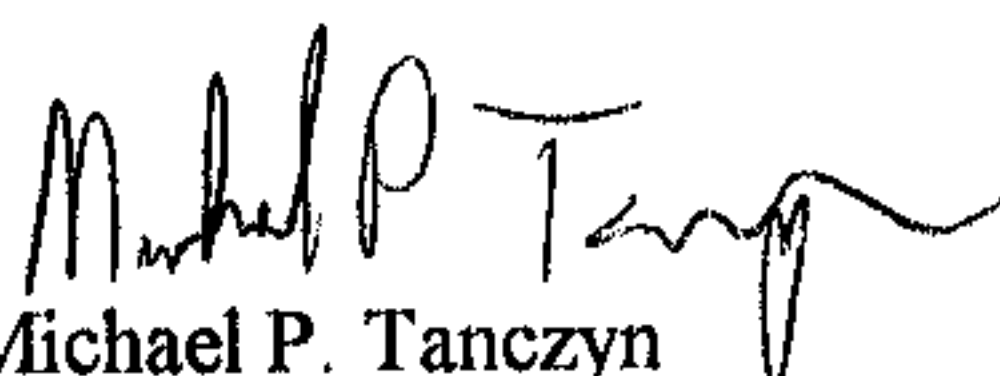
Dear Commissioner Schmidt:

I have just been retained by the property owner for the properties involved in the above cases for which the County has filed special hearing requests presently scheduled for hearing on March 19, 1997.

All of these involve residential structures which were built well before Zoning Regulations were enacted for Baltimore County in 1945. One of them has been the subject of two previous zoning hearing on alleged violations in 1980 and 1990 for 122 Willow Avenue, which I am told was successfully defended as a multi-apartment residential unit antedating zoning which is again under attack for the same issue.

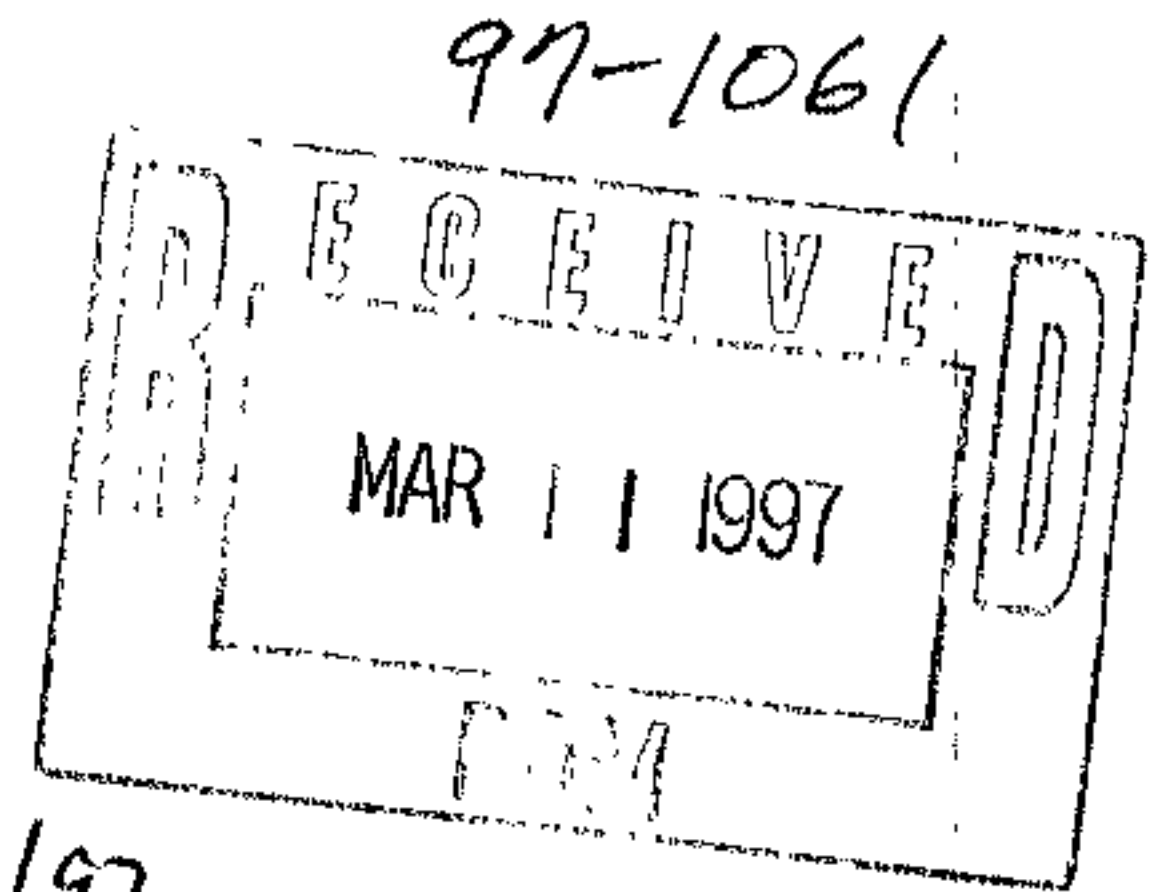
The purpose of this letter is to request a continuance from the scheduled hearing to allow me adequate time to review the past history, assemble necessary witnesses to establish the historical usage of the properties as multi-family residential structures, and to work on several ancillary matters which may moot several of these properties if we have a little time to try to do some things. There have been no prior requests for continuance, and from the pictures shown me by my client the properties appear to be maintained in exemplary condition at present. I therefore request a continuance and ask that you advise us of your decision in that regard.

Very truly yours,

  
Michael P. Tanczyn

MPT/ed

cc: Mr. William Mathews



3/11/97

TO 68

OK, but atty should  
provide alternative  
dates w/ reasonable  
time

TO A.J.  
JES

LEE Thompson must be  
in district court safe!  
3-11-97  
3-11-97  
Gwen  
Do Not Set IN  
ON A WEDNESDAY  
THAT IS  
THUR

14 October 1996

2

Towson, MD 21285  
Tele: 321-6654

**Attachments:**

- Check payment of \$40 fee~~s~~ to Baltimore County for Zoning Clarification.
- Order of April 15, <sup>1980</sup> Re: 122 Willow Avenue Case # 80-278 by Zoning Commissioner William E. Harmond.
- Four affidavits to support the 1980 Zoning Commissioner Order (1941-1980).
- Five additional affidavits to support the continued uninterrupted use of the building known as #122 Willow Avenue as a three (3) apartment building (1980-1996).

HOUSE - # 122 Willow  
Prop Tax # 0902200560





BM-AS

D.R. 16

D.R. 5.5

D.R. 10.5

D.R. 16

D.R. 5.5

10 Linden Terrace  
NE 9 A  
9th Dist

LINDEN

TERRACE

E4,500

BM

ALLEY

BURKELEIGH RD

BURKESHIRE RD

ALLEY

NORMAL TERRACE

BURM

MARBUR

AIGBURTH

RD.

AVE

AVENUE

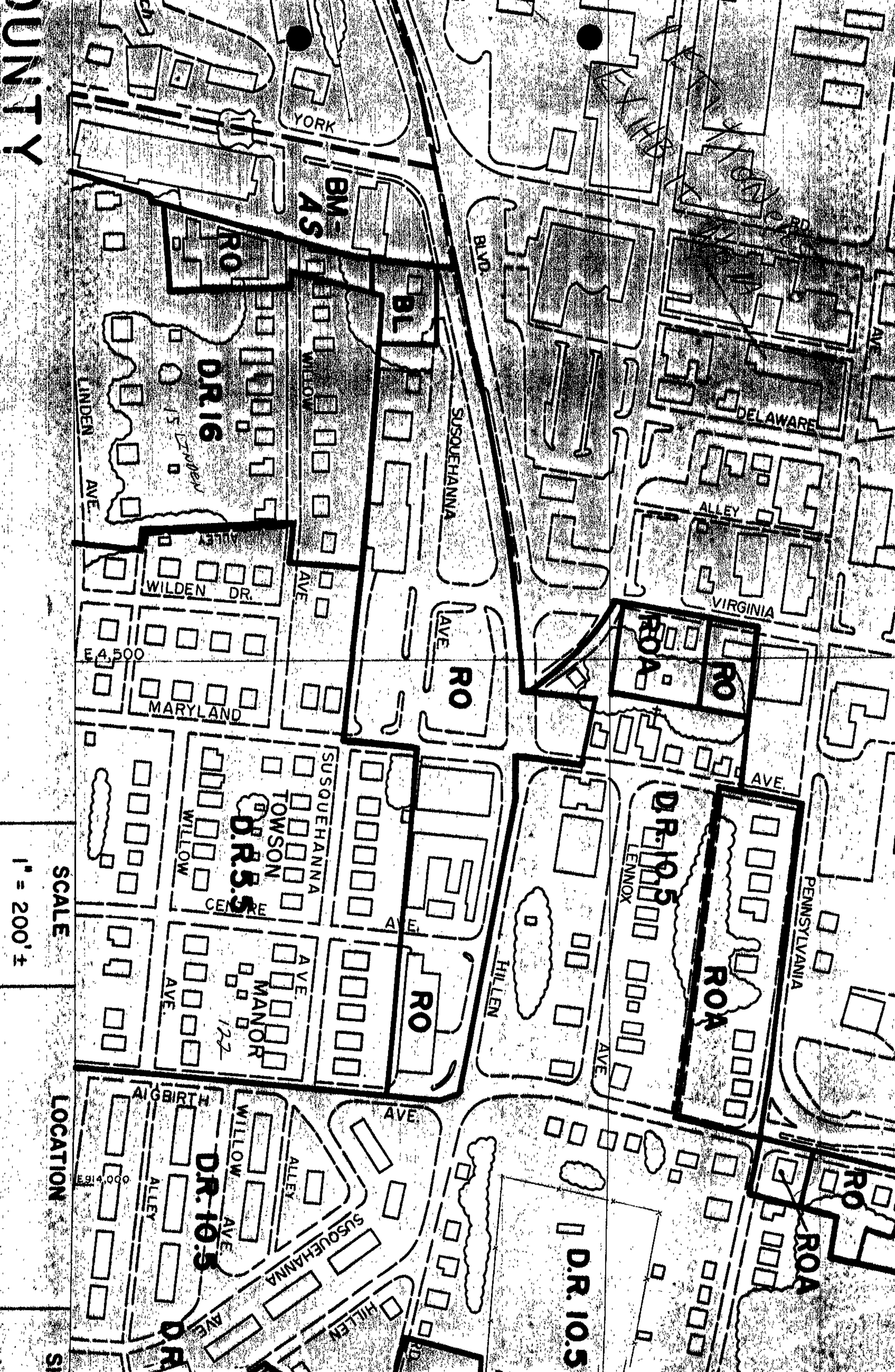
COURT

PARKING AREA

HILLSIDE

HILLTOP

COUNTY



SCALE  
1" = 200'

LOCATION

SI



DEED - FEE SIMPLE - INDIVIDUAL GRANTOR - LONG FORM

NO TITLE EXAMINATION REQUESTED OR PERFORMED

PETITIONER'S  
EXHIBIT 2A

THIS DEED, made this 25<sup>th</sup> day of January, 1993, by and between RAYMOND HOOPER MATHEWS and MARY W. MATHEWS, his wife, and WILLIAM H. MATHEWS, parties of the first part, and WILLIAM H. MATHEWS, party of the second part.

WITNESSETH, that for and in consideration of the sum of FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) paid by William H. Mathews unto Raymond Hooper Mathews and Mary W. Mathews, his wife, the receipt whereof is hereby acknowledged, the said parties of the first part do grant and convey to the said party of the second part, his personal representatives, successors and assigns, in fee simple, all that lot of ground situate in Baltimore County, Maryland and described as follows, that is to say:

BEGINNING on the North side of Burke Avenue at the distance of 404 feet Easterly from the corner or intersection formed by the North side of Burke Avenue and the East side of the York Road and running thence Easterly bounding on the North side of Burke Avenue 35 feet; thence Northerly at right angles to Burke Avenue and passing through the center of the partition or division wall of the house erected on the lot now being described and of the house erected on the adjoining lot to the East thereof 199 feet to the South side of a 20 foot alley, thence westerly bounding on the South side of said alley, 35 feet, more or less, to intersect a line drawn Northerly from the place of beginning and at right angles to Burke Avenue and thence Southerly reversing said line so drawn and bounding thereon 194 feet to the place of beginning. The improvements thereon being formerly known as No. 14 Burke Avenue and now known as No. 16 East Burke Avenue.

BEING the same lot of ground which by Deed dated July 15, 1986 and recorded among the Land Records of Baltimore County in Liber EHK, Jr. No. 7258, folio 264, was granted and conveyed by Geraldine Joan Hutton unto the grantors herein.

SUBJECT to a Driveway Use and Maintenance Agreement dated the 17th day of May, 1992, by and between Jane E. Eagler and the grantors herein.

TOGETHER with the buildings and improvements comprising same, and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in any way appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said party of the second part, his personal representatives, successors and assigns, in fee simple.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant generally the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal of said grantors.

Cynthia A. Wyman  
WITNESS

Raymond H. Mathews  
RAYMOND HOOPER MATHEWS

Cynthia A. Wyman  
WITNESS

Mary W. Mathews  
MARY W. MATHEWS

Cynthia A. Wyman  
WITNESS

William H. Mathews  
WILLIAM H. MATHEWS

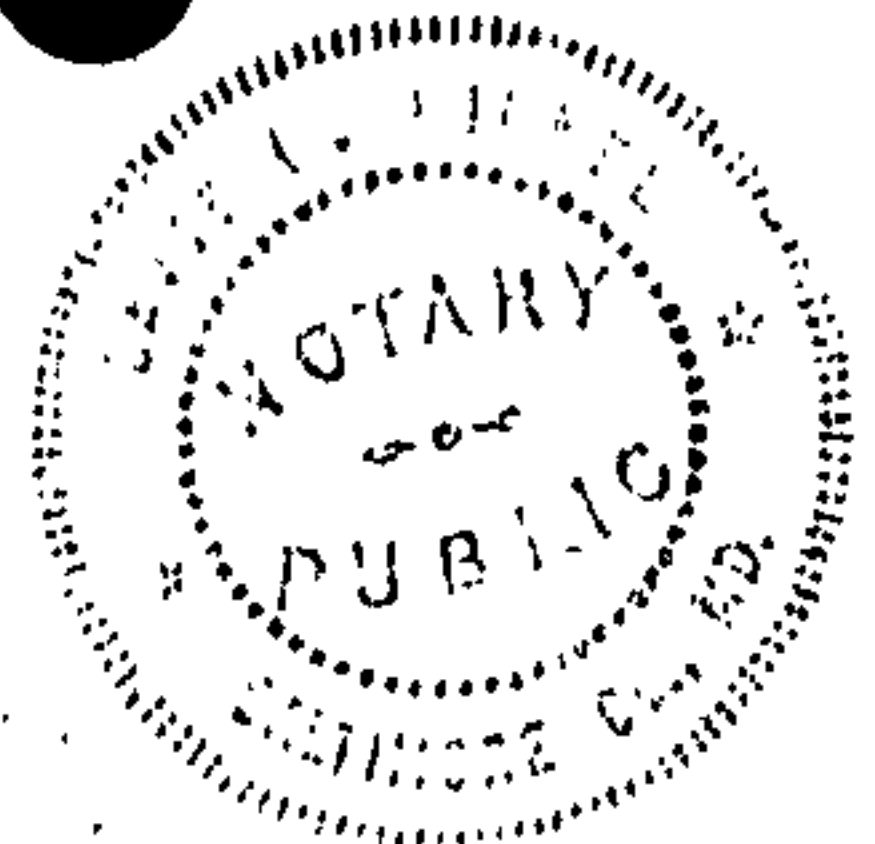
RECEIVED FOR TRANSFER

1993 JAN 27 PM 3:17

STATE OF MARYLAND, CITY/COUNTY OF Baltimore; to wit:

I HEREBY CERTIFY, that on this 25 day of JANUARY, 1993, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **RAYMOND HOOPER MATHEWS, MARY W. MATHEWS and WILLIAM H. MATHEWS**, satisfactorily proven to me to be the persons whose names are subscribed to the within instrument, and who acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



[Signature]  
NOTARY PUBLIC  
Commission Expires

DAVID L. KIMMEL  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires November 19, 1996

I HEREBY CERTIFY that the foregoing Deed was prepared by the undersigned who is an attorney-at-law in the State of Maryland.

[Signature]  
MICHAEL P. TANCZYK, ESQ.

DEED

RAYMOND HOOPER MATHEWS and  
MARY W. MATHEWS, his wife, and  
WILLIAM H. MATHEWS

TO

WILLIAM H. MATHEWS

BLOCK NO. \_\_\_\_\_

Record for Record, \_\_\_\_\_, 19\_\_\_\_  
o'clock \_\_\_\_ M. Same day  
Recorded in Liber \_\_\_\_ No. \_\_\_\_  
olio \_\_\_\_ &c., one of the Land  
Records of \_\_\_\_\_ Clerk.

Cost of Record \$ \_\_\_\_\_

Return to:

WILLIAM H. MATHEWS  
Box 5501  
Towson, Maryland 21204

002146 JAN 27 83

Baltimore County, Maryland  
Land Instrument Intake Sheet

(Type or print in black ink only—all copies must be legible)

In compliance with Baltimore County Code, 1978, Title 33, Taxation, Article III, §33-126 through 33-140, as amended, and the Annotated Code of Maryland, Tax-Property Article, §12-101 through 12-113, as amended, and Tax-Property Article, §13-101 through 13-408, as amended, it is certified that an instrument of writing dated 1-25-93 conveying title to, or creating liens or encumbrances upon, real or personal property is offered for record in the County. The property conveyed, or on which a lien or encumbrance is created, is identified as follows:

|                                                                                                         |                                                                                                                                                                                                                          |                                                                                                                                                                                                                          |                                                                                                            |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 1<br>Description of Property<br>(Check box(es) for item(s) to be indexed in land records)               | <input checked="" type="checkbox"/> Property Tax ID No. <u>09-08-802420</u>                                                                                                                                              | <input type="checkbox"/> Lot/Block                                                                                                                                                                                       | Map/Grid/Parcel No.                                                                                        |
|                                                                                                         | <input type="checkbox"/> Subdivision/Tract                                                                                                                                                                               | <input type="checkbox"/> Lot Acreage                                                                                                                                                                                     | Prior Deed Ref. <u>ENK 7258/264</u> VAR. L.O.G. <input type="checkbox"/>                                   |
|                                                                                                         | <input checked="" type="checkbox"/> Street Address (or description if partial conveyance)<br><u>16 E. Burke Ave.</u>                                                                                                     |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         |                                                                                                                                                                                                                          |                                                                                                                                                                                                                          |                                                                                                            |
| 2<br>Transferred From                                                                                   | Grantor(s) ( <input type="checkbox"/> check box if additional sheets are attached)<br><u>Raymond Hooper Mathews and Mary W. Mathews, his wife, and William H. Mathews</u><br>Owner of record (if different from grantor) |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         |                                                                                                                                                                                                                          |                                                                                                                                                                                                                          |                                                                                                            |
| 3<br>Transferred To                                                                                     | Grantee(s) ( <input type="checkbox"/> check box if additional sheets are attached)<br><u>William H. Mathews</u>                                                                                                          |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         |                                                                                                                                                                                                                          |                                                                                                                                                                                                                          |                                                                                                            |
| 4<br>Type of Instrument                                                                                 | <input checked="" type="checkbox"/> Deed                                                                                                                                                                                 | <input type="checkbox"/> Assignment of Mtg/DOT                                                                                                                                                                           | <input type="checkbox"/> Financing Statement                                                               |
|                                                                                                         | <input type="checkbox"/> Deed of Trust                                                                                                                                                                                   | <input type="checkbox"/> Contract                                                                                                                                                                                        | <input type="checkbox"/> Other (Specify) _____                                                             |
|                                                                                                         | <input type="checkbox"/> Mortgage                                                                                                                                                                                        | <input type="checkbox"/> Land Installment Cont.                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | <input type="checkbox"/> Lease                                                                                                                                                                                           | <input type="checkbox"/> Power of Attorney                                                                                                                                                                               |                                                                                                            |
| 5<br>Exemptions<br>(Cite authority or explain briefly)                                                  | Baltimore County Exempt Status Claimed: _____                                                                                                                                                                            |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Recordation Tax Exempt Status Claimed: _____                                                                                                                                                                             |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | State Exempt Status Claimed: _____                                                                                                                                                                                       |                                                                                                                                                                                                                          |                                                                                                            |
| 6<br>Consideration and Tax Calculations<br>Make check payable to Baltimore County, MD (410) 887-2416    | Consideration Amount                                                                                                                                                                                                     |                                                                                                                                                                                                                          | County Taxes to be Paid                                                                                    |
|                                                                                                         | Purchase Price/Consideration (including any new mortgage)                                                                                                                                                                | <u>\$ 45,000.00</u>                                                                                                                                                                                                      | Transfer Tax Consideration                                                                                 |
|                                                                                                         | Real Property                                                                                                                                                                                                            |                                                                                                                                                                                                                          | <u>\$ 45,000.00</u> x 1.6% = <u>\$ 720.00</u>                                                              |
|                                                                                                         | Personal Property                                                                                                                                                                                                        |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Balance of Assumed Mortgage                                                                                                                                                                                              |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Other                                                                                                                                                                                                                    |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Total Consideration or Assessed Factor                                                                                                                                                                                   | <u>\$ 45,000.00</u>                                                                                                                                                                                                      | Office of Finance Use Only<br>Agent: <u>gms</u> Tax Bill: _____<br>C.B. Credit: _____ Ag. Tax/Other: _____ |
| 7<br>Fees and Recording Instructions<br>Make check payable to Clerk of the Circuit Court (410) 887-2650 | Recordation Fees                                                                                                                                                                                                         |                                                                                                                                                                                                                          | Special Recording Instructions (if any)                                                                    |
|                                                                                                         | Recording Charges                                                                                                                                                                                                        | \$                                                                                                                                                                                                                       |                                                                                                            |
|                                                                                                         | State Transfer Tax                                                                                                                                                                                                       |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | County Recordation Tax                                                                                                                                                                                                   |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Surcharge                                                                                                                                                                                                                |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Other                                                                                                                                                                                                                    |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Total                                                                                                                                                                                                                    | \$                                                                                                                                                                                                                       |                                                                                                            |
| 8<br>Contact/Mail Information                                                                           | Instrument Prepared By                                                                                                                                                                                                   |                                                                                                                                                                                                                          | Return Instrument To                                                                                       |
|                                                                                                         | Name: <u>Michael P. Tanczyn, Esq.</u>                                                                                                                                                                                    |                                                                                                                                                                                                                          | Name: <u>William Mathews</u>                                                                               |
|                                                                                                         | Firm:                                                                                                                                                                                                                    |                                                                                                                                                                                                                          | Name: <u>William Mathews</u>                                                                               |
|                                                                                                         | Address: <u>608 Baltimore Ave</u><br><u>Towson MD 21204</u>                                                                                                                                                              |                                                                                                                                                                                                                          | Address: <u>Box 5501</u><br><u>Towson MD</u><br><u>21285</u>                                               |
|                                                                                                         | Phone: <u>2968823</u>                                                                                                                                                                                                    |                                                                                                                                                                                                                          | Address: <u>Box 5501</u><br><u>Towson MD</u><br><u>21285</u>                                               |
| 9<br>Certification                                                                                      | I hereby certify under the penalties of perjury that the information given above is true to the best of my personal knowledge and belief.                                                                                |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Signature: <u>William H. Mathews</u> Date: <u>January 27, 1993</u>                                                                                                                                                       |                                                                                                                                                                                                                          |                                                                                                            |
| 10<br>Assessment Information<br>(410) 321-2299                                                          | IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER                                                                                                                                           |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>                                                                                                                                                      | Will grantee be living at property conveyed?                                                                                                                                                                             |                                                                                                            |
|                                                                                                         | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>                                                                                                                                                      | Is grantor currently receiving a homeowners' tax credit?                                                                                                                                                                 |                                                                                                            |
|                                                                                                         | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>                                                                                                                                                      | Is property conveyed subject to agricultural transfer tax? If yes, enter amount: _____                                                                                                                                   |                                                                                                            |
|                                                                                                         | Yes <input type="checkbox"/> No <input type="checkbox"/>                                                                                                                                                                 | If agricultural assessment on conveyance is to continue, have you attached a letter of intent?                                                                                                                           |                                                                                                            |
|                                                                                                         | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>                                                                                                                                                      | Partial conveyance? If yes, amount of acreage transferred: _____                                                                                                                                                         |                                                                                                            |
|                                                                                                         | List improvements conveyed: <u>#16 E. BURKE AVE.</u>                                                                                                                                                                     |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | If subdivision occurred after July 1, indicate former property tax ID number: _____                                                                                                                                      |                                                                                                                                                                                                                          |                                                                                                            |
|                                                                                                         | Optional Expediting Information                                                                                                                                                                                          | A delay in processing may be incurred if a conveyance deed is not accompanied by an adequate property description, preferably a survey or area calculation. A partial conveyance may require additional processing time. |                                                                                                            |
|                                                                                                         | <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                 | Was property surveyed? If yes, attach copy of survey. If partial conveyance, balance of acreage: _____                                                                                                                   |                                                                                                            |
| Complete description of property conveyed (subdivision, lot, block, section, plat ref., acreage): _____ |                                                                                                                                                                                                                          |                                                                                                                                                                                                                          |                                                                                                            |
| Location and improvement address: _____                                                                 |                                                                                                                                                                                                                          |                                                                                                                                                                                                                          |                                                                                                            |
| Assessment Use Only - Do Not Write Below This Line                                                      |                                                                                                                                                                                                                          |                                                                                                                                                                                                                          |                                                                                                            |
| <input type="checkbox"/> Terminal Verification                                                          | <input type="checkbox"/> Deed Plotter                                                                                                                                                                                    |                                                                                                                                                                                                                          |                                                                                                            |
| <input type="checkbox"/> Agricultural Verification                                                      | <input type="checkbox"/> Deed Reference                                                                                                                                                                                  |                                                                                                                                                                                                                          |                                                                                                            |
| <input type="checkbox"/> Tran. Process Verification                                                     | <input type="checkbox"/> Assigned Property No                                                                                                                                                                            |                                                                                                                                                                                                                          |                                                                                                            |
| <input type="checkbox"/> Whole                                                                          | <input type="checkbox"/> Part                                                                                                                                                                                            |                                                                                                                                                                                                                          |                                                                                                            |

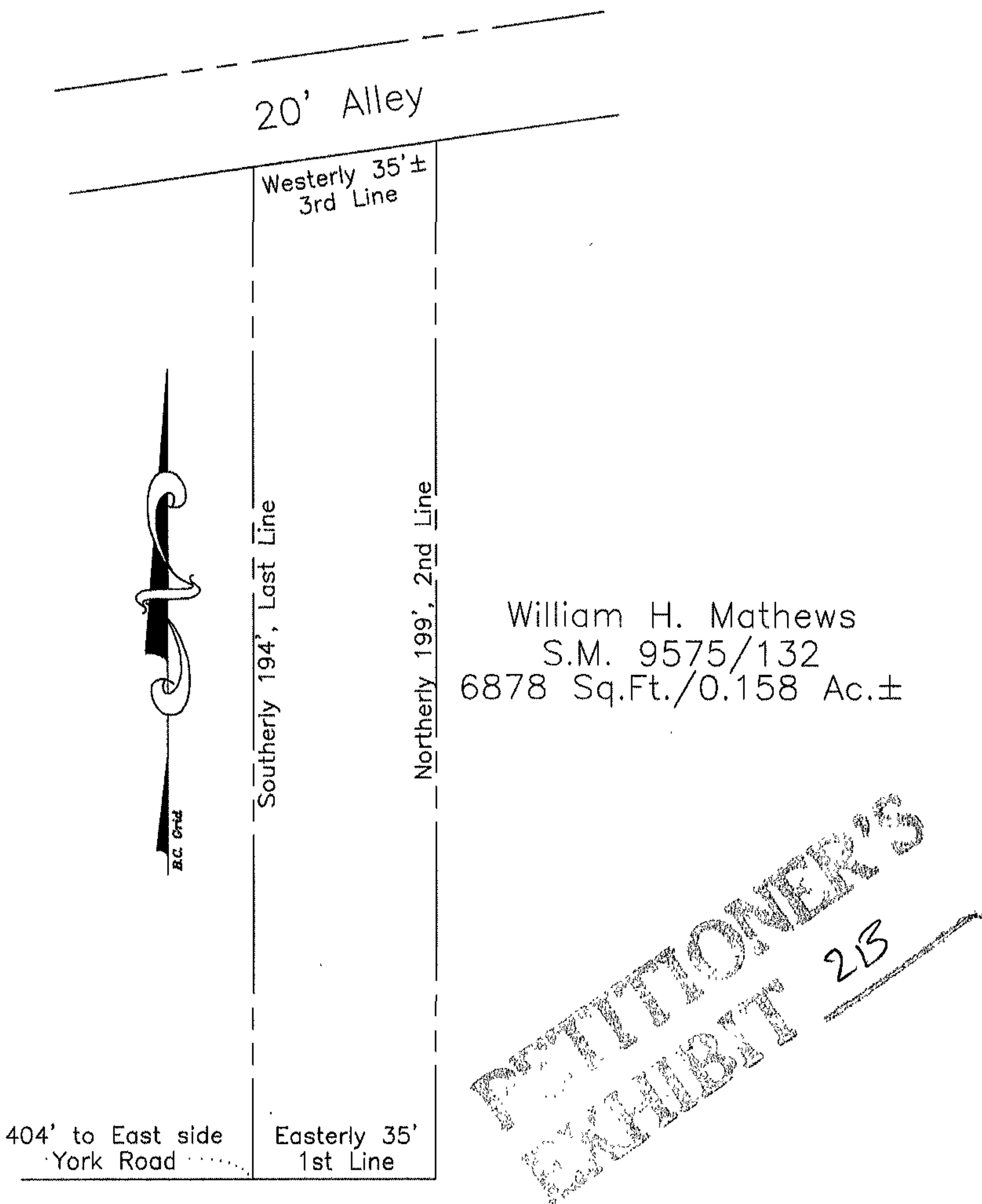
Space Reserved for Circuit Clerk Recording Validation

B RC/F 14.00  
BC IMP 5.00  
B T TX 225.00  
B DOCS 225.00  
DEED 0  
SM CLERK 469.00  
#91678 C004 R01 T15:1  
01/27/93

BA C002:39PH01-27-93

\$720.00

16 Burke Ave



BURKE AVENUE

|                                                       |  |                                                                                                                                                                                                                                          |  |                              |  |
|-------------------------------------------------------|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------|--|
| BALTIMORE COUNTY                                      |  | DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT                                                                                                                                                                                         |  | BUREAU OF LAND ACQUISITION   |  |
| DISTRICT NO. X C X                                    |  | POSITION SHEET NO.                                                                                                                                                                                                                       |  | FEDERAL PROJECT NO.          |  |
|                                                       |  | CONSTRUCTION PLAN NO.                                                                                                                                                                                                                    |  | MARYLAND PROJECT NO.         |  |
| APPROVED<br>DATE<br>DIRECTOR OF PUBLIC WORKS          |  | <div><div><div>AREA TO BE ACQUIRED</div><div>REVERTIBLE SLOPE EASEMENT</div><div>TEMPORARY CONSTRUCTION AREA</div></div><div><div>EXISTING COUNTY R/W</div><div>AREA TO BE RELEASED</div><div>TEMPORARY SLOPE EASEMENT</div></div></div> |  | SURVEYOR<br>DATE<br>REG. NO. |  |
| APPROVED<br>DATE<br>CHIEF, BUREAU OF LAND ACQUISITION |  | ITEM NO. RECORDED                                                                                                                                                                                                                        |  | SHEET                        |  |
| APPROVED<br>DATE<br>SUPERVISOR, DIVISION OF DRAFTING  |  | DRAWN BY CADD/BWE                                                                                                                                                                                                                        |  | SCALE: 1" = 30'              |  |
|                                                       |  | PLAT CHECKED                                                                                                                                                                                                                             |  | B.C. JOB ORDER NO.           |  |
|                                                       |  | AREA CHECKED                                                                                                                                                                                                                             |  | "O"                          |  |
|                                                       |  | TITLE CHECKED                                                                                                                                                                                                                            |  |                              |  |

# PETITONER'S

16 Burke

8/8/96

ALLIED 25



10 Burke  
S-2

SAFECO TITLE INSURANCE CO. OF MD.  
(Individual Form)

App. H- 107272

6764 679

This Deed, Made this 8th day of August, in the year one thousand nine hundred and eighty-four, by and between VIRGINIA ISABELLE JUSTICE, (also known as VIRGINIA ISABELLA JUSTICE) party of the first part, Grantor; and WILLIAM H. MATHEWS, party of the second part, Grantee.

THE ACTUAL CONSIDERATION PAID OR TO BE PAID IS \$44,000.00.

|                |          |
|----------------|----------|
| C REC/F        | 13.00    |
| C TX           | 220.00   |
| C DOCS         | 220.00   |
| DEED           | 0 #      |
| LINK YR T      | 453.00   |
| TOTAL          | 453.00   |
|                | 0 #      |
|                | 0 #      |
| ALPPL COM1 R02 | 14:34    |
|                | 09/14/84 |

Witnesseth: that in consideration of the sum of Five Dollars, and other valuable considerations, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey, and assign unto the said Grantee, his heirs, personal representatives and assigns, in fee simple, all

that ----- lot(s) of ground situate in Baltimore County, Towson, on the north side of Burke Avenue in the State of Maryland, and described as follows, that is to say:

BEGINNING for the same on the north side of Burke Avenue at the distance of Two hundred and ninety-nine feet easterly from the corner formed by the intersection of the North side of Burke Avenue and the East side of the York Turnpike Road and running thence Easterly binding on the North side of Burke Avenue 35 feet thence northerly at right angles to Burke Avenue 182 feet to the south side of a 20 foot alley thence Westerly binding on the south side of said alley 35 feet more or less to intersect a line drawn Northerly from the place of beginning and at right angles to Burke Avenue and passing through the centre of the partition or division wall of the house erected on the lot now being described and of the house erected on the adjoining lot to the west thereof and thence southerly reversing said line so drawn and binding thereon and passing through said division wall mentioned in the description of this lot 177 feet to the place of beginning. The improvements thereon being known as No. 10 Burke Avenue.

BEING the same lot of ground which by Deed, dated August 19, 1929 and recorded among the Land Records of Baltimore County in Liber 831 folio 328, was granted and conveyed by Diedrich Fink and Lillie A. Fink, his wife, to Henrietta V. Justice and Virginia Isabelle Justice, as joint tenants.

The said Henrietta V. Justice departed this life on or about January 10, 1940... thereby vesting title unto Virginia Isabelle Justice, the surviving joint tenant.

STATE DEPARTMENT OF  
ASSESSMENTS & TAXATION  
23 8-13-84  
CLERK DATE

AGRICULTURAL TRANSFER TAX  
NOT APPLICABLE  
SIGNATURE 33 DATE

PETITIONER'S  
EXHIBIT 3A

LIBER 6764 PAGE 680

Together with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

To have and to hold the said described lot(s) of ground and premises, unto and to the use of the said Grantee, his heirs, personal representatives and assigns, in fee simple.

And the said Grantor covenants to warrant specially the property hereby granted and conveyed, and to execute such further assurances of said land as may be requisite.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Witness the hand(s) and seal(s) of the said grantor(s):

WITNESS:

Richard B. Burk

Virginia Isabelle Justice [Seal]  
VIRGINIA ISABELLE JUSTICE

[Seal]

State of Maryland, Baltimore County, TO WIT:

I HEREBY CERTIFY, that on this 8th day of August, 1984, before me, a Notary Public of the State aforesaid, personally appeared

VIRGINIA ISABELLE JUSTICE

known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, who signed the same in my presence, and acknowledged that she executed the same for the purposes therein contained.

WITNESS my hand and



Anne Stewart Vaughan  
Notary Public

My commission expires: July 1, 1986

Rec'd for record AUG 14 1984 at 2:34 PM  
Per Elmer H. Kahline, Jr., Clerk  
Mail to Isabelle Justice Ms CO  
\$ 13000

10 Burke Ave

20' Alley

William H. Mathews  
E.H.K.Jr. 6764/679  
6283 Sq.Ft./0.144 Ac.±

Southerly 177', Last Line

Northerly 182', 2nd Line

299' to East side  
York Road

Easterly 35'  
1st Line

**BURKE AVENUE**

**PETITIONER'S**

**EXHIBIT**

3B

|                                               |  |                                                                                                                     |  |                                                                                                            |  |
|-----------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------------------------|--|
| BALTIMORE COUNTY                              |  | DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT                                                                    |  | BUREAU OF LAND ACQUISITION                                                                                 |  |
| DISTRICT NO. X C X                            |  | POSITION SHEET NO.                                                                                                  |  | FEDERAL PROJECT NO.                                                                                        |  |
|                                               |  | CONSTRUCTION PLAN NO.                                                                                               |  | MARYLAND PROJECT NO.                                                                                       |  |
| APPROVED<br>DIRECTOR OF PUBLIC WORKS          |  | <div><div>AREA TO BE ACQUIRED</div><div>REVERTIBLE SLOPE EASEMENT</div><div>TEMPORARY CONSTRUCTION AREA</div></div> |  | <div><div>EXISTING COUNTY R/W</div><div>AREA TO BE RELEASED</div><div>TEMPORARY SLOPE EASEMENT</div></div> |  |
| DATE                                          |  |                                                                                                                     |  | SURVEYOR                                                                                                   |  |
| APPROVED<br>CHIEF, BUREAU OF LAND ACQUISITION |  | ITEM NO. RECORDED                                                                                                   |  | DATE REG. NO.                                                                                              |  |
| DATE                                          |  |                                                                                                                     |  | SHEET                                                                                                      |  |
| APPROVED<br>SUPERVISOR, DIVISION OF DRAFTING  |  | DRAWN BY CADD/BWE                                                                                                   |  | SCALE: 1" = 30'                                                                                            |  |
| DATE                                          |  | PLAT CHECKED                                                                                                        |  | B.C. JOB ORDER NO.                                                                                         |  |
|                                               |  | AREA CHECKED                                                                                                        |  | "O"                                                                                                        |  |
|                                               |  | TITLE CHECKED                                                                                                       |  |                                                                                                            |  |

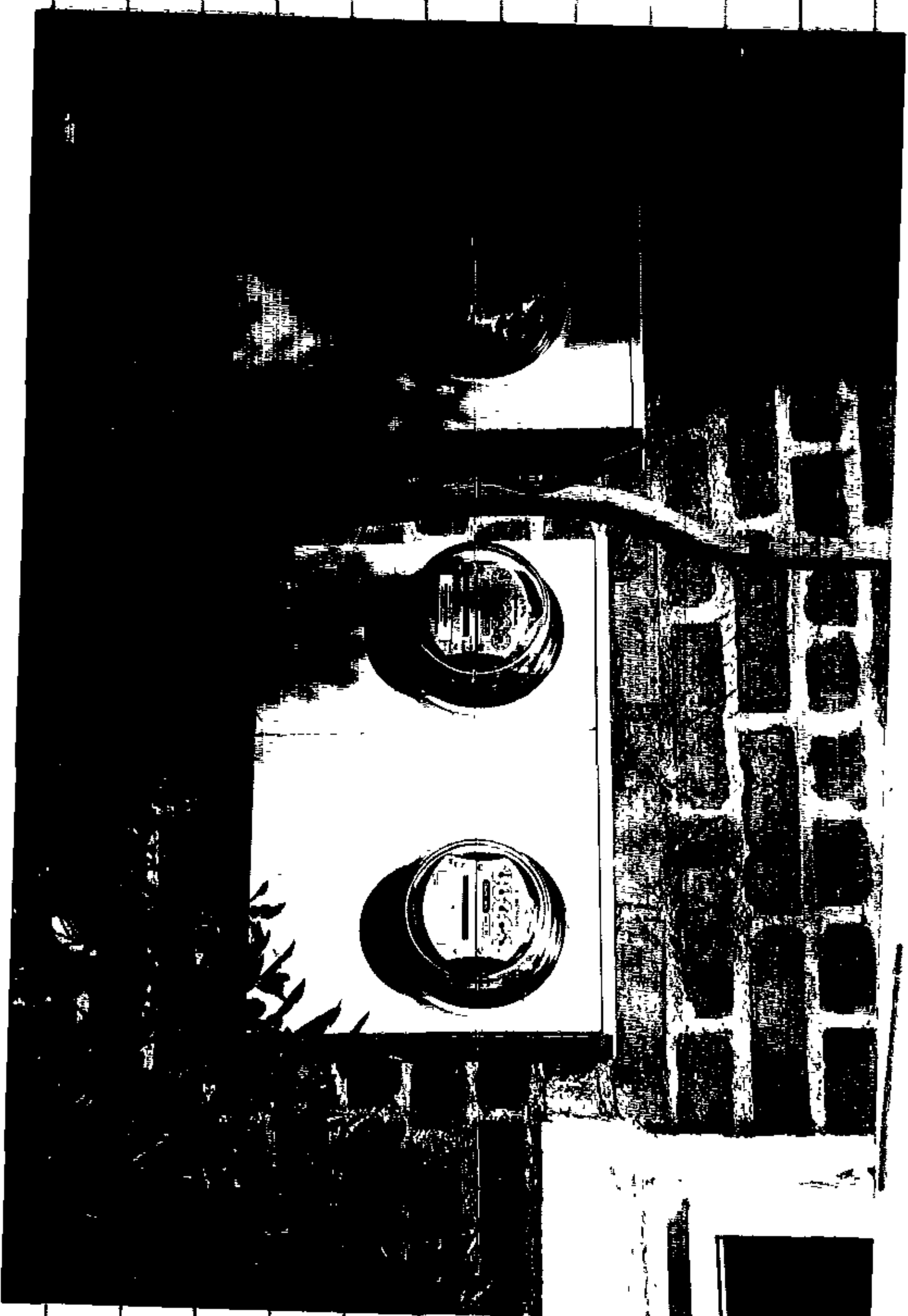
10 Burke Ave

8/8/96

PELTOWER'S

EXHIBIT

3C



# PETITIONER'S EXHIBIT 4A

FREE SIMPLE DEED

This Deed, Made this 30th day of September

in the year one thousand nine hundred and seventy-four by and between  
MARGARET H. DAUGHTON, formerly Margaret H. Beall, by George E. Walker her attorney in  
fact under a certain power of attorney dated February 19, 1974, and recorded among the  
Land Records of Baltimore County, State of Maryland, prior hereto  
of Baltimore County, in the State of Maryland, of the first part, and

WILLIAM H. MATHEWS of Baltimore County, State of Maryland,

|           |          |           |
|-----------|----------|-----------|
| OCT 21-74 | 234971d  | ***202.40 |
| OCT 21-74 | 234971D3 | ***75.90  |
| OCT 21-74 | 234970D3 | ***115.00 |
| OCT 21-74 | 234969D2 | ***115.00 |

of the second part.

WITNESSETH that in consideration of the sum of Five Dollars (\$5.00) and other  
good and valuable considerations, the receipt whereof is hereby acknowledged, the  
said MARGARET H. DAUGHTON by her attorney in fact, George E. Walker,

does grant and convey unto WILLIAM H. MATHEWS, his

personal representatives and assigns, in fee-simple, all those lots of ground

situate, lying and being in

9th Election District, Baltimore County, Maryland, and described as follows, that is to say

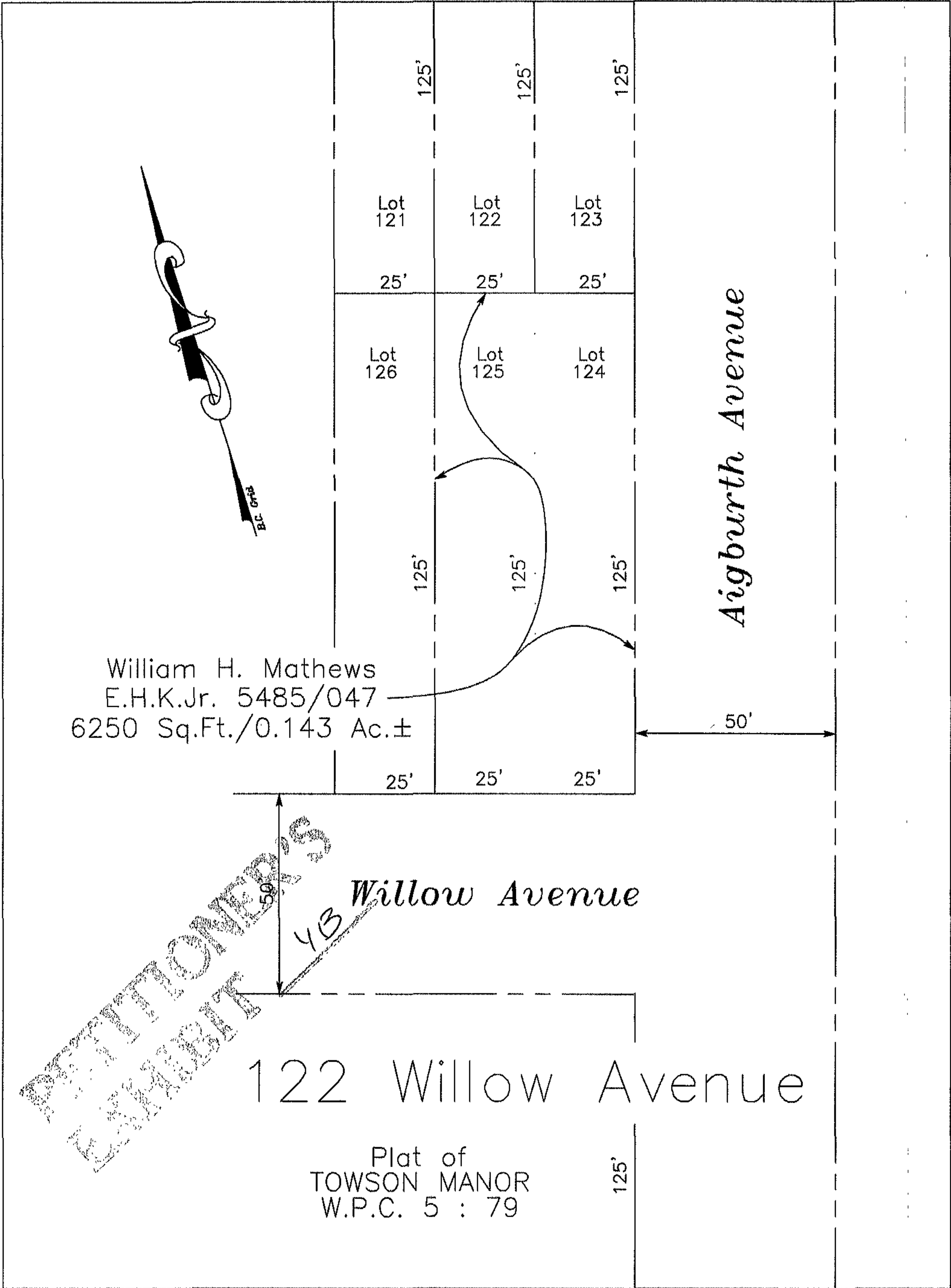
BEING KNOWN AND DESIGNATED as Lot No. One Hundred and Twenty-Four (124)  
and One Hundred and Twenty-Five (125) as designated on the Plat of Towson Manor pre-  
pared by F. S. Bannister and recorded among the Land Records of Baltimore County in  
Plat Book Liber W.P.C. No. 5, folio 79 &c the said two lots being at the northwest  
corner of Willow and Aigburth Avenues each fronting twenty five (25) feet on Willow  
Avenue with a rectangular depth northerly on Aigburth Avenue of one hundred and  
twenty five (125) feet.

BEING the same lots of ground which by Lease dated January 20, 1927 and  
recorded among the Land Records of Baltimore County in Liber W.P.C. 641, folio 215,  
was leased and demised by J. George Eierman and Henrietta E. Eierman to William S.  
Beall and Maragaret Boall, his wife. The said William S. Beall departed this life  
in February, 1941.

BEING the same lots of ground which by Deed dated July 20, 1938 and  
recorded among the Land Records of Baltimore County in Liber C.W.B., JR. 1039,

LINE 5485 PAGE 040

folio 173, was granted and conveyed by Annie L. Jones to Margaret H. Beall. The said Margaret H. Beall remarried and is now known as Margaret H. Daughton.



|                                               |  |                                                  |  |                            |  |
|-----------------------------------------------|--|--------------------------------------------------|--|----------------------------|--|
| BALTIMORE COUNTY                              |  | DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT |  | BUREAU OF LAND ACQUISITION |  |
| DISTRICT NO. X c X                            |  | POSITION SHEET NO.                               |  | FEDERAL PROJECT NO.        |  |
|                                               |  | CONSTRUCTION PLAN NO.                            |  | MARYLAND PROJECT NO.       |  |
| APPROVED<br>DIRECTOR OF PUBLIC WORKS          |  | AREA TO BE ACQUIRED                              |  | EXISTING COUNTY R/W        |  |
| DATE                                          |  | REVERTIBLE SLOPE EASEMENT                        |  | AREA TO BE RELEASED        |  |
|                                               |  | TEMPORARY CONSTRUCTION AREA                      |  | TEMPORARY SLOPE EASEMENT   |  |
| APPROVED<br>CHIEF, BUREAU OF LAND ACQUISITION |  | ITEM NO.                                         |  | DRAWN BY CADD/BWE          |  |
| DATE                                          |  | RECORDED                                         |  | PLAT CHECKED               |  |
|                                               |  |                                                  |  | AREA CHECKED               |  |
| APPROVED<br>SUPERVISOR, DIVISION OF DRAFTING  |  |                                                  |  | TITLE CHECKED              |  |
| DATE                                          |  |                                                  |  | SHEET                      |  |
|                                               |  |                                                  |  | SCALE: 1" = 30'            |  |
|                                               |  |                                                  |  | B.C. JOB ORDER NO.         |  |
|                                               |  |                                                  |  | "O"                        |  |
|                                               |  |                                                  |  | REVISIONS                  |  |

122 WILLOW AVE

8/12/96

# PETITIONER'S EXHIBIT 4C



10 Linden  
Terrace

LIB 6207

PETITIONER'S  
EXHIBIT 5A

THIS DEED, made this 15th day of September in the year nineteen hundred and eighty, by and between JAMES S. WATSON, JOSEPH W. WATSON and ROBERT C. WATSON, Co-Partners trading as 3 W REALTY COMPANY, a Maryland General Partnership, all of Baltimore County, State of Maryland, parties of the first part; and WILLIAM H. MATHEWS of Baltimore County, State of Maryland, party of the second part.

W I T N E S S E T H :

THAT in consideration of the sum of SIXTY-TWO THOUSAND DOLLARS (\$62,000.00), the said parties of the first part, Co-Partners as aforesaid, do grant and convey unto the said WILLIAM H. MATHEWS, his personal representatives and assigns, all that lot of ground situate and lying in Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING in the center of Linden Terrace formerly known as May Avenue at a point 230 feet 4 inches more or less from the east line of a lot of ground formerly owned by Thomas W. Offutt said point also being 450 feet 4 inches from a point in the center of Linden Terrace on the east line of the Baltimore and York Turnpike Road and running thence easterly binding on the center line of Linden Terrace 75 feet to a corner of the lot of ground and conveyed by Robert W. J. Parlett et al to Medora K. Jump et al by deed dated July 27, 1911 and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 329, folio 566 &c and running thence along the west line of said Lot 207 feet more or less to the center line of an alley 20 feet wide there laid out parallel or nearly so with Linden Terrace thence westerly binding in the center of said 20 foot alley 75 feet more or less to intersect a line drawn southerly from the place of beginning at right angles to Linden Terrace thence northerly reversing said line so drawn and binding thereon 207 feet more or less to the place of beginning. The improvements thereon being known as No. 10 Linden Terrace.

BEING the same lot of ground which, by Deed dated August 1, 1974 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 5467, folio 524, was granted and conveyed by Maurice M. Watson and Elizabeth C. Watson, his wife, to the said James S. Watson, Joseph W. Watson and Robert C. Watson, Co-Partners trading as 3 W Realty Company.

TOGETHER with the buildings and improvements thereon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises unto and to the use of the said WILLIAM H. MATHEWS, his personal representatives and assigns, forever, in fee simple.

WITNESSED 1 28 80

\$ 3 000 00

AND the said parties of the first part, Co-Partners as aforesaid, hereby covenant that they have not done nor suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of said Grantors, Co-Partners as aforesaid.

TEST:

James S. Watson (SEAL)  
James S. Watson  
Joseph W. Watson (SEAL)  
Joseph W. Watson  
Robert C. Watson (SEAL)  
Robert C. Watson  
Co-Partners trading as 3 W Realty Company

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY that on this 12 day of Sept in the year nineteen hundred and eighty, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County, personally appeared JAMES S. WATSON, JOSEPH W. WATSON and ROBERT C. WATSON, Co-Partners trading as 3 W REALTY COMPANY, a Maryland General Partnership, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and they acknowledged the foregoing Deed (to William H. Mathews) to be their act, Co-Partners as aforesaid, and that they executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal,

Notary Public

00112000 80042011 03-01-80  
00112000 80042011 03-01-80  
00112000 80042011 03-01-80  
00112000 80042011 03-01-80  
LEVY AND DITTO  
ATTORNEYS  
1507 FIDELITY BUILDING  
BALTIMORE, MARYLAND 21201

Rec'd for record SEP 10 1900  
Per Elmer H. Kahline, Jr. Clerk  
Mail to Levy & Ditto  
Receipt No. 11150

# 10 Linden Terrace

## LINDEN TERRACE

450'4" to East side  
York Road

☉ Linden Terrace

Easterly 75'  
1st Line

William H. Mathews  
E.H.K.Jr. 6207/477  
15525 Sq.Ft.  
/ 0.356 Ac.±

Northerly 207'±, Last Line

207'±, 2nd Line

Westerly 75'±  
3rd Line

☉ 20' Alley

**PERMITTING'S  
EXHIBIT**  
B.C. 513

|                                               |  |                                                                                                                                                                                  |  |                                                                                                                                                                                    |  |
|-----------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| BALTIMORE COUNTY                              |  | DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT                                                                                                                                 |  | BUREAU OF LAND ACQUISITION                                                                                                                                                         |  |
| DISTRICT NO. X C X                            |  | POSITION SHEET NO.                                                                                                                                                               |  | FEDERAL PROJECT NO.                                                                                                                                                                |  |
|                                               |  | CONSTRUCTION PLAN NO.                                                                                                                                                            |  | MARYLAND PROJECT NO.                                                                                                                                                               |  |
| APPROVED<br>DIRECTOR OF PUBLIC WORKS          |  | <input type="checkbox"/> AREA TO BE ACQUIRED<br><input checked="" type="checkbox"/> REVERTIBLE SLOPE EASEMENT<br><input checked="" type="checkbox"/> TEMPORARY CONSTRUCTION AREA |  | <input checked="" type="checkbox"/> EXISTING COUNTY R/W<br><input checked="" type="checkbox"/> AREA TO BE RELEASED<br><input checked="" type="checkbox"/> TEMPORARY SLOPE EASEMENT |  |
| DATE                                          |  | ITEM NO.                                                                                                                                                                         |  | DATE                                                                                                                                                                               |  |
| APPROVED<br>CHIEF, BUREAU OF LAND ACQUISITION |  | RECORDED                                                                                                                                                                         |  | SHEET                                                                                                                                                                              |  |
| DATE                                          |  | DRAWN BY CADD/BWE                                                                                                                                                                |  | SCALE: 1" = 30'                                                                                                                                                                    |  |
| APPROVED<br>SUPERVISOR, DIVISION OF DRAFTING  |  | PLAT CHECKED                                                                                                                                                                     |  | B.C. JOB ORDER NO.                                                                                                                                                                 |  |
| DATE                                          |  | AREA CHECKED                                                                                                                                                                     |  | "0"                                                                                                                                                                                |  |
|                                               |  | TITLE CHECKED                                                                                                                                                                    |  | REVISIONS                                                                                                                                                                          |  |

IN THE MATTER \* BEFORE THE  
OF THE CLOSING OF A PORTION \* COUNTY EXECUTIVE  
OF A PAPER ALLEY \* OF  
\* BALTIMORE COUNTY

\* \* \* \* \*

TO WHOM IT MAY CONCERN:

The abutting property owners are:

- CO-OWNERS  
OF  
#8 E. BURKE

**PETITIONER'S  
EXHIBIT**

AUG 28, 1985

Take Notice: A Hearing will be held on the 28th  
day of August, 1985, at 2:30 p.m. o'clock in  
the Office of the County Attorney, Mezzanine Floor,  
Room 2M07, Court House, Towson, Maryland, for the purpose  
of receiving objections, if any, to the closing.

Date: June 24, 1985

PETITIONERS:

Arthur A. Brandau  
ARTHUR A. BRANDAU

Dorothy Brandau  
DOROTHY BRANDAU

Jerome Weiner  
JEROME WEINER

Laurence Kamner  
LAWRENCE KAMNER

Jack Pechter  
JACK PECHTER

TUXEDO  
HOUSE  
PROPERTY  
OWNERS

PAVED  
ALLEY CLOSING  
ADDS  
10' AT REAR  
OF PROPERTY

IN THE MATTER OF  
THE CLOSING OF  
A PORTION OF AN UNNAMED ALLEY  
(NEAR BURKE AVENUE & YORK ROAD)  
IN THE 9TH ELECTION DISTRICT

\* BEFORE THE  
\* COUNTY EXECUTIVE  
\* FOR  
\* BALTIMORE COUNTY

\* \* \* \* \*

ORDER

WHEREAS, the Petitioner, William H. Mathews , petitioned to close a portion of an unnamed paper alley near Burke Avenue and York Road in the 9th Election District of Baltimore County; and

WHEREAS, a Notice of said closing was published in a local Baltimore County newspaper giving notice by publication of the intention to close said portion of said road; and

WHEREAS, the Petitioner has caused notice to be served on all abutting property owners; and

WHEREAS, a hearing as set forth in the advertisement hereinbefore referred to was held on March 11, 1987 at 2:30 p.m., in the Office of the County Attorney, Room 202 - Old Courthouse, Towson, Maryland, for the purpose of receiving objections; and

WHEREAS, all testimony and evidence has been considered by the County Administrative Officer; and

WHEREAS, the County Administrative Officer has found that the designated portion of the unnamed paper alley near Burke Avenue and York Road is not necessary for public travel.

NOW, THEREFORE, it is this 23rd day of March, 1987, by Baltimore County, Maryland,

Libe 1 Page 695

ORDERED that the hereinbelow described portion of the unnamed paper alley near Burke Avenue and York Road be and the same is hereby closed as follows:

Being a parcel of land 20 feet wide running in an easterly direction approximately 220 feet, more or less, from the intersection with the East side of York Road, more or less, measured South 87 1/2 degrees East along the center line of Linden Terrace from the East side of York Road, thence running easterly along the rear portions of numbers 4, 6, 8, 10, 12, and 14 Linden Terrace, and the rear portions of numbers 8, 10, 12, 14, 16, 18, 20, 22, 26, 30 and 32 East Burke Avenue a distance of 523 feet, more or less:

ADOPTED this 23<sup>rd</sup> day of March, 1987.

ATTEST:

BALTIMORE COUNTY, MARYLAND

Eileen O'Donnell

By: [Signature] (SEAL)  
Administrative Officer

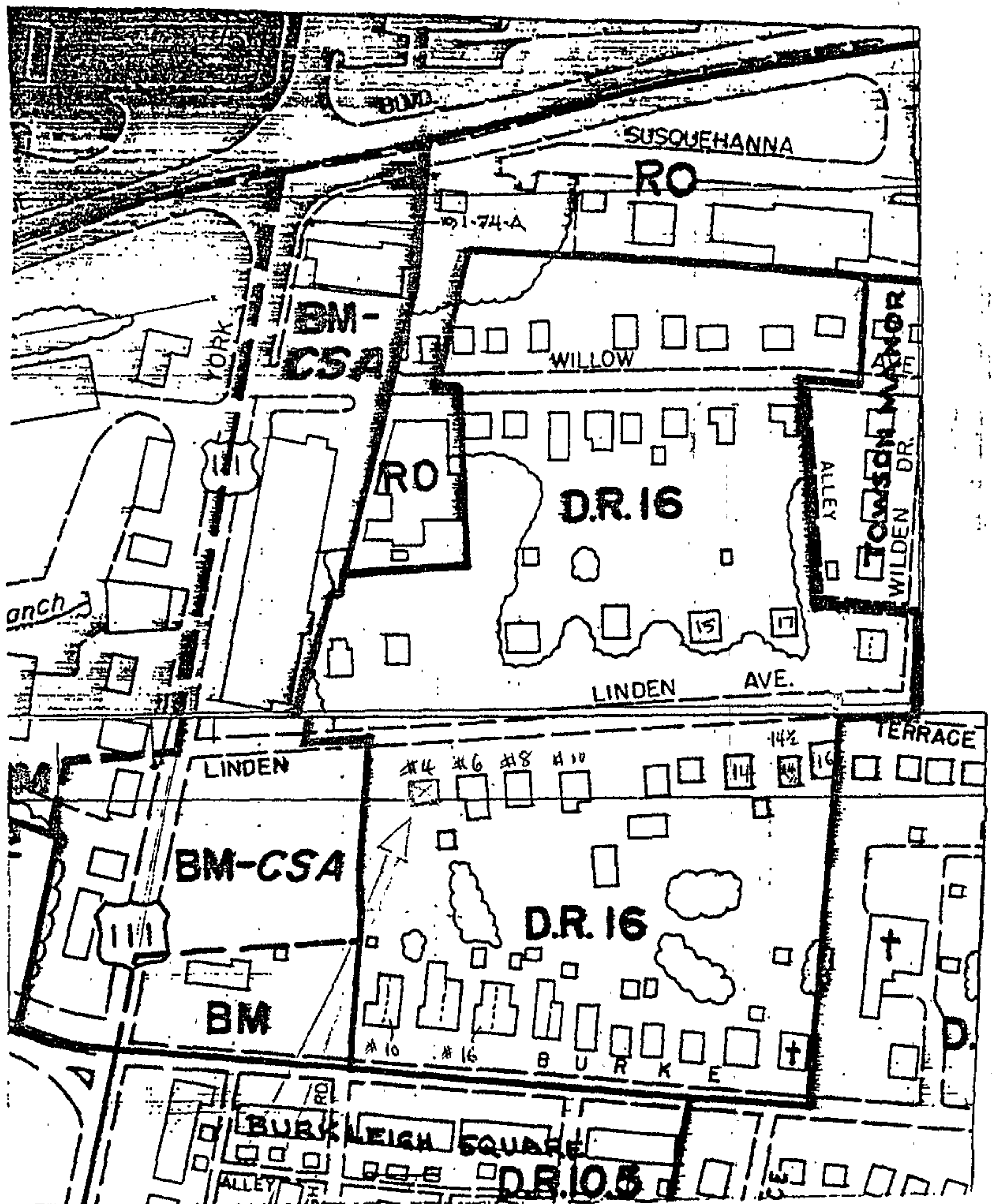
Reviewed for form and legal  
sufficiency and approved for  
execution:

[Signature] 3-18-87  
Assistant County Attorney

ALLEY CLOS

1987

#10 LINDEN



SUBJECT  
PROPERTY  
#14 LINDEN TERRACE  
TOWSON, MD

4 affidavits  
from 1942  
in support of  
non-conforming use  
FORE THE

A complaint has been filed with the Zoning Office concerning an alleged violation of the Baltimore County Zoning Regulations on property at the above location. A hearing was held to determine whether a violation exists.

Section 102.1 - "No land shall be used or occupied and no building or structure shall be erected, altered, located, or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use."

Section 402 - "Conversion of Dwellings"

Testimony at the hearing indicated that the possibility exists that the subject property enjoys a nonconforming use as a three apartment dwelling according to affidavits presented.

Based upon this testimony, a rebuttable presumption has been raised indicating that a nonconforming use exists on the subject property, subject, however, to being rebutted by testimony produced by others at a Special Hearing to determine the existence of a nonconforming use subsequent to posting and advertising the property for such purpose.

## ADMINISTRATIVE ASSISTANT

DATE

There being no evidence produced at this hearing to rebut this presumption and, therefore, a reasonable doubt as to a violation of the Zoning Regulations having been raised, the reasonable doubt is hereby resolved in favor of the Defendant.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15<sup>th</sup> day of April, 1980, that, since the possibility exists that the subject property might enjoy a nonconforming use as a three apartment dwelling, this matter is hereby DISMISSED.

Any appeal from this decision must be in accordance with Section 500.10 of the Baltimore County Zoning Regulations within 30 days.

  
Zoning Commissioner

of

Baltimore County

COPIES RECEIVED FOR FILING

DATE

April 15, 1980

BY

William G. Smith

ADMINISTRATIVE ASSISTANT

AFFIDAVIT

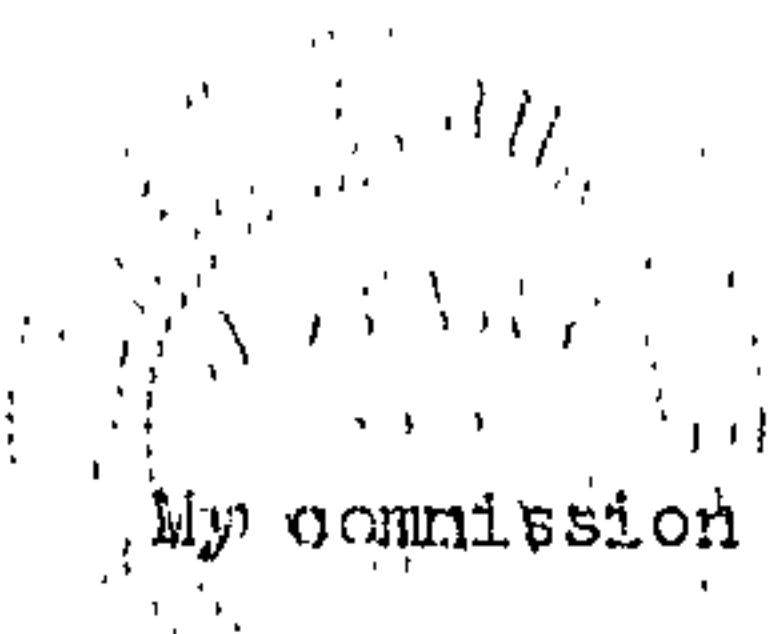
This is to certify that I, Anna Hiebler of 243 Linden Ave., Towson, Md. 21204, have lived at this address since 1953, and in the neighborhood since 1940, and since my home is close to 122 Willow Avenue I remember the previous owner of that property, Mrs. Margaret (Beall) Daughton, after the death of her husband in 1941, made for herself her own apartment in the basement of 122 Willow Avenue whilst she rented the upper apartments in the same building. This use has continued much the same from then until the present time without interruption.

Anna Hiebler.  
ANNA HIEBLER

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I hereby certify that on the 2nd day of April, 1980, before me, the subscriber, a Notary Public of the State of Maryland, in and for the city of Baltimore, personally appeared Anna Hiebler, and made oath in due form of law that the matters and facts set forth in the Affidavit are true to the best of her knowledge, information and belief.

AS WITNESS, my hand and Notarial Seal.

My commission expires 7/1/82

Adela S. Grogan  
Notary Public

Re: Property at 122 Willow Avenue, Towson, Maryland 21204, owned by William H. Mathews.

A F F I D A V I T

This is to certify that I, Mrs. John (Hazel) Reimann, of 200 Linden Ave. have lived at this location since 1942 and since my home is diagonally across the street from 122 Willow Ave., I remember that the previous owner of that property, Mrs. Margaret Daughton after the death of her husband in 1941 made for herself her own apartment in the basement of 122 Willow Ave. around 1942 whilst she rented the upper two apartments in the same building. This use has continued much the same until the present time without interruption.

Signed,

*Mrs. John Reimann (Hazel)*  
Mrs. John (Hazel) Reimann

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I hereby certify that on the 14th day of March, 1980, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, personally appeared Mrs. John (Hazel) Reimann, and made oath in due form of law that the matters and facts set forth in the Affidavit are true.

AS WITNESS, my hand and Notarial seal

*Andrew E. Burgoyne*  
Notary Public

My commission expires 7/1/82

Re: Property at 122 Willow Ave., Towson, Md. 21204 owned by William H. Mathews.

# W. T. SADLER SURVEYORS

Phone [410] 526-5618

Fax [410] 526-7199

152 Westminster Road  
Reisterstown, Maryland 21136

James C. Sadler

DATE February 20, 1997

TO; Arnold Jablon  
Director of Zoning - Baltimore County

RE; 10 LINDEN TERRACE  
Tax Acct. No. 09239999680

PETITIONER'S  
EXHIBIT 5D

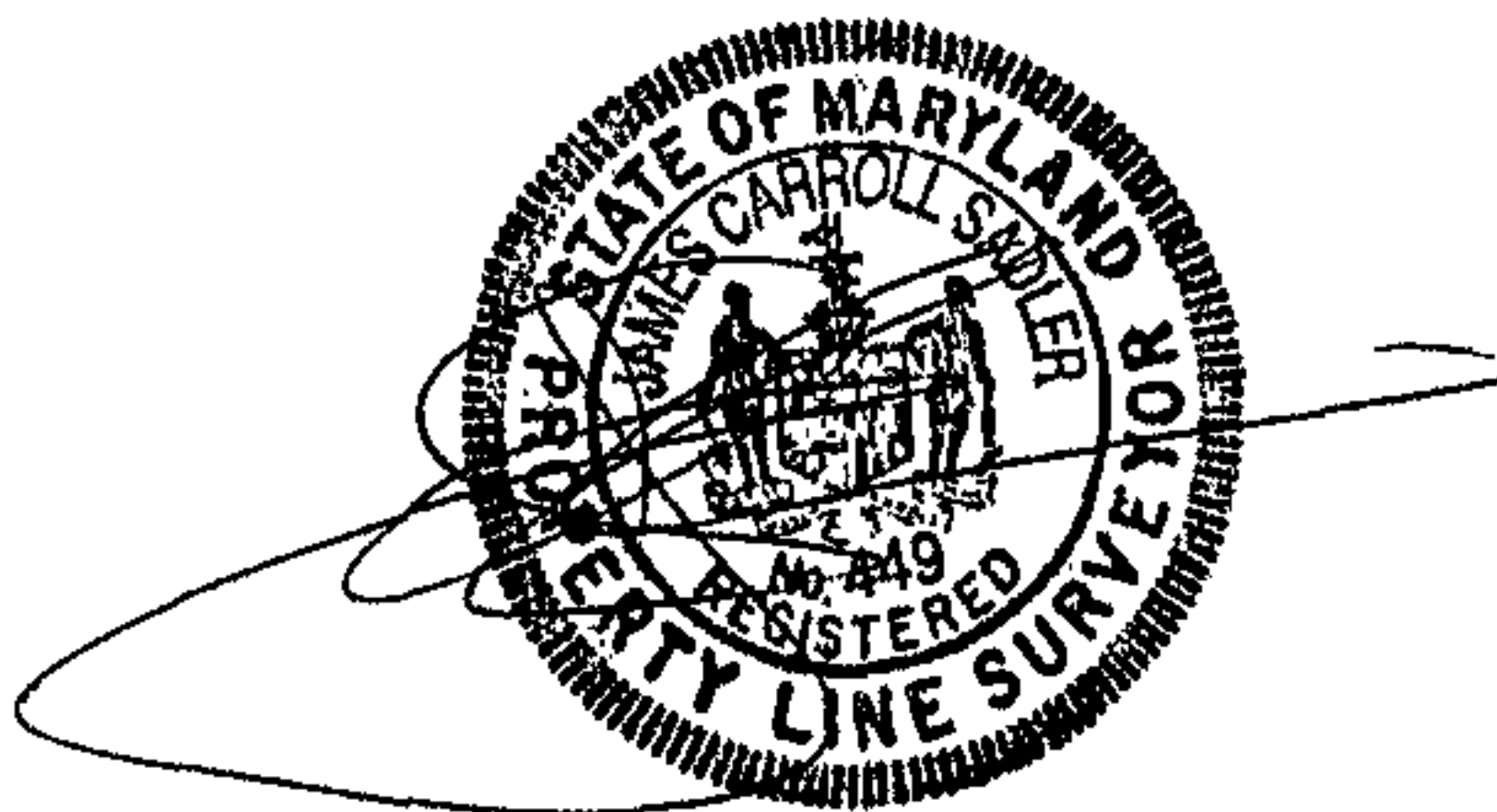
## LOT LINE ADJUSTMENT

To whom it may concern,

Due to the closing of the alley in the rear of the unit block of Linden Terrace on March 23, 1987 by Baltimore County and authorized by Melvin Cole, the Administrative Officer and Paul Snyder, the Assistant County Attorney, the new lot size of the above mentioned property is as follows;

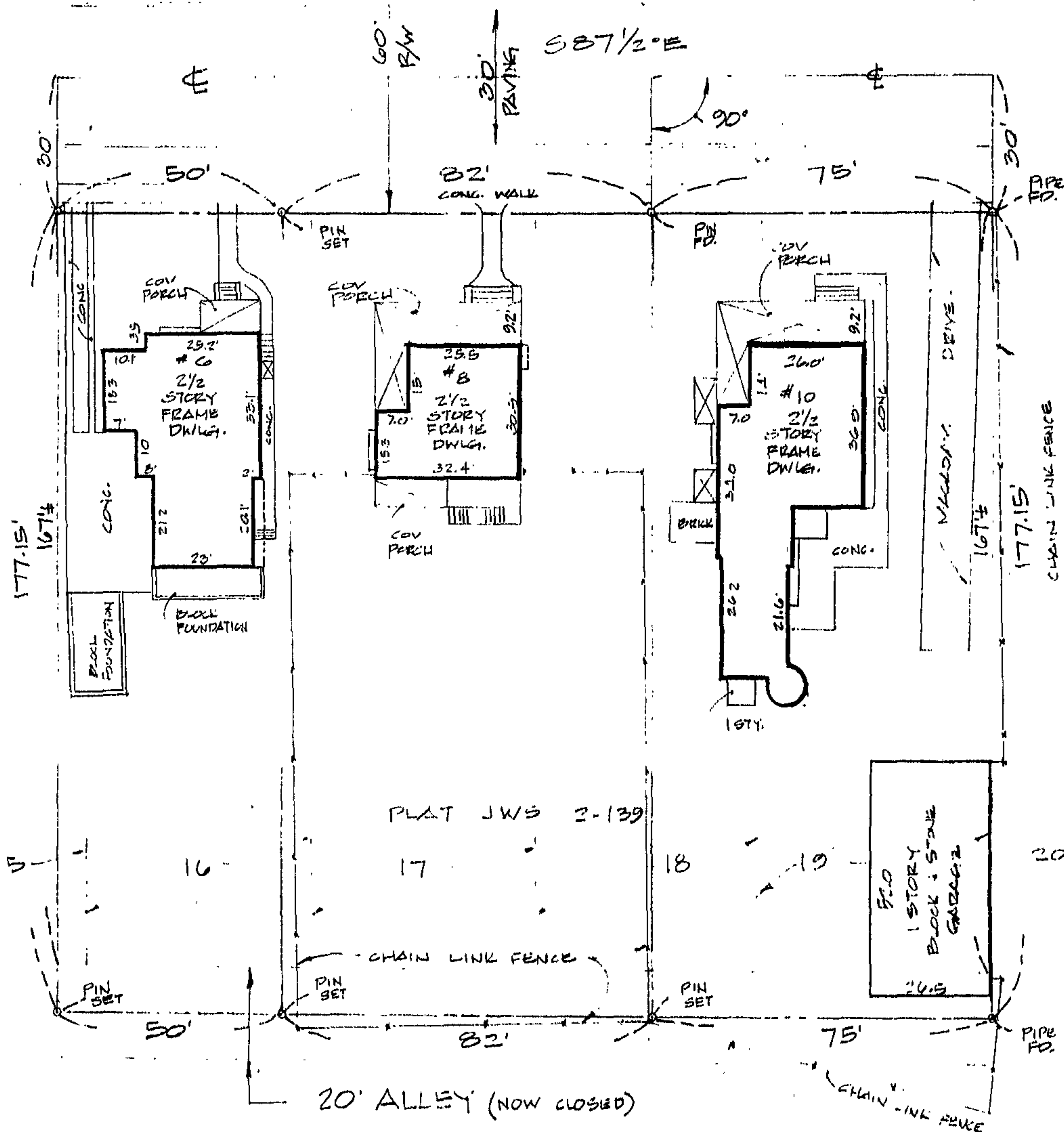
AVERAGE WIDTH ----- 75 FEET  
\*AVERAGE DEPTH ----- 207.15 FEET  
TOTAL GROSS AREA ----- 15,536.25 SQ. FEET  
TOTAL NET AREA ----- 13,286.25 SQ. FEET

\* Gross Depth for Centerline of Linden Terrace to the centerline of the 20' alley in rear of property.



LINDEN

TERRACE

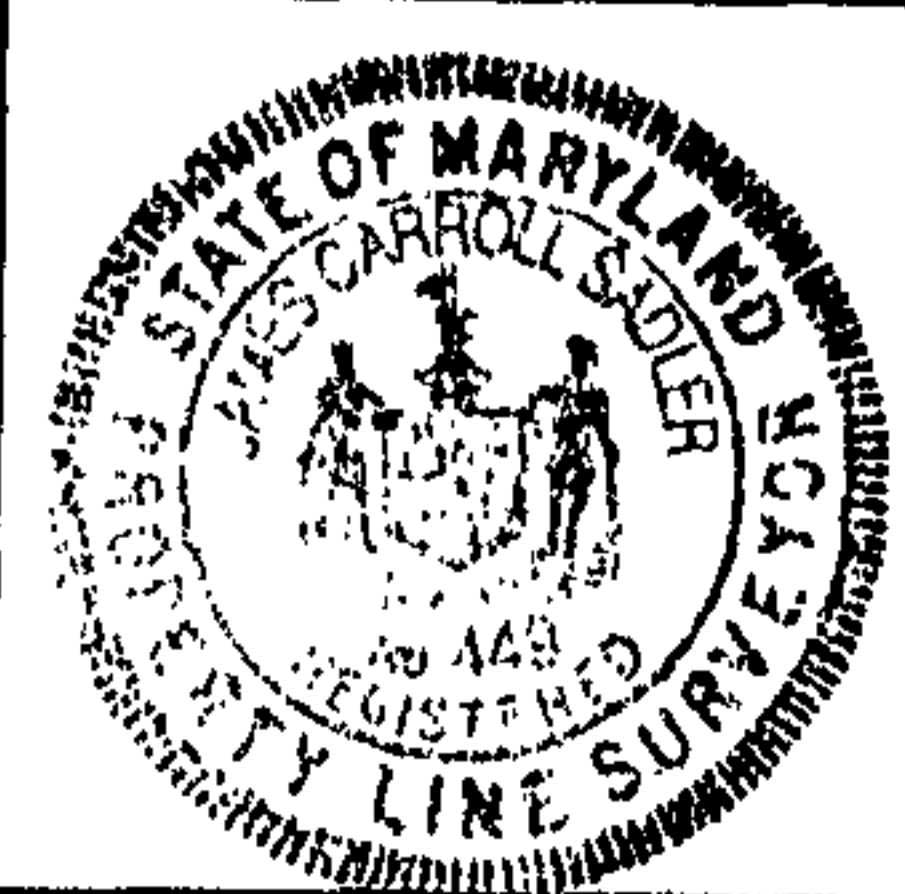


I HEREBY CERTIFY THAT I HAVE MADE A SURVEY OF THIS LOT FOR THE PURPOSE OF LOCATING THE IMPROVEMENTS THEREON AND THAT THEY ARE LOCATED AS SHOWN.

*[Signature]*

REG. NO. 449

**W.T. SADLER**  
**SURVEYORS**  
 152 WESTMINSTER ROAD  
 REISTERSTOWN, MD  
 21136  
 (410) 526-5618



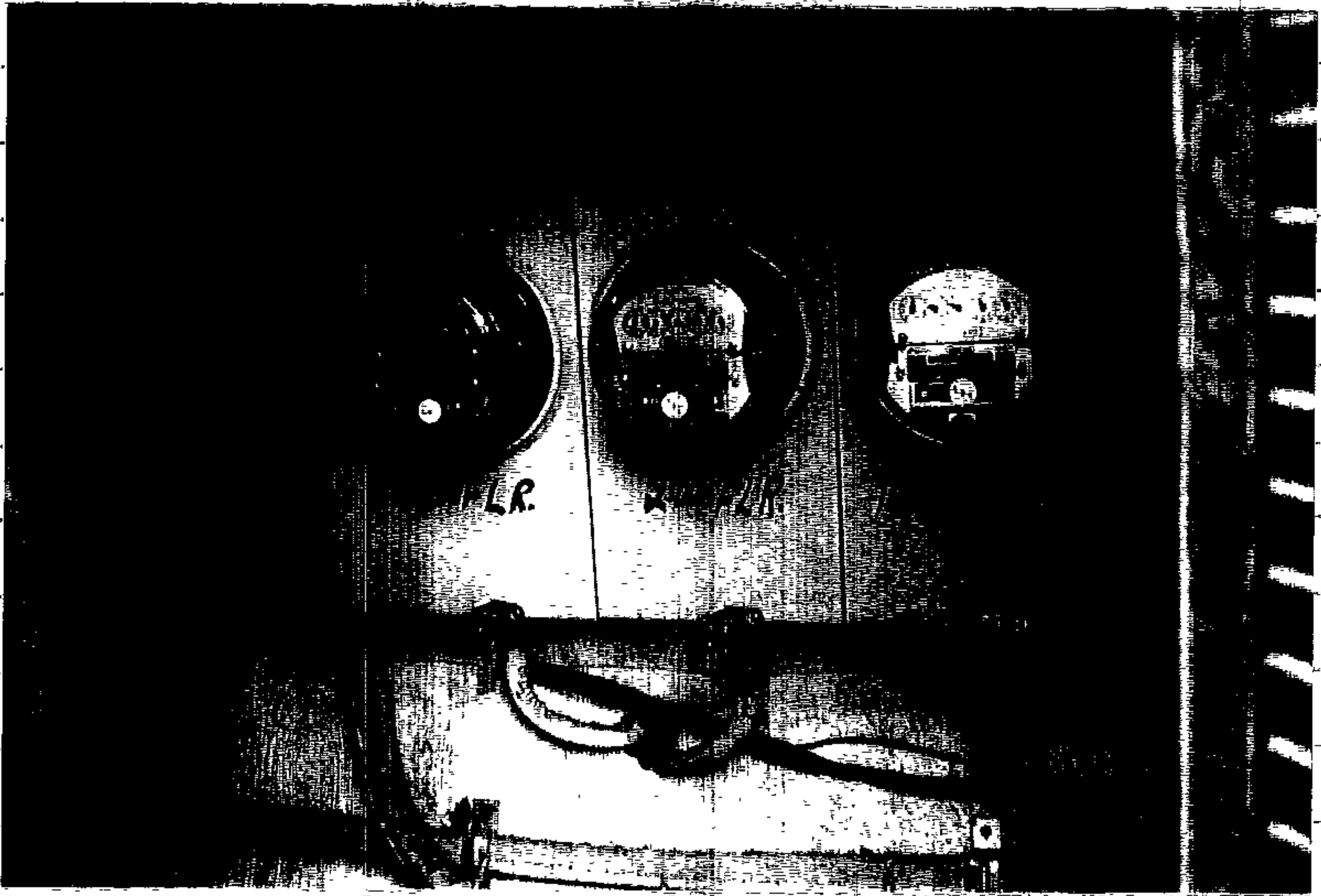
| LOCATION SURVEY                                   |                   |                  |
|---------------------------------------------------|-------------------|------------------|
| 6, 8 & 10 LINDEN TERRACE<br>BALTIMORE COUNTY, MD. |                   |                  |
| SCALE<br>1" = 30'                                 | DATE<br>10.3.1994 | APP. NO.<br>~    |
|                                                   |                   | JOB NO.<br>M-189 |

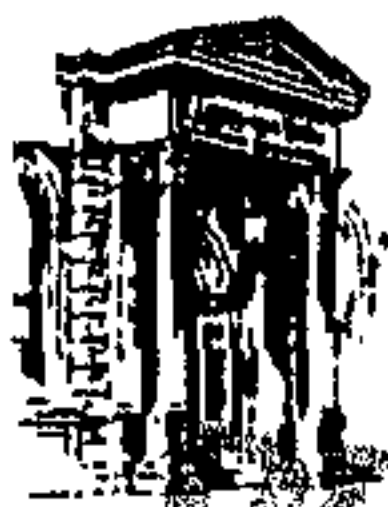
NOTE: This Plat cannot be used to establish property lines or corners.

PETITIONER'S  
EXHIBIT 5E

10 Linden Terr

8/17/46





# Lawyers Title Insurance Corporation

National Headquarters - Richmond, Virginia

**PETITIONER'S  
EXHIBIT**

App. No. 131031

THIS DEED, Made this 19<sup>th</sup> day of October in the year one thousand  
 nine hundred and ~~eighty~~ <sup>ninety</sup> - two by and between WILLIAM H. MATHEWS and RAYMOND H.  
 MATHEWS and MARY MATHEWS of Baltimore County in the State of Maryland, parties of the  
 first part, and WILLIAM H. MATHEWS, party of the second part.

WITNESSETH that in consideration of the sum of \$ NO CONSIDERATION, (the  
 actual consideration paid or to be paid) and other good and valuable consideration  
 the receipt of which is hereby acknowledged, the said parties of the first part do  
 grant and convey unto the said party of the second part, his personal representatives  
 and assigns, in fee simple, all that lot of ground situate in Baltimore County, State  
 of Maryland, and described as follows:

BEGINNING for the same on the North side of Linden Terrace (formerly May  
 Avenue) sixty feet wide at the end of the second line in the description in a  
 Deed from Henry L. Bowen to John H. Grill, et al, dated April 3, 1907, and  
 recorded among the Land Records of Baltimore County in Liber W.P.C. No 313,  
 folio 220, and running thence bounding reversely on said line North 1-1/4  
 degrees East 208 feet 7 inches, more or less, to the end thereof to intersect  
 the first line of that parcel of land which by Deed dated March 31, 1877, and  
 recorded among the Land Records aforesaid in Liber J.B. No 101, folio 177, was  
 conveyed by Valverde A. P. Ware, et al, to David McIntosh, thence bounding on  
 said first line South 88-1/4 degrees West 90 feet 2 inches, thence South 4-1/4  
 degrees West and binding on the Easternmost line of the lot of ground which by  
 Deed dated December 19, 1900, and recorded among the Land Records aforesaid in  
 Liber N.B.M. No 250, folio 296, was conveyed by Henry L. Bowen to George A.  
 David, et al, 206 feet 6 inches, more or less, to the North side of Linden  
 Terrace, thence bounding on the North side of Linden Terrace South 87-1/2  
 degrees East 100 feet to the place of beginning. The improvements thereon being  
 known as No. 15 Linden Terrace

BEING Lot No. 10 and part of Lot No. 11 as shown on the Plat of the Land  
 belonging to Henry L. Bowen, which Plat is filed among the Land Records of  
 Baltimore County in Plat Book J.W.S. No. 2, folio 139.

BEING that same lot of ground which by Deed dated June 15, 1987 and recorded  
 among the Land Records of Baltimore County in Liber S.M. No. 7587, folio 198  
 was granted and conveyed by Betty Church Benson unto William H. Mathews,  
 Raymond H. Mathews and Mary Mathews the Grantors herein.

C RC/F 16.00

CC IMP 5.00

DEED 0 #

SM CLERK 21.00

#3887 C001 R02 T14:45

11/02/92

AGRICULTURAL TRANSFER TAX  
 NOT APPLICABLE

RECEIVED FOR TRANSFER  
 State Department of  
 Assessments & Taxation  
 for Baltimore County

SIGNATURE W H Mathews DATE 10-30-92

By

Date

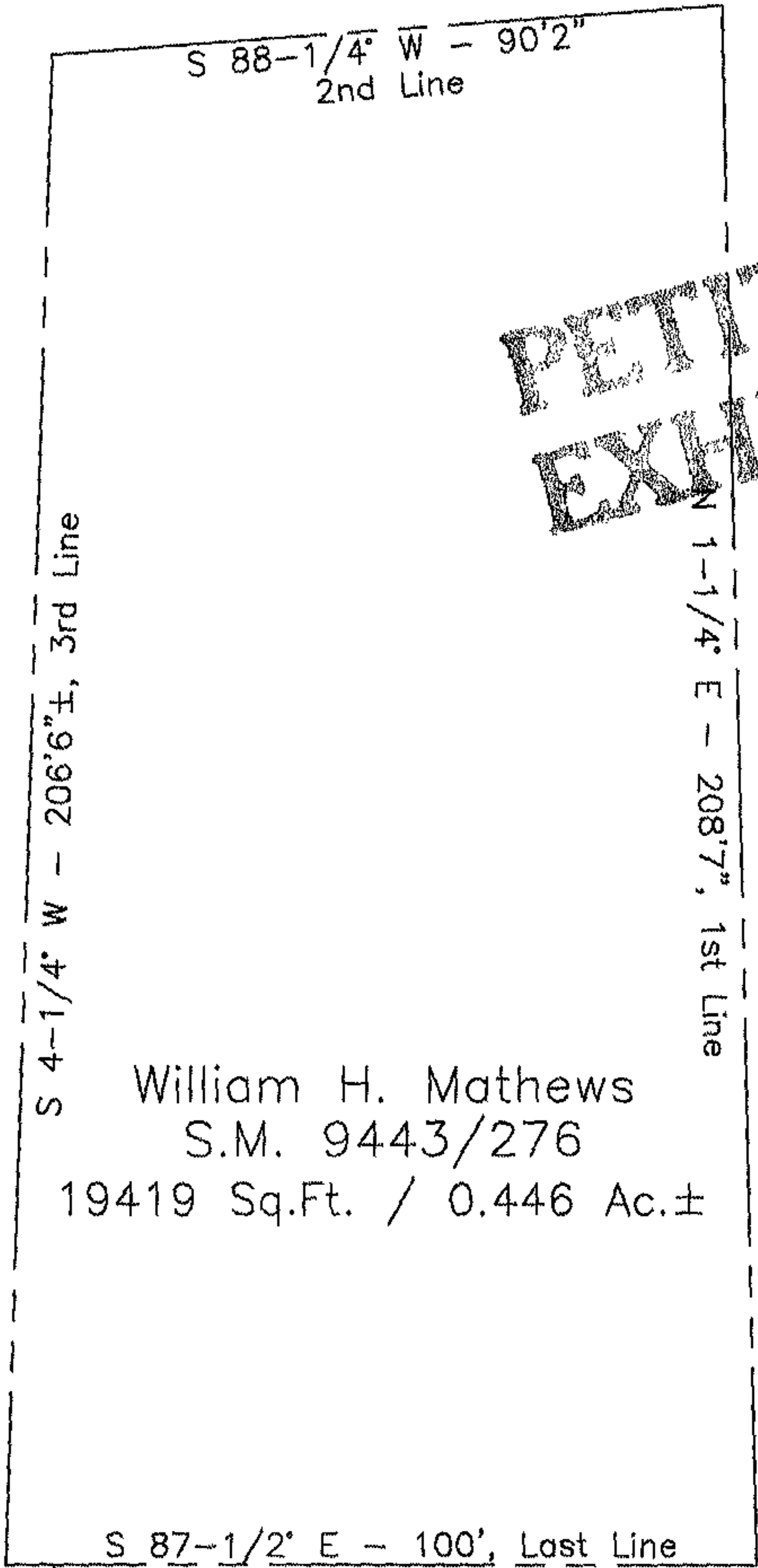
TRANSFER TAX NOT REQUIRED  
 Director of Finance  
 BALTIMORE COUNTY, MARYLAND

Per

Joy Bueger  
 Notary Public

15 Linden  
 Terrace

15 Linden Terrace



PETITIONER'S  
EXHIBIT 6B

*LINDEN TERRACE*

60'

⊙ Linden Terrace

|                    |                                   |                                                                 |                                                              |                            |                    |
|--------------------|-----------------------------------|-----------------------------------------------------------------|--------------------------------------------------------------|----------------------------|--------------------|
| BALTIMORE COUNTY   |                                   | DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT                |                                                              | BUREAU OF LAND ACQUISITION |                    |
| DISTRICT NO. X c X |                                   | POSITION SHEET NO.                                              |                                                              | FEDERAL PROJECT NO.        |                    |
|                    |                                   | CONSTRUCTION PLAN NO.                                           |                                                              | MARYLAND PROJECT NO.       |                    |
| APPROVED<br>DATE   | DIRECTOR OF PUBLIC WORKS          | <input type="checkbox"/> AREA TO BE ACQUIRED                    | <input checked="" type="checkbox"/> EXISTING COUNTY R/W      | SURVEYOR                   |                    |
|                    |                                   | <input checked="" type="checkbox"/> REVERTIBLE SLOPE EASEMENT   | <input checked="" type="checkbox"/> AREA TO BE RELEASED      | DATE                       | REQ. NO.           |
|                    |                                   | <input checked="" type="checkbox"/> TEMPORARY CONSTRUCTION AREA | <input checked="" type="checkbox"/> TEMPORARY SLOPE EASEMENT | SHEET                      | REVISIONS          |
| APPROVED<br>DATE   | CHIEF, BUREAU OF LAND ACQUISITION | ITEM NO.                                                        | RECORDED                                                     | DRAWN BY CADD/BWE          | SCALE: 1" = 30'    |
|                    |                                   |                                                                 |                                                              | PLAT CHECKED               | B.C. JOB ORDER NO. |
|                    |                                   |                                                                 |                                                              | AREA CHECKED               | "0"                |
| APPROVED<br>DATE   | SUPERVISOR, DIVISION OF DRAFTING  |                                                                 |                                                              | TITLE CHECKED              |                    |

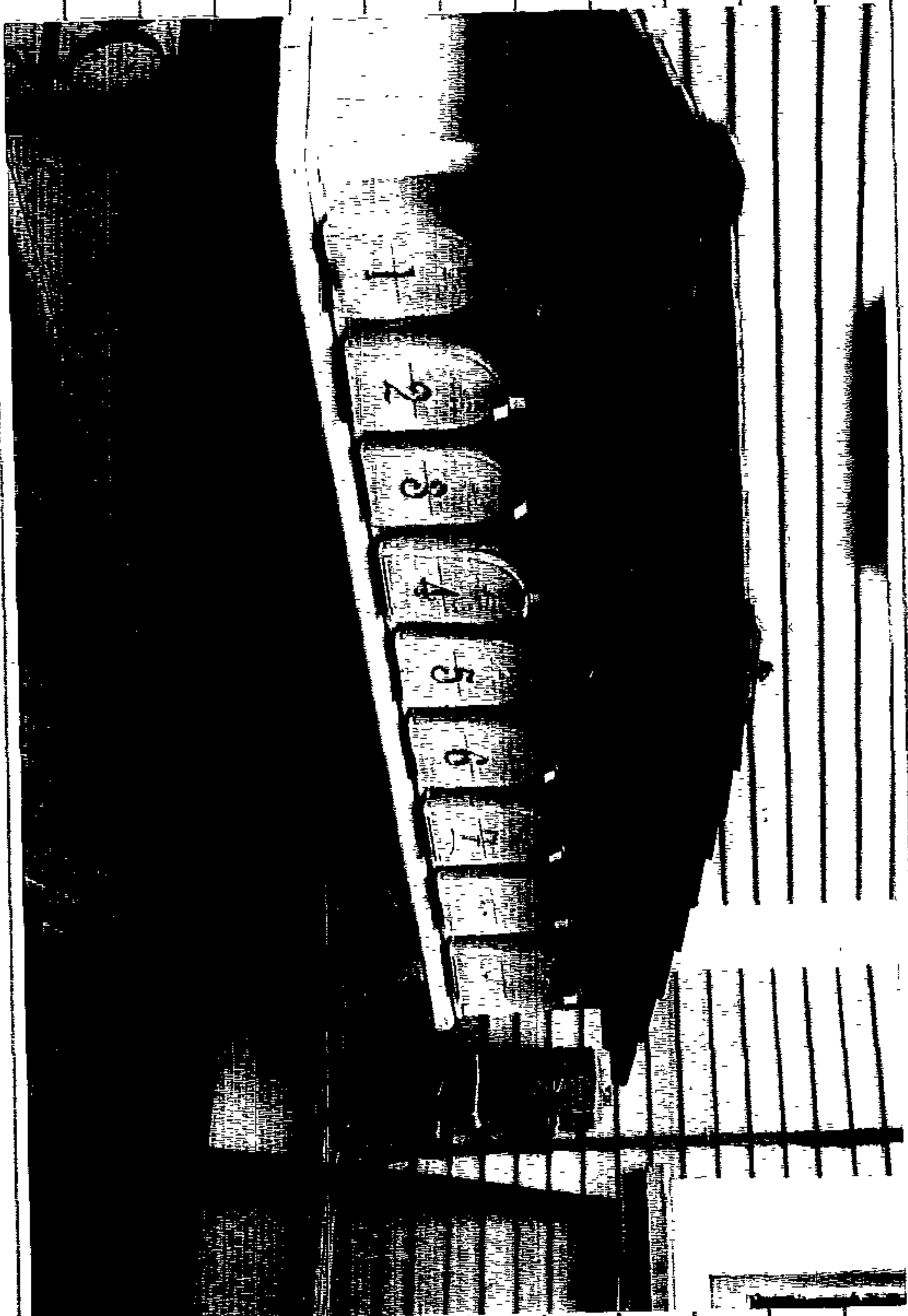
# PETITIONER'S

15 Linden Street

EXHIBIT

& C

8/13/96





BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3353

WILLIAM E. HAMMOND  
ZONING COMMISSIONER

April 15, 1980

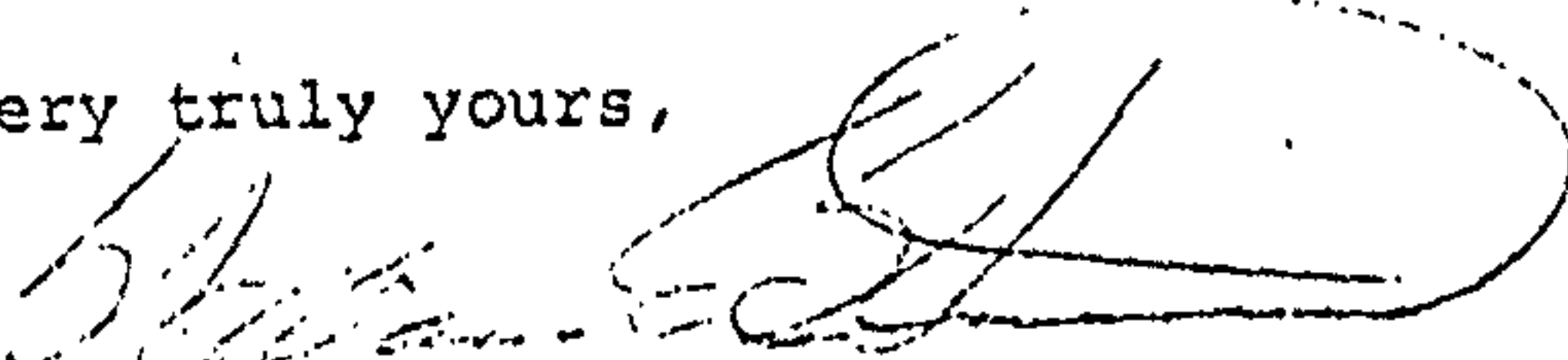
Mr. William H. Mathews  
26 Willow Avenue  
Baltimore, Maryland 21204

RE: 122 Willow Avenue  
Case No. 80-278-V

Dear Mr. Mathews:

I have this date passed my Order in the above captioned matter. Copy of said Order is attached.

Very truly yours,

  
WILLIAM E. HAMMOND  
Zoning Commissioner

WEH:eah

Enclosure

PETITIONER'S  
EXHIBIT No 7

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

December 10, 1991

Mr. William Matthews  
Box 5501  
Towson, Maryland 21204

RE: Apparent Non-conforming Use  
3 Apartment Dwelling  
122 Willow Avenue  
9th Election District

Dear Mr. Matthews:

Your letter to Mr. Arnold Jablon, Director of Zoning Administration and Development Management, dated November 29, 1991, has been referred to me for reply. Based on the Affidavit submitted November 29, 1991, and the decision on April 15, 1980 by William E. Hammond, former Zoning Commissioner of Baltimore County, that this site may enjoy a legal non-conforming use (Case No. 80-178-V) the use of this site as a three apartment dwelling is conditionally approved.

If you have any questions, please do not hesitate to call me at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "John J. Sullivan, Jr.", is written over a horizontal line.

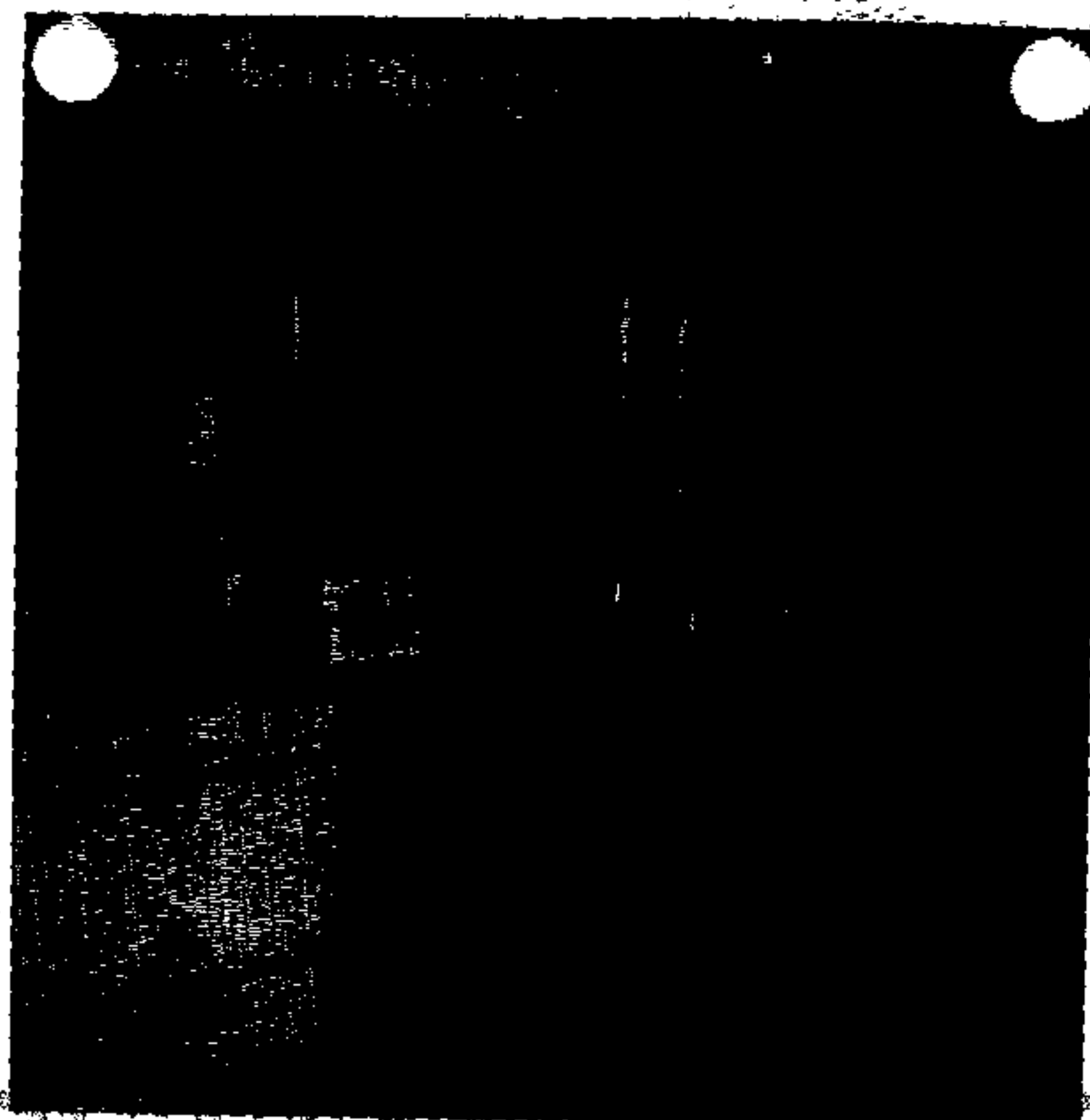
John J. Sullivan, Jr.  
Planner II

JJS:jat  
cc: Mr. Arnold Jablon  
File

PETITIONER'S  
EXHIBIT NOB



PETITIONER'S  
EXHIBIT No 9



PETITIONER'S  
EXHIBIT No 10

15  
Linden  
→



17  
Linden  
→



Exhibit  
No 11

Historic Restoration Work  
on Linden Terrace  
by Resident Bill Mathews

14 October 1996

1

REQUEST FOR ZONING CLARIFICATION

To:

Director Arnold Jablon  
Baltimore County Zoning,  
Permits, Development  
Management  
111 West Chesapeake Avenue  
Towson, MD 21204

From:

William H. Mathews  
Box 5501  
Towson, MD 21285

PETITIONER'S  
EXHIBIT No 12

Dear Director Jablon,

Since the early 1940's this property known as #122 Willow Avenue in Towson has been used as a three apartment dwelling. In 1980 this fact was documented before the Zoning Commissioner of that year, Mr. William Harmond, in case #80-278-V, C-80-373 by which live and notarized affiants/affidavits were required to prove the original establishments and the continuing non-conforming use of the building as such. I have owned this building since 1974 and have continued this use of the building in the same way up until the present.

When I spoke with you last week you said I would need to get additional affidavits from the date of the hearing before Zoning Commissioner Harmond (1980) to testify that the building continued to be used in the same manner without interruption from the 1980 date up until now (1996) in order to satisfy zoning requirements.

To comply with the latter requirement I am attaching five (5) additional signed and notarized affidavits from neighbors to cover the ensuing years (1980-1996).

Your confirmation of the continuing non-conforming use of the concerned property to the present would be most appreciated.

I am also attaching the required \$40 fee in payment for the zoning clarification.

Sincerely,

William H. Mathews  
Box 5501  
Towson, Md. 21285

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

November 16, 1992

Messgrs. William H. and Raymond H. Mathews, et al.  
P.O. Box 5501  
Baltimore, Maryland 21204

Re: Case No. C-93-641  
15 Linden Terrace  
9th Election District

Dear Messgrs. Mathews, et al.:

A complaint has been filed with this office in reference to an illegal conversion (apartments) at the above location, which is zoned D.R.16. Our records indicate that the property lot size is 19, 475 square feet. This lot size is not sufficient for seven or more apartments per Section 402.2 of the Baltimore County Zoning Regulations (copy enclosed). Therefore, the only recourse for you, as property owner, would be to bring this property into compliance by converting it back into six or less apartments or to file for a special hearing to show that this dwelling was converted into apartments prior to 1945. You can file for a special hearing by calling the development management office at 887-3391 to set up an appointment.

Failure to comply by December 16, 1992 will result in the issuance of a citation, wherein you are subject to a civil penalty of \$200.00 per day, per violation, and each day shall be considered a separate violation.

If you have any question, please contact me at 887-3351.

Sincerely,

Timothy L. Fitts  
Zoning Inspector

TLF/cmm  
Enclosure

c: File

PETITIONER'S  
EXHIBIT No 13

*Copy to name (Jay Books of 12 files)*





# 15 Linden Terrace  
21286

Side View



PETITIONER'S  
EXHIBIT No 15