IN THE MATTER OF THE APPLICATION OF FRANK D. REITTERER AND FRANCES M. LEONARD -PETITIONERS FOR VARIANCE ON PROPERTY LOCATED ON THE NORTHEAST SIDE NORTH AVENUE, 470' NORTHWEST OF CENTERLINE LEEDS AVENUE (1220 NORTH AVENUE) 13TH ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	* * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 98-406-A

* * * * * * * * *

O P I N I O N

This case comes before the Board on appeal filed by the Office of People's Counsel of Baltimore County from a decision of the Zoning Commissioner dated August 19, 1998, granting a variance from Section 431 of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle (roll back tow truck) with advertising to be parked daily in the side yard driveway of the subject property.

The Petitioner, Frank Reitterer, appeared pro se. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel.

This matter was heard by this Board de novo on February 18, 1999. In lieu of final argument, Petitioner was given one week to review prior cases referenced by Deputy People's Counsel in opening statements relevant to the subject matter, and submit Memorandum. Deputy People's Counsel subsequently submitted a Brief in response. Public deliberation was held on March 23, 1999, due notice of which was provided to all interested parties.

The subject property, known as 1220 North Avenue, is rectangular in shape, approximately .149 acre in area, and zoned D.R. 5.5. The lot is located in the Maiden Choice subdivision of

Arbutus and is improved with a two-story block and frame house. The subject site contains a detached garage to the rear, and a concrete driveway on the eastern side of the property where the subject tow truck is parked.

The subject case originated from a complaint registered by the Maiden Choice Community Association indicating a zoning violation wherein a commercial vehicle in excess of 10,000 lbs. existed on the subject site. In response to the complaint, an inspector with Baltimore County was dispatched and a zoning citation was issued.

Mr. Reitterer testified he is employed by Varsity Towing and has continually parked a company tow truck on the subject property since 1989. He stated he commutes to and from work via the tow truck in question. He leaves home at approximately 8:00 a.m. and returns in the evening around 5:00 p.m. He further stated that it was necessary to bring the truck home, since he was on call around the clock during the week and on certain weekends. He further indicated that having the truck at home presented a convenience which enabled quick response time to emergency calls from the Police Department, as Varsity Towing is a licensed towing operator for Baltimore County.

On cross-examination, Mr. Reitterer described the vehicle in question as a 1995 International truck, 22 feet in length overall, weighing in excess of 10,000 lbs, with a capacity gross weight of 21,400 lbs. He stated that he is also on call to the Baltimore City Police Department (in addition to Baltimore County) and responds to car dealership as well as private calls.

For his service, he is compensated by salary and commission as

it relates to the mileage travelled, and at no time does he bring any of the disabled vehicles back to his home. He also stated that his property is reflective of the neighborhood in character, and the tow truck is parked in the side driveway along with two other cars, while two remaining vehicles (all licensed) are kept in the garage to the rear of the property.

The Petitioner further indicated that Varsity Towing is approximately 5 miles from his home and employs 30 to 40 people, which includes five tow truck operators. Mr. Reitterer is fearful that his job will be in jeopardy if the variance request is not granted, since two other drivers also take two trucks home, while two trucks remain at Varsity Towing.

Ms. Lorna Ochs, the Petitioner's immediate neighbor for the past 8-1/2 years, testified on his behalf. She indicated that the use of the tow truck has never presented any problems. The truck is shielded from her view by way of a hedge. The truck has never awakened her in the middle of the night nor caused any disturbance. Ms. Ochs opined that the Petitioner provides a service for the general public of which she was fully supportive.

Eleanor VanDevender testified in opposition to the parking of the commercial vehicle (tow truck) on Petitioner's property. Ms. VanDevender resides approximately 1/2 mile from the subject property. She is a current member of the Maiden Choice Community Association, and in the past held numerous offices, including President and Chairman of the Zoning Committee. She stated that, as an active member of the Association, she has worked with Code Enforcement officials in Baltimore County addressing different

violations in the community, and was not singling out the Petitioner. She opposed the parking and use of a commercial vehicle in a residential community due to safety concerns relative to narrow residential roads and noise factors which ultimately lead to the decline of the neighborhood. She stated that the neighborhood primarily consists of D.R. 5.5 single-family homes which date to the 1940s, with lot sizes of 4,500 to 6,000 square feet.

Ms. VanDevender referenced People's Counsel's Exhibit #4 (a photo of North Avenue and Leeds Avenue) and People's Counsel's Exhibit #5 (a photo of Linden Avenue and Talbot Place) which depict "No Thru" truck signs in which vehicles over 3/4 ton are not permitted. She further stated that Varsity Towing was approximately 10 minutes from the Petitioner's residence, when travelling the local street system, and would actually take less time to reach if the Beltway would be used. Ms. VanDevender opined that, if the variance request was granted, it would set a precedent for other uses of commercial vehicles to exist in residential neighborhoods.

Ms. Paula Wolfe also appeared in opposition to the variance request. Ms. Wolfe resides approximately 1 mile from the subject site. She is President of the Greater Arbutus Community Association (People's Counsel Exhibit #8, Rule 8 documentation submitted). She stated that Mr. Reitterer was a responsible person, but granting of this variance would set a precedent which would open the door for other commercial vehicles. She indicated the neighborhood is an older community, and the streets are not

receptive to this large a vehicle due to on-street parking. She also confirmed the testimony of the previous witness in that Varsity Towing was approximately 7 minutes away.

Mr. Robert Hooe, who has owned an existing service garage and towing company for the past 30 years, also testified on behalf of People's Counsel. Mr. Hooe also owns a tow truck very similar to that of the Petitioners. He indicated his truck weighs 14,000 lbs., which is about 1,000 lbs. lighter than Petitioner's due to the aluminum frame. He opined that the tow truck in question is very large and fairly maneuverable for its size, but would still pose difficulty in navigating smaller streets. He also indicated that his business actually has two tow trucks but that both are dispatched from his business property in compliance with Baltimore County regulations.

The granting of variances is governed by Section 307.1 of the BCZR which provides, in relevant part, that variances may be granted:

> ...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance...would result in practical difficulty or unreasonable hardship.

The Court of Special Appeals, in Cromwell v. Ward, 102 Md.App. 691 (1995), has construed this regulation to mean that obtaining a variance is ~~basically~~ at least a two-step process. The first step requires a finding that the subject property is unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes

the zoning provision to impact disproportionately upon that property. The second step requires a finding that denial of the requested variance would result in practical difficulty or unreasonable hardship.

Cromwell v. Ward states that "[u]nless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship."

The Petitioner failed to present any testimony or evidence to this Board showing that the subject site possessed any peculiar, unusual or unique factors when compared to other properties in the neighborhood such that the requirements of Section 431 of the BCZR, governing the parking of commercial vehicles on residential property, would impact disproportionately upon his property.

Thus, the first step of the variance process was not met, and the practical difficulty or unreasonable hardship requirement cannot be properly considered.

However, even assuming, for the sake of argument, that the property meets the requirement of uniqueness, the Petitioner failed to produce convincing evidence of practical difficulty or unreasonable hardship. The record indicates that Varsity Towing has available parking on site, and that Petitioner admitted that bringing the truck home was a matter of convenience. As testimony by both the Petitioner and Protestants indicated, Varsity Towing is approximately 7 to 10 minutes from the subject site.

Even if this Board found that Petitioner had met his burden satisfying the requirements of Section 307.1 of the BCZR, and

subsequently the stringent test of Cromwell v. Ward, in granting a variance, the Board must recognize Article VI of the Baltimore County Code which regulates towing businesses.

Ms. Deborah Kendall, Supervisor with the Department of Permits & Development Management, referenced People's Counsel's Exhibit #2 in which Baltimore County granted a towing license to Varsity Auto Repair, Inc., dated January 5, 1999. Specifically, the application states that Varsity Towing is "hereby granted" a license:

> To operate TOWING VEHICLES within the bounds of Baltimore County in accordance with the terms and provisions of Article VI, TOWING BUSINESS, Sec. 24-226 through 24-235 of the Baltimore County Code, as amended and any Rules and Regulations from the Department of Permits and Development Management in accordance with Section 24-223.

Section 24-226(d) states:

> No license shall be issued or renewed unless the applicant has provided secure fenced-in storage facilities for ten (10) or more vehicles on the premises shown on the license or within sight of the premises shown on the license. Towing vehicles are to be dispatched from the fenced-in storage lot. Such storage facilities shall also comply with the county zoning regulations and the fencing requirements of the county building code, if such location is located in the county.

Section 24-229(b) states:

> No licensee shall dispatch a tow vehicle from any location other than what is indicated on his license or from fenced-in storage facilities within view of the business shown on license. Each licensee shall have only one (1) business telephone number at his place of business but may have an extension of such telephone in his home or at any other location where he may be contacted.

In conclusion, the Board finds that Petitioner has failed to satisfy the requirements of Section 307.1 of the Baltimore County

Zoning Regulations and also is violative of Sections 24-266(d) and 24-229(b) of the Baltimore County Code. Therefore, this Board must deny Petitioner's request for variance.

O R D E R

THEREFORE, IT IS THIS 17th day of May, 1999 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from Section 431 of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle (roll back tow truck) with advertising to be parked daily in the side yard driveway of the subject property be and is hereby **DENIED.**

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Margaret Worrall

Thomas P. Melvin

County Board of Appeals of Baltimore County

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

May 17, 1999

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

RE: In the Matter of Frank D. Reitterer and
Frances M. Leonard -Petitioners /Case No. 98-226-A

Dear Mr. Zimmerman:

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

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

Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrator

encl.

cc: Mr. Frank D. Reitterer and
Mrs. Frances M. Leonard
Eleanor VanDevender /Maiden Choice
Community Association
Mr. Robert Hooe
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Ron Turner, Code Enforcement /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink
on Recycled Paper

IN RE: PETITION FOR ZONING VARIANCE NE/S North Ave., 470 ft. NW of c/l of Leeds Avenue 1220 North Avenue 13th Election District 1st Councilmanic District Frank D. Reitterer, et al Petitioners	* * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 98-406-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on a Petition for a Variance for the property located at 1220 North Avenue in the Arbutus community of western Baltimore County. The Petition was filed by Frank D. Reitterer and Frances M. Leonard, property owners. Variance relief is requested from Section 431 of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle (tow truck) with advertising to be parked daily on the subject property in the side driveway. The subject property and requested relief are more particularly shown on the plat to accompany the Petition for Variance, marked as Petitioners' Exhibit #1.

Appearing at the public hearing held for this case were the Petitioners, Frank D. Reitterer and Frances M. Leonard. Also present in support of the Petition was Lorna Ochs, who resides immediately next door at 1222 North Avenue. Appearing in opposition to the Petition was Eleanor VanDevender, on behalf of Maiden Choice Community Association.

An examination of the site plan indicates that the subject property is roughly rectangular in shape, approximately .149 acres in area, zoned D.R.5.5. The lot abuts North Avenue in the Maiden Choice subdivision of Arbutus and is improved with a two story block and frame house known as 1220 North Avenue. To the rear of the property is a detached garage. The property also features a concrete driveway which runs from North Avenue towards the rear of the site, between the house and the eastern property

ORDER RECEIVED FOR FILING
Date 3/19/98
By

line. Ms. Ochs resides at the property immediately adjacent to that driveway and at 1222 North Avenue.

The subject case came about as a result of a zoning citation issued by Baltimore County. In this regard, Ms. VanDevender indicated that her Community Association had canvassed the neighborhood for zoning violations. They observed the parking of a commercial vehicle in excess of 10,000 pounds gross vehicle weight on the property. A complaint was registered with Baltimore County and a zoning inspector was dispatched. A citation was issued, however, action on same has been deferred pending this Petition for Variance. In order to legitimize the parking of the truck and avoid a zoning citation, the subject Petition was filed.

In this regard, Mr. Reitterer testified that he has owned the property for a number of years and maintained a tow truck on the site since 1989. Presently, a roll back tow truck is kept on the property which is shown in pictures contained within the case file. Mr. Reitterer further testified that he is employed by Varsity Auto Repair, Inc., and is an approved tower by Baltimore County. He tows for the Baltimore County Police Department. He indicated that he typically works Monday through Friday from 8:00 A.M. to 5:00 P.M. During those hours he is at work and the truck is not kept on the premises. However, he brings the truck at home during evenings and weekends because he is on call. In this regard, a letter was received from Dennis W. McElgunn, Manager of Varsity Auto Repair, Inc., indicating that Mr. Reitterer is on call 24 hours a day, 365 days per year. The Petitioner can be called by his employer and dispatched to an accident scene at any time. Thus, it is urged that the Petition be granted so that Mr. Reitterer will have immediate access to his tow truck. It was further indicated that many of the calls are emergency in nature and it would be inappropriate to require the Petitioner to

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Date 3/19/93
By

store the vehicle offsite. In such an event, Mr. Reitterer would have to travel from his house to the offsite location and then to the accident scene.

Ms. Ochs, the immediate next door neighbor, testified in support of the request. She observed that the common boundary line between her property and the Petitioner's lot is improved with an 8 ft. high hedge which screens the driveway and tow truck. She indicated that she has never experienced any problem with the storage of the tow truck and does not object to same. She further testified that Mr. Reitterer keeps the property clean and that the truck is well maintained. She also indicated that there was no problem with noise and corroborated Mr. Reitterer's testimony that he typically works during regular business hours; however, is on call for emergencies.

Upon due consideration of the testimony and evidence offered, I am persuaded to grant the Petition for Variance. I am appreciative of the fact that the storage of the tow truck is inherently incompatible with the residential neighborhood. However, in this case, there are compelling factors which justify the grant of the Petition. Specifically, the nature of Mr. Reitterer's job and the fact that he is on call 24 hours a day are persuasive considerations. As noted in Mr. McElgunn's letter, Varsity Towing is an approved tower with the Baltimore County Police Department and it is necessary that Mr. Reitterer and his tow truck be immediately available. The position of Ms. Ochs is also a significant factor. Obviously, she is the most impacted neighbor and voices no objection. She is in support of the request and indicates that the truck and property are kept clean, that no repairs are undertaken on the vehicle while it is on the site, and that the storage of the vehicle is not detrimental to the neighborhood.

ORDER RECEIVED FOR FILING
Date
By

Based on this testimony, I will grant the Petition for Variance with appropriate restrictions to provide a continued safeguard for the community.

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.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 19th day of August 1998 that a variance from Section 431 of the Baltimore County Zoning Regulations (BCZR) to allow the parking of a commercial vehicle (tow truck), with advertising, to be parked daily on the subject property in the side driveway, be and is hereby GRANTED, subject, however, to the following restrictions:

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

2. There shall be no vehicle maintenance work performed on the tow truck on the subject property at any time.

3. The tow truck shall be parked on the driveway in the side yard at a location behind the front building line; i.e., the line created by the front building wall. Parking at this location is required to decrease visibility of the vehicle from neighboring properties.

ORDER RECEIVED FOR FILING
Date 8/19/98
By

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mmn

Baltimore County
Zoning Commissioner
Office of Planning

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

August 19, 1998

Mr. Frank D. Reitterer
1220 North Avenue
Arbutus, Md. 21227

RE: Case No. 98-406-A
Petition for Zoning Variance
Location: 1220 North Avenue

Dear Mr. Reitterer:

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

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

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.
c: Office of Zoning Enforcement

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Zoning Commissioner
Office of Planning

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

August 19, 1998

Mr. Frank D. Reitterer
1220 North Avenue
Arbutus, Md. 21227

RE: Case No. 98-406-A
Petition for Zoning Variance
Location: 1220 North Avenue

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Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.
c: Office of Zoning Enforcement

Printed with Soybean Ink
on Recycled Paper

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1220 North Ave

which is presently zoned ~~RCS~~ DR-5.5

This Petition shall be filed with the Department of Permits & Development Management

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 431

, To allow a commercial vehicle (Tow Truck) with advertising to be parked daily in a side driveway,

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

TO PARK TRUCK IN DRIVEWAY
VARSITY/ROLLBACK FOR BALTO. COUNTY POLICE DEPT
WILKENS PCT #1 WOODLAWN PCT #2

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

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

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

Legal Owner(s):

Frank D. Rittenberg
(Type or Print Name)

Signature

FRANCES M. LEONARD
(Type or Print Name)

Frances M. Leonard
Signature

410 747-6797

1220 North AVE 410-5365284
Address Phone No

Arbutus MD 21227
City State Zipcode

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

Frank Rittenberg
Name

1220 North 747-6797
536-5284
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1.00 hr

unavailable for Hearing the following dates _____ Next Two Months

ALL ✓ OTHER

REVIEWED BY: ZAC DATE 4-28-98

406

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Revised 9/5/95

98-406-A

ZONING DESCRIPTION
1220 North Ave.

#406

Begining at a point on the Northeast side of North Ave. at the distance 470 ± north-west of the Centerline of Leeds Ave. thence running N 42°10' W 51.1 ft thence N 32°50' E 125 ft. thence northwesterly 50 ft. thence S 32 50' W 135 ft. to the point of begining; containing 0.149 acre± and located in the 13th Election District of Baltimore County.

98-406-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

Item No. 406

No. 053150

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

AMOUNT $ 50.00

RECEIVED FROM: Frank Reitterer

FOR: Res. Variance filing fee
1220 North Ave. (21227)

98-406-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT
PM4498 01/001 TUE
4/28/1998 4:28:09PM 11:7150
R-001 CASHIER UNIT 004 DEBRA
6 MISCELLANEOUS CASH RECEIPT
Receipt # 043865 $50.00
CR NO. 053150
50.00 CASH
Baltimore County, Maryland

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #98-406-A
1220 North Avenue
NE/S North Avenue, 470' NW of centerline Leeds Avenue
13th Election District
1st Councilmanic District
Legal Owner(s):
Frank D. Reitterer & Frances M. Leonard

Variance: to allow a commercial vehicle (tow truck) with advertising to be parked daily in a side driveway.

Hearing: Tuesday, June 9, 1998 at 11:00 a.m. in Room 407, County Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.
(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

5/318 May 21 C230416

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 21, 19 98

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 21, 19 98.

THE JEFFERSONIAN,

A. Henrickson

LEGAL AD. - TOWSON

CERTIFICATE OF POSTING

RE: Case No.: 98-406-A

Petitioner/Developer: FRANK REITTERER

Date of Hearing/Closing: 6-9-98

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 1220 NORTH AVE. ARBUTUS MD. 21227.

The sign(s) were posted on MAY 25, 1998
(Month, Day, Year)

Sincerely,

Garland E. Moore
(Signature of Sign Poster and Date)

GARLAND E. MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BALTIMORE, MD. 21227
(City, State, Zip Code)

(410) 242-4263
(Telephone Number)

RECEIVED
MAY 26 1998
PDM

9/96
cert.doc

ZONING NOTICE

Case # : 98-406-A

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

PLACE : ROOM 407 COUNTY COURTS BLDG.
401 BOSLEY AVE. TOWSON MD. 21204
TIME & DATE : TUESDAY JUNE 9TH 1998
11:00 A.M.

REQUEST: A VARIANCE TO ALLOW A
COMMERCIAL VEHICLE (TOW TRUCK)
WITH ADVERTISING TO BE PARKED
DAILY IN A SIDE DRIVEWAY

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING,
CALL 887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE.

HEARINGS ARE HANDICAPPED ACCESSIBLE

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

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 98-406-A

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

PLACE: _____

DATE AND TIME: _____

REQUEST: A Variance to allow a Commercial Vehicle (Tow Truck) with advertising to be parked daily in a side driveway.

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

9/96
post.4.doc

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 406

Petitioner: F.D. Reitterer

Address or Location: 1220 North Ave.

PLEASE FORWARD ADVERTISING BILL TO:

Name: FRANK D REITTERER

Address: 1220 NORTH AVE
ARBUTUS MARYLAND 21227

Telephone Number: 410 536-5284

Revised 2/20/98 - SCJ

98-406-A

TO: PATUXENT PUBLISHING COMPANY
May 21, 1998 Issue - Jeffersonian

Please forward billing to:
Frank D. Reitterer 410-536-5284
1220 North Avenue
Arbutus, MD 21227

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-406-A
1220 North Avenue
NE/S North Avenue, 470' NW of centerline Leeds Avenue
13th Election District - 1st Councilmanic District
Legal Owner: Frank D. Reitterer & Frances M. Leonard

Variance to allow a commercial vehicle (tow truck) with advertising to be parked daily in a side driveway.

HEARING: Tuesday, June 9, 1998 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-887-3391.

Baltimore County
Department of Permits and
Development Management

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

May 13, 1998

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-406-A
1220 North Avenue
NE/S North Avenue, 470' NW of centerline Leeds Avenue
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Legal Owner: Frank D. Reitterer & Frances M. Leonard

Variance to allow a commercial vehicle (tow truck) with advertising to be parked daily in a side driveway.

HEARING: Tuesday, June 9, 1998 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon
Director

c: Frank Reitterer & Frances Leonard

NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY MAY 25, 1998.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.

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on Recycled Paper

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

December 28, 1998

NOTICE OF ASSIGNMENT

CASE #: 98-406-A

IN THE MATTER OF: FRANK D. REITTERER AND FRANCES M. LEONARD -Petitioners 1220 North Avenue
13th Election District; 1st Councilmanic

(Petition for Variance GRANTED by Z.C.)

ASSIGNED FOR: *THURSDAY, FEBRUARY 18, 1999 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: Appellant : Peter Max Zimmerman /People's Counsel for Baltimore County
Carole S. Demilio / Deputy People's Counsel

Petitioners : Mr. Frank D. Reitterer and Mrs. Frances M. Leonard

Eleanor VanDevender /Maiden Choice Community Association
Robert Hooe

Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Code Enforcement
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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County Board of Appeals of Baltimore County

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

February 22, 1999

NOTICE OF DELIBERATION:

IN THE MATTER OF:
FRANK D. REITTERER & FRANCES M. LEONARD -Petitioners
Case No. 98-406-A

The subject matter, having been heard by the Board of Appeals on February 18, 1999, has been assigned the following date and time for public deliberation:

DATE AND TIME : Tuesday, March 23, 1999 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

NOTE: Petitioner's Memo due Thursday, February 25, 1999;
Response from People's Counsel due Thursday, March 4, 1999
(Original and three (3) copies to be filed).

Kathleen C. Bianco
Administrator

---

cc: Appellant : Peter Max Zimmerman /People's Counsel
for Baltimore County
Carole S. Demilio /
Deputy People's Counsel

Petitioners : Mr. Frank D. Reitterer and Mrs.
Frances M. Leonard

Eleanor VanDevender /Maiden
Choice Community Association
Robert Hooe

Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Code Enforcement
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Copies to: S.W.M.

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on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

June 3, 1998

Mr. & Mrs. Frank Reitterer
1220 North Avenue
Arbutus, MD 21227

RE: Item No.: 406
Case No.: 98-406-A
Petitioner: Frank and Frances Reitterer
Location: 1220 North Avenue

Dear Mr. & Mrs. Reitterer:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on April 28, 1998.

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

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Gwendolyn Stephens in the zoning office (410-887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR:ggs
Attachment(s)

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on Recycled Paper

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: May 18, 1998

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

SUBJECT: Zoning Advisory Committee Meeting
for May 18, 1998
Item Nos. 404, 405, 406, 407, 408, 409, 411, 412, 413, ~~415~~

ALSO:

Use Permit for Farmer's Roadside Stand
(W/S Jarrettsville Pike, Opposite
South Side Avenue (14350 Jarrettsville
Pike)

ALSO:

Revised Plans for Case #98-328-SPHXA
(9205 Harford Road)

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE0518.NOC

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
and Development Management

DATE: May 18, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 1220 North Avenue

INFORMATION

Item Number: 406

Petitioner: Reitterer Property

Zoning: DR 5.5

Requested Action: Variance

Summary of Recommendations:

This office is opposed to the storage of any commercial vehicle in excess of 10,000 pounds gross vehicle weight on residential property.

Prepared by: Jeffrey M. Long

Division Chief: Carl L. Kerns

AFK/JL

C:\MSOFFICE\WINWORD\ZAC\NOCOM\406.DOC

RECEIVED
MAY 19 1998
PDM

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: POM

DATE: _____

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: May 11, 98

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

Item #'s: 406, 407, 408, 409, 410, 411, 412, 413, 414, 415

RBS:sp

BRUCE2/DEPRM/TXTSBP

Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

June 1, 1998

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

RE: Property Owner: FRANK D. REITTERER AND F. LEONARD
AXAYKUMAR AND SHITAL DAVE
DONALD J. RESTORFF AND J. RESTORFF
GEORGE A. KAHL
CHARLES F. EVANS, JR.
FIRST MARINER BANK
TODD LEONARD AND NANCY LEONARD
J.R. BROTHERS, INC.

Location: DISTRIBUTION MEETING OF MAY 11, 1998

Item No.: 406, 407, 408, 409, 410, 411, 413, AND 415 Zoning Agenda:

Gentlemen:

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

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

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

cc: File

RECEIVED
FDM

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	*	BEFORE THE
RE: PETITION FOR VARIANCE 1220 North Avenue, NE/S North Ave, 470' NW of c/l Leeds Ave, 13th Election District, 1st Councilmanic	*	ZONING COMMISSIONER
	*	FOR
Legal Owners: Frank D. Reitterer and Frances M. Leonard	*	BALTIMORE COUNTY
Petitioner(s)	*	Case Number: 98-406-A

* * * * * * * * * * * * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of June, 1998, a copy of the foregoing Entry of Appearance was mailed to Frank D. Reitterer and Frances M. Leonard, 1220 North Avenue, Baltimore, MD 21227 , Petitioner(s).

PETER MAX ZIMMERMAN

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

RECEIVED
SEP 11 1998
PDM

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

September 11, 1998

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR ZONING VARIANCE
1220 North Avenue, 470' NW of c/l of Leeds
Avenue, 13th Election Dist., 1st Councilmanic
FRANK D. REITTERER, ET AL., Petitioners
Case No. 98-406-A

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated August 19, 1998 of the Baltimore County Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: Frank D. Reitterer and Frances M. Leonard, 1220 North Avenue, Baltimore, MD 21227, Petitioners

Eleanor VanDevender, Maiden Choice Community Assn., P.O. Box 18262, Baltimore, MD 21227, Protestants

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us
410-887-3391

September 15, 1998

Mr. Frank D. Reitterer & Mrs. Frances M. Leonard
1220 North Avenue
Arbutus, MD 21227

Dear Mr. Reitterer and Mrs. Leonard:

RE: Petition for Zoning Variance, Case No.: 98-406-A, 1220 North Avenue, District: 13c1, Frank D. Reitterer & Frances M. Leonard - Petitioners

Please be advised that an appeal of the above referenced case was filed in this office on September 11, 1998 by Peter Max Zimmerman and Carole S. Demilio on behalf of the People's Counsel. 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,

Arnold Jablon
Director

AJ:rye

c: Code Enforcement
People's Counsel

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on Recycled Paper

APPEAL

Petition for Zoning Variance
NE/S North Avenue, 470' NW of centerline Leeds Avenue
(1220 North Avenue)
13th Election District -1st Councilmanic District
Frank D. Reitterer and Frances M. Leonard - Petitioners
Case Number: 98-406-A

RECEIVED
COUNTY BOARD OF APPEALS
98 SEP 17 PM 2:52

Petition for Variance

Description of Property

Certificate of Posting

Certification of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits: Plat to Accompany Petition for a Zoning Variance

Copy of Vehicle Registration Certificate and Two Photographs

Letter from Frank Reitterer to Baltimore County Zoning Commissioner dated April 5, 1998

Letter from Dennis W. McElgunn, Manager of Varsity Towing, to Arnold Jablon, Director dated April 13, 1998

Zoning Commissioner's Order dated August 19, 1998 (Granted)

Notice of Appeal received on September 11, 1998 from Peter Max Zimmerman and Carole S. Demilio on behalf of People's Counsel

c: Mr. Frank D. Reitterer and Mrs. Frances M. Leonard, 1220 North Avenue, Arbutus, Maryland 21227
Code Enforcement
*People's Counsel of Baltimore County, MS #2010
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM
Eleanor VanDevender, Maiden Choice Community Assoc., P.O. Box 18262, Balto., MD 21227
(9/23/98 -T/C from Ms. VanDevender - she requested notification of hearing; she is a Protestant and was a party in the Zoning Commissioner's hearing)

Robert Hooe
3015 Hammonds Ferry Road
Baltimore, MD 21227
(added as an interested party)

Case No. 98-406-A

VAR -To allow a commercial vehicle (tow truck) with advertising to be parked daily on subject property in side driveway.

8/19/98 -Z.C.'s Order in which Petition for Variance was GRANTED.

12/28/98 -Notice of Assignment for hearing scheduled for Thursday, February 18, 1999 at 10:00 a.m. sent to following:

Peter Max Zimmerman /People's Counsel
for Baltimore County
Carole S. Demilio /
Deputy People's Counsel
Mr. Frank D. Reitterer and Mrs.
Frances M. Leonard
Eleanor VanDevender /Maiden
Choice Community Association
Robert Hooe
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Code Enforcement
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

2/18/99 -Hearing concluded as to testimony and evidence; Memo to be filed by Petitioner 2/25/99 /filed 2/24/99; copy provided by CBA to C. Demilio 2/24/99. Holding copies for SWM pending DPC's filing, if any. Response from People's Counsel due 3/04/99
-- Deliberation to be scheduled for 3/23/99 at 9:30 a.m. (S.W.M.)

2/22/99 -Notice of Deliberation sent to parties; scheduled for Tuesday, March 23, 1999 at 9:30 a.m. (copy to S.W.M.)

3/23/99 -Deliberation concluded; unanimous decision of Board -- petition for variance DENIED; written Opinion and Order to be issued; appellate period to run from date of written Order. (Wescott, Worrall, Melvin)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits & Development Management

DATE: August 16, 1999

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File:
98-406-A /Frank D. Reitterer and Frances M. Leonard

As no appeal was taken from the Board's decision (issued May 17, 1999) in the above captioned case, we are hereby closing the file and returning same herewith.

Attachment (File No. 98-406-A)

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 3, 1999

99 MAR -3 PM 3:13

Lawrence S. Wescott, Panel Chairman
Margaret Worrell, Panel Member
Thomas P. Melvin, Panel Member
County Board of Appeals for Baltimore County
400 Washington Avenue, Room 48
Towson, MD 21204

Re: Petition For Zoning Variance
1220 North Avenue, 470' NW of c/l Leeds Ave.
13th Election District, 1st Councilmanic
FRANK D. REITTERER, ET AL., Petitioners
Case No. 98-406-A

Dear Mr. Chairman and Board Members:

This matter was heard on February 18, 1999. In opening remarks, the Deputy People's Counsel cited prior commercial vehicle cases denied by the County Board of Appeals (CBA). At the conclusion of the hearing, the Chairman ordered the record to remain open for one week to allow Mr. Reitterer to respond to these cases.

Mr. Reitterer's letter of February 19 to the CBA does not address these cases. Rather, it contains assertions by Mr. Reitterer or reiterations of evidence presented at the hearing.

Our office disputes the statements made in Mr. Reitterer's letter. Furthermore, we believe his remarks were submitted at the hearing, and refuted by the evidence submitted by our office and Protestants.

Our position remains that Petitioner failed to present evidence to support a variance. The overwhelming evidence in opposition to the Petition supports a finding that a commercial vehicle does not belong at this location.

We have attached the aforesaid earlier CBA decisions for the Board's review.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel

CSD/caf
Enclosures

cc: Frank D. Reitterer and Frances M. Leonard, 1220 North Avenue, Baltimore, MD 21227, Petitioners (without enclosures - previously furnished to Petitioners at the 2/18/99 hearing)

Eleanor VanDevender, Maiden Choice Community Assn., P.O. Box 18262, Baltimore, MD 21227, Protestants (without enclosures)

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: L. Wescott
M. Worrall
T. Melvin

DATE: March 4, 1999

FROM: Kathi

SUBJECT: Case No. 98-406-A /Frank D. Reitterer, et al -Petitioners

The subject matter has been scheduled for public deliberation on Tuesday, March 23, 1999 at 9:30 a.m. A copy of that Notice of Deliberation was mailed to you on February 22, 1999. Attached are the following documents filed by Counsel with regard to this case:

1. Letter and attachments dated February 19, 1999, filed by Frank Reitterer on February 24, 1999; and

2. Letter from Carole S. Demilio and Peter Max Zimmerman regarding and in response to Mr. Reitterer's letter of 2/19/99.

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

kathi

Attachments

file copy

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Frank D. Reitterer & Frances M. Leonard -Petitioners
Case No. 98-406-A

DATE : Tuesday, March 23, 1999

BOARD /PANEL : Lawrence S. Wescott (LSW)
Margaret Worrall (MW)
Thomas P. Melvin (TPM)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 98-406-A /Petition for Variance parking of vehicle (tow truck) in yard; heard by Board on February 18, 1999.

The Board, having convened for public deliberation as scheduled by notice dated February 22, 1999, and upon deliberation between panel members, the following decision was reached by the Board:

Two issues: Variance request
Regulations on Towing

Tow truck not legal to be anywhere but fenced area of towing company. As to variance, no evidence as to uniqueness; as to spirit and intent, would be aggravated by permission denied others. Referred to People's Counsel #3 -- request from towing company to A. Jablon -- not legal to dispatch tow truck from home; newer regulations govern; Code specifically does not allow this.

Cases cited by People's Counsel indicated it has been consistent position of both upper courts and the Board of Appeals. Opportunity given to Mr. Reitterer to look at those cases; wrote back, reiterating his position; not able to distinguish from other cases. The law is the law and cannot be varied. Community associations throughout County looked at this issue -- Lansdowne worked on this for quite a while; Loch Raven also worked for this legislation.

Unanimous decision that variance request is denied under 307.1 and Cromwell v. Ward; also fails under truck legislation.

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.

NOTE: This document confirms for the file that public deliberation was held this date in the subject matter and a final decision rendered in which the requested variance relief was denied.

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

April 05, 1998

BALTIMORE COUNTY DEPARTMENT OF PERMITS
& DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING

Baltimore County Zoning Commissioner,

I Frank Reitterer employee of Varsity Auto, Catonsville, MD as a tow truck operator am applying for a variance or a parking permit that would enable me to park the truck in question in my driveway, see photos enclosed.

For the sole purpose of providing service for the Baltimore County Police Department prect #1 Wilkens and prect #2 Woodlawn/ occasionally Maryland State Police. The vehicle is kept clean and maintained., it is inspected by the Baltimore County and MD State Police on a regular basis.

The vehicle is not prohibiting anyone's view or obstructing anyone's parking or movements. I have been working on a "on-call" basis since 1989, parking various trucks in the driveway, without any problems or complaints.

The truck is on the road working a greater percentage of time than it is parked. My continued employment at Varsity depends on it. Any further questions contact Denny McElgunn at 410-747-6797.

Sincerely,

#406

Frank Reitterer

Frank Reitterer
1220 North Ave
Arbutus, Md. 21227

98-406-A

VARSITY AUTO REPAIR

VARSITY AUTO REPAIR, INC.

5625 OLD FREDERICK ROAD CATONSVILLE, MARYLAND 21228
PHONE 744-3600

April 13, 1998

Baltimore County, Maryland
Department Of Permits & Development Management
111 W. Chesapeake Avenue
Room 100
Towson, Maryland 21204

406

ATTENTION: Mr. Arnold Jablon, Director

REFERENCE: Variance / Special Off Street Parking Permit

Dear Mr. Jablon,

I am writing to you at the request of an employee, Mr. Frank Reitterer, 1220 North Avenue, Arbutus, Maryland, 21227. Mr.Reitterer moved to this address in April, 1989. He has used his company assigned truck from the day he moved in to his house to now. His duties include towing for the Baltimore County Police Department as described in the Baltimore County Code, Section 24-230, arriving at a scene within 20 minutes of a call. Mr. Reitterer is on call 24 hours per day, 365 days a year. Driving from Arbutus to Catonsville, to pick up a truck to go on an Accident Tow would not be feasible. The vehicle is parked off of the street, well maintained, and out of sight.

Therefore, in the best interest of Mr. Reitterer, keeping his job, and the Baltimore County Police Department, getting immediate service, I ask that you can see favorably for the Variance or Special Parking Permit.

Thank you!

Sincerely,

Dennis W. McElgunn

DENNIS W. MCELGUNN
MANAGER, VARSITY TOWING

98-406-A

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

Please Reply To:
Office of Traffic & Safety
7491 Connelley Drive
Hanover, Maryland 21076
Fax (410) 787-2863

DATE: 12/1/98

TO: CAROLE DeLILIO
(NAME)

(OFFICE)

410-825-3130
(FAX NUMBER) (TELEPHONE NUMBER)

FROM: JOHN ROTZ
(NAME)

SHA - MOTOR CARRIER DIV.
(OFFICE)

410-582-5735
(TELEPHONE NUMBER)

TOTAL NUMBER OF PAGES (including FAX cover memo) 3

Please forward this memo to the appropriate person as soon as possible. If you have any problems with this transaction, please call our office, (410) 582-5734. The telephone number for the FAX machine at the Motor Carrier Division is (410) 787-2863.

Your cooperation is appreciated.

ADDITIONAL INFORMATION: Carole
I hope this helps.

Rob

My telephone number is _____

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

State constitutes the consent of the driver and the owner of the vehicle to the inspection provided for in this section.

(d) *Duty of driver.* — The driver of a vehicle shall obey every sign and every direction of a police officer to stop his vehicle and submit to the required inspection.

(e) *Display of sign restricted.* — A sign used to direct vehicles under this section may be displayed only by a police officer who is assigned to enforce this section.

(f) *Adoption of rules and regulations by Administration.* — (1) Except as provided in subsection (i) of this section the Administration may adopt rules and regulations as are necessary for the safe operation of vehicles that exceed 10,000 pounds rated gross weight and are engaged in the transportation of property or passengers over the highways of this State.

(2) Any rule or regulation adopted pursuant to this subsection shall:

(i) Be formulated jointly by the Motor Vehicle Administration and the Department of State Police;

(ii) Duplicate or be consistent with the Federal Motor Carrier Safety Regulations contained in 49 CFR, Parts 390 through 399;

(iii) Apply to all vehicles over 10,000 pounds rated gross vehicle weight that are subject to the Federal Motor Carrier Safety Regulations;

(iv) Apply to vehicles over 10,000 pounds registered gross vehicle weight that are not subject to the Federal Motor Carrier Safety Regulations, if the rule or regulations adopted by the Motor Vehicle Administration specifically states that it applies to the vehicle; and

(v) Be consistent with 49 CFR, Parts 40 and 382, with respect to alcohol and drug testing regulations applicable to drivers of:

1. Vehicles with a gross vehicle weight rating over 26,000 pounds;

2. Vehicles transporting hazardous materials of a type and quantity requiring placarding; and

3. Vehicles designed to transport 16 or more passengers, including the driver.

(3) The rules or regulations adopted under this subsection may require that registrants of motor vehicles subject to this subsection have knowledge of applicable federal and State motor carrier safety regulations.

(g) *Operator to comply with rules and regulations.* — Any motor carrier operating a vehicle that is subject to the rules and regulations adopted under this section shall, at all times when operating the vehicle on a highway in this State, comply with the rules and regulations adopted under this section.

(h) *Inspection of equipment and records by certain officials.* — During regular business hours, a police officer, a hazardous materials inspector, or a Public Service Commission inspector may enter the premises and inspect equipment and review and copy records of motor carriers subject to the rules or regulations adopted under this section or § 22-409 of this article, Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations, or Public Service Commission laws and regulations.

(i) *Prohibited regulations; limitation on regulation of qualifications or hours of service of drivers permitted.* — (1) Except as provided for in paragraph (2) of this subsection, regulations adopted under this section for intrastate motor carrier transportation may not:

(i) Require that a driver be older than 18 years of age;

(ii) Apply the provisions of § 391.21, § 391.23, § 391.31 or § 391.35 of the Federal Motor Carrier Safety Regulations to:

1. A driver who is a regularly employed driver of a motor carrier for a continuous period that began before July 1, 1986, if the driver continues to be a regularly employed driver of the motor carrier; or

2. The motor carrier, with regard to a driver described under item 1 of this subparagraph, if the motor carrier continues to employ the driver;

(iii) Limit a driver's time or hours on duty if:

1. The driver operates only within a 150 air mile radius of the driver's normal work reporting location;

2. The driver returns to the driver's normal work reporting location;

3. The driver is released from work within a period of 16 consecutive hours, not more than 12 of which are dedicated to driving, and is given at least 8 consecutive hours off duty; and

4. Regardless of the number of motor carriers using the driver's services, the driver:

A. If the employing motor carrier does not operate motor vehicles every day of the week, has been on duty no more

than 70 hours in a period of 7
days; or

B. If the employin
rier operates motor vehicles
the week, has been on duty
80 hours in a period of 8 cons

(iv) Require a driver t
record of duty status if the
subject to item (iii) of this p
cept that, if a driver is on dut
of more than 12 hours, the
maintain a record of the driv
tus that:

1. For the first 12 ho
duty, accounts for all time
driving; and

2. For all time on du
12 hours, conforms to federal

(v) Apply the provis
paragraph or Parts 391 an
Federal Motor Carrier Safet
to a farmer, or an agent or
farmer, who operates farm e
motor vehicle owned or ope
farmer in the transportation
a farm or the transportation
ucts as defined in § 10-601
ture Article within 150 air
farmer's farm;

(vi) Apply the medica
and certification requi
§§ 391.41 (a), 391.43 and
Federal Motor Carrier Safet
to a driver who operates a vel
combination with a regist
combination weight of less
pounds; or

(vii) Except in the cas
ers, apply the provisions of §
through (11) of the Federal
Safety Regulations to any pe

1. Was otherwise q
erate and operated a com
vehicle in intrastate commer
October 1, 1992;

2. Operates wholly
State; and

3. Has a mental or
dition which would disqual
under the Federal Motor C
Regulations and.

A. The condition
tober 1, 1992 or at the tim
physical examination after
which the person submitted
regulations adopted by the A
under subsection (k) of this

B. A physician w
ined the person has determ
condition has not substant

FMCSR

§ 390.5

(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(2) The term accident does not include:

(i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or

(ii) An occurrence involving only the loading or unloading of cargo; or

(iii) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in § 571.3 of this title) by a motor carrier and is not transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with § 177.823 of this title.

Alcohol concentration (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Bus means any motor vehicle designed, constructed, and or used for the transportation of passengers, including taxicabs.

Business district means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway

Charter transportation of passengers means transportation, using a bus, of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin.

Commercial motor vehicle means any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:

(a) The vehicle has a gross vehicle weight rating or gross combination weight rating of 4,537 or more kilograms (10,001 or more pounds); or

(b) The vehicle is designed to transport more than 15 passengers, including the driver; or

(c) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act (49 U.S.C. 5101 et seq.).

Conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

Direct assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as, electricity, medial care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs

(1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) Exclusions.

(i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

(ii) Tire disablement without other damage even if no spare tire is available.

(iii) Headlamp or taillight damage.

(iv) Damage to turn signals, horn, or windshield wipers which makes them inoperative.

Driveaway-towaway operation means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the motor vehicle being transported are on the surface of the roadway during transportation.

Driver means any person who operates any commercial motor vehicle.

Driving a commercial motor vehicle while under the influence of alcohol means committing any one or more of the following acts in a CMV: Driving a CMV while the person's alcohol concentration is 0 04 percent or more; driving under the influence of alcohol, as prescribed by State law, or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of 383.51(b)(2)(i)(A) or (B), or § 392.5(a)(2).

Emergency means any hurricane, tornado, storm (e g thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

(1) A declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies, by the Regional Director of Motor Carriers of Motor Carriers for the region in which the occurrence happens, or by other Federal, State or local government officials having authority to declare emergencies, or

(2) A request by a police officer for tow trucks to move wrecked or disabled motor vehicles.

Emergency relief means an operation in which a motor carrier or driver of a commercial motor vehicle is providing

people #2

BALTIMORE COUNTY POLICE DEPARTMENT
INTRA-DEPARTMENT CORRESPONDENCE

TO: Lieutenant Minda Foxwell **DATE:** December 8, 1998

FROM: Officer Frederick B. Denker

SUBJECT: Towing Renewal Application
Varsity Auto Repair, Inc, 99-01, TRM# 98-13

The undersigned conducted inspections of Varsity Towing, located at 5625 Old Frederick Road, Baltimore, MD 21228. The purpose of these inspections was to fulfill the Department's responsibilities in the annual permit renewal process. An inspection was conducted on the tow vehicles and of the facilities on 11/17/98. Dennis McElgunn ~~Owner~~, signed the attached rate schedule (original on file). (Towing Manager)

This tow company has five tow vehicles. They were found to be properly equipped and in good working order.(Copies of the Inspection reports are attached.)

Reg. Plate	Make	VIN	Year
1. 2114TT	Int'l	1HTSCABM4VH472879	1997
2. TT8658	Int'l.	1HTSCABM8SH211119	1995
3. TT8836	Int'l.	1HTSCABM8SH604585	1994
4. 1341TT	Int'l.	1HTSCACL9RH569524	1994
5. TT0542	UD	JMAME08J0NGF65207	1992

This tow company's storage lot was also inspected and found to be approximately one half full with adequate storage for additional vehicles, and properly enclosed.

A check of this company's file revealed no sustained complaints or missed calls for service. During the period from November 1, 1997 to October 31, 1998, this company handled 1,037 calls for service,(totals for the month of June and July from precinct one were not received and are not available, and are therefore not included in this total).

A copy of the insurance coverage is attached.

Respectfully,

Officer Frederick B. Denker #3247
Traffic Management Unit

Attachments

2/13/99 11:53P
2/13/99 11:54P
NAME: OFFICER MARTIN
STATION:: WILKINS
PHONE NUMBER: 887-0872
2/13/99 11:53P 24 4105365284
2/13/99 11:54P 24 4103020122
==========
2/13/99 10:59P
2/13/99 11:04P
YOUR NAME: TINA SMITH
PHONE NUMBER:: 410 646 1414
TOWED TO WHAT LOCATION: PLEASE CALL
HER FOR DIRECTIONS ... SHE HAS THE KEY
WITH HER, NOT WITH THE CAR. THANKS.
2/13/99 11:01P 5 4105365284
2/13/99 11:02P 5 4105365284
2/13/99 11:03P 5 4103020122
==========
2/13/99 10:39P
2/13/99 10:47P
NAME: OFICER MARTIN
STATION:: WILKINS
PHONE NUMBER: 887-0872
2/13/99 10:39P 24 4103020122
2/13/99 10:40P 24 4105365284
2/13/99 10:41P 24 4103020122
==========
2/13/99 10:05P
2/13/99 10:06P
NAME: OFFICER MARTIN
STATION:: WILKENS
PHONE NUMBER: 887 0872
==========
2/13/99 10:01P
2/13/99 10:06P
NAME: OFFICER MCGUIN
STATION:: WOODLAWN
PHONE NUMBER: 887 1340
2/13/99 10:06P 5 4105365284
==========
2/13/99 9:59P
2/13/99 10:00P
YOUR NAME: TINA SMITH
PHONE NUMBER:: 410 646 1414
NEED TOW TRUCK OR ROLL-BACK: NOT SURE
WHAT TYPE OF CAR: 1990 SUNBIRD
COLOR: BERGUNDY
TAG NUMBER: SKY 916
ADDRESS: IN MACDONALDS PARKING LOT

2/13/99 10:00P 5 4105365284
2/13/99 10:00P 5 4106461414
==========
2/13/99 7:35P
2/13/99 7:39P
IS THIS A POLICE CALL: YES
NAME: BRANHAM,OFFICER
STATION::2 WOODLAWN
PHONE NUMBER: 410-887-1340
2/13/99 7:38P 5 4105365284
==========
2/13/99 6:13P
2/13/99 6:13P
FORWARDING CALLS 2/12/99 9:06P 39
FRANK O/C THRU 2/12/99 9:06P 39
2/13/99 6:13P 51
==========
2/13/99 8:00A
2/13/99 8:00A
IS THIS A POLICE CALL: IF YES ONLY GET
NAME: MAN WILL CALL BACK
STATION::
PHONE NUMBER:
YOUR NAME:
PHONE NUMBER::
NEED TOW TRUCK OR ROLL-BACK:
WHAT TYPE OF CAR:
COLOR:
TAG NUMBER:
ADDRESS:GET DETAILED ADDRESS
WHERE ARE THE KEYS:
PROBLEM WITH THE CAR:
TOWED TO WHAT LOCATION:
==========
2/13/99 5:18A
2/13/99 5:19A
IS THIS A POLICE CALL: IF YES ONLY GET
NAME:
STATION:: WILKENS
PHONE NUMBER:
STORAGE...PLEASE CALL
-------- 2/13/99 5:19A 9 ----------
FRANK T/C
2/13/99 5:18A 9 4105365284
==========
2/13/99 2:41A
2/13/99 2:41A
IS THIS A POLICE CALL: IF YES ONLY GET
NAME:
STATION:: WILKENS

PHONE NUMBER:
STORAGE...PLEASE CALL
-------- 2/13/99 2:41A 9 ----------
FRANK T/C
2/13/99 2:41A 9 4105365284
==========
2/12/99 11:27P
2/12/99 11:27P
NAME: OFFICER MOORE
STATION:: WILKINS
PHONE NUMBER: 887-0872
2/12/99 11:27P 141 4103020122
==========
2/12/99 11:03P
2/12/99 11:03P
IS THIS A POLICE CALL: IF YES ONLY GET
NAME:
STATION::
PHONE NUMBER:
YOUR NAME:
PHONE NUMBER::
NEED TOW TRUCK OR ROLL-BACK:
WHAT TYPE OF CAR:
COLOR:
TAG NUMBER:
ADDRESS: 95 SOUTH NEAR AIRPORT
WHERE ARE THE KEYS:
PROBLEM WITH THE CAR:
TOWED TO WHAT LOCATION: VARSITY
2/12/99 10:59P 141 4105365284
2/12/99 11:00P 141 4105365284
2/12/99 11:00P 141 4105365284
2/12/99 11:01P 141 4105365284
==========
2/12/99 11:00P
2/12/99 11:00P
IS THIS A POLICE CALL: IF YES ONLY GET
NAME:
STATION::
PHONE NUMBER:
YOUR NAME:
PHONE NUMBER::
NEED TOW TRUCK OR ROLL-BACK:
WHAT TYPE OF CAR:
COLOR:
TAG NUMBER:
ADDRESS:GET DETAILED ADDRESS
WHERE ARE THE KEYS:
PROBLEM WITH THE CAR:
TOWED TO WHAT LOCATION:
2/12/99 11:00P 141 4105365284
2/12/99 11:00P 141 4105365284
==========
2/12/99 9:22P
2/12/99 9:22P
IS THIS A POLICE CALL: IF YES ONLY GET
NAME:LADY WILL CALL BACK
STATION::
PHONE NUMBER:
YOUR NAME:
PHONE NUMBER::
NEED TOW TRUCK OR ROLL-BACK:
WHAT TYPE OF CAR:
COLOR:
TAG NUMBER:
ADDRESS:GET DETAILED ADDRESS
WHERE ARE THE KEYS:
PROBLEM WITH THE CAR:
TOWED TO WHAT LOCATION:
==========
2/12/99 9:06P
2/12/99 9:06P
FORWARDING CALLS 2/12/99 9:06P 39
FRANK O/C THRU 2/12/99 9:06P 39
==========
2/12/99 12:53P
2/12/99 12:53P
FORWARDING CALLS 2/11/99 9:06P 39
FRANK O/C THRU 2/14 2/12/99 12:53P 41
==========576==========

********** END OF MESSAGES **********

FRANK REITTERER 1220 NORTH AVENUE ARBUTUS MD 21227

2/19/99

Mr. Melvin, Mr. Wescott, Ms Worrall

Dear Board Members,

I would like to apologize for my lack of courtroom knowledge and its' procedures. This is my first time being in this position and hopefully it will be my last. I would like to address a few issues on my behalf, and also a few that the appealing counsel failed to mention.

After normal business hours all police emergency and nonemergency calls are directed into Varsity and dispatched via the phone answering system at 410-747-6797Section 24-229 Item B (hilighted) All calls are logged and a print-out- is available (see enclosed).
Ms. Demilio, in her statements failed to mention the twenty minute response time that the truck has to arrive at the scene - per Baltimore County Code Section 24-230. There have been times when a police officer at the first scene will dispatch me to go to a second location. The estimation of the amount of calls done per truck as indicated on the print-out is inaccurate. What must be taken into consideration are calls from the Maryland State Police, Precinct 1 (Wilkens) and Precinct 2 (Woodlawn), University of Maryland County Campus Police, the Federal Police , the Department of Natural Resources Police and the Baltimore County Fire Department.

The calls would have to be categorized by date, time, truck, and driver, for a clearer understanding of the actual number of calls. The majority of after-hours calls are in the time span of 9 PM - 7 AM of course the truck is available at anytime.

Regarding the safety concerns addressed by Ms. Vandevender, two unfortunate fatalities, one concerning a young boy who rode his bike into Leeds Avenue into the path of an automobile, and a woman pedestrian who was struck while walking on the sidewalk by an automobile, both of these were caused by passenger vehicles and the accidents happened in the daylight hours.

I realize that all motor vehicles can be dangerous when operated carelessly. Please do not feel that the commercial vehicle that I drive imposes a greater threat than any other motor vehicle. I have been dispatched to numerous accident calls in the Arbutus. Lansdowne, Maiden Choice Communities. I have removed vehicles from out of the front windows/walls of stores (Super Fresh Supermarket,located at East Drive, Lil Abners located at Linden Avenue, Royal Farm Store -located at Wilkens Avenue & Leeds Avenue), off of utility poles, out of yards and numerous other locations.

I am aware that caution and good judgment must be used at all times when operating a motor vehicle. The Arbutus Community and its' roadways should not be set apart from the many other communities and their roadways that I travel each working day, across Baltimore County, Baltimore City and surrounding jurisdictions. If I failed to use good judgment and common sense I believe that my job as a Towing and Recovery Professional would not have spanned seventeen years to this date.

99 FEB 24 PM 2:24
COUNTY BOARD OF APPEALS

Frank Reitterer 1220 North Avenue Arbutus MD 21227

I would like to submit photographs of signs along Leeds Avenue showing the weight that a vehicle is limited to while on this road which is greater than the weight of my vehicle. It takes me on average thirty seconds to reach this main intersection after leaving my home. Leeds Avenue enables me to enter and exit Interstate 695. The MTA busses weighing over ten thousand pounds travel this roadway day and night, as well as many other vehicles. Private homes and commercial businesses are incorporated along Leeds Avenue.

Mr.Lawrence Schmidt the zoning commissioner stated he would drive into the area and investigate the property and the surroundings before making his decision regarding the variance (granted).

Will you please consider, at your convenience, doing the same. I feel this will give you a clearer understanding of the importance of this situation. Please review the petition enclosed, signed by my neighbors, those which would feel the greatest impact regarding any inconvenience the truck would impose.
They have all stated that the truck poses no problem for them. Please feel free to contact any one of these neighbors.

The lot size and driveway are adequate for the parking of the truck . So in my best interest and the many Police Departments, and the Baltimore County Fire Department, getting immediate service, I am asking for you to see the importance of this variance being granted.

If this variance or permit is granted, it would be pure speculation to say what it may lead to. In the past nine and one half years I have parked various trucks in this location and it has had no impact on the Community nor caused any problems that I was notified about or made aware of.

Thank you for the opportunity for letting me express my views and comments.

Respectfully Yours,

Frank Reitterer

Frank Reitterer

THE BOARD OF APPEALS

THE PEOPLES COUNCIL

January 25, 1999

NOTICE TO ALL PARTIES

The vehicle in question which is owned by Varsity Towing Service and operated by Frank Reitterer is brought home and parked in a private driveway . This is a convenience when providing service for **The Baltimore County Police Department** and **The Maryland State Police.** The vehicle (rollback) is parked behind the the front building property line and is sided by evergreen trees that are approximately 15ft tall.

NEIGHBORS

WE AS NEIGHBORS TESTIFY THE THE VEHICLE CAUSES US NO INCONVENIENCE, NOR DO WE HAVE ANY CONCERN ABOUT WHERE IT IS BEING PARKED. WE FEEL THE VEHICLE DOES NOT DETRACT OR DEGRADE OUR NEIGHBORHOOD COMMUNITY.

NAME	ADDRESS	COMMENT
Lorna Ochs	1222 North Ave.	Live next door - no problems.
Bill Badem	1226 North AVE	No problems w/ Truck
Thomas R Walker	1230 North Ave	No big deal
Gladys Weber	1219 North Ave	No problem with truck
Marcella Engel	1218 North Ave	no problem
Donald T. Engel	1218 NORTH AVE	NO PROBLEM
[illegible]	1214 North AVE	No Problem
Terry Dilling Nauman	1214 North Ave.	No objection to truck
Valentine A. Cavalitto	1216 North Ave	NO OBJECTION TO TOW TRUCK
Joan Cavalitto	1216 North ave	No Objection
Salvador Cordero	1213 North Ave Arbutus MD 21227	No objection
Judi Cordero	1213 North Ave Arbutus, Md. 21227	No objection to tow truck

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Eleanor Van Devender	Maiden Choice Comm. Assoc. P.O. Box 18262, Balto., MD 21227

THE BOARD OF APPEALS

THE PEOPLES COUNCIL

January 25, 1999

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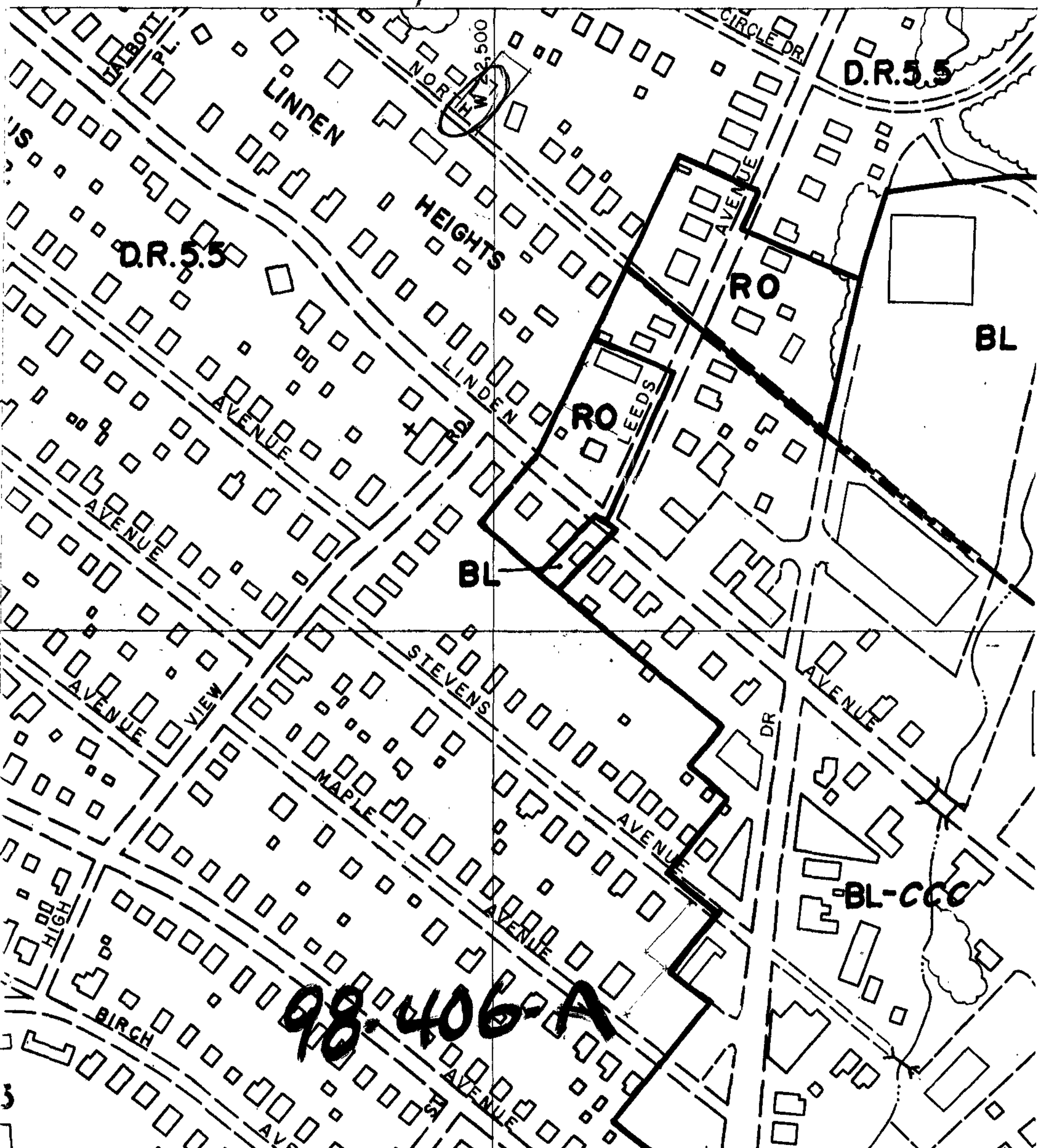
NAME	ADDRESS	COMMENT
Henry S. Agles (11)	1227 North Ave.	live next door no problems
Cathy Wade	1233 North Ave	no problem
[illegible]	1229 north ave	no problem
Debi Cannia	1224 NORTH AVE	no problem
Barbara Johnson	5200 North Ave.	" "
Sue Kallen	5200 Leeds AVE.	no problems
Mary [illegible] Phillips	1207 North ave	No Problem
Ann Lauerwood	5201 Talbot Pl	" "
Marguerite Hackett	5207 Talbot Pl	- No Problems
James G. Hackett	5207 Talbot Place	No Problem
Barbara Stewart Wallace	1238 Linden Ave	
Dave Owens	1221 North Ave	No Problem

NAME	ADDRESS	COMMENT
DAVE SADLER	1235 Linden Ave	
Kenny Hill	1239 Linden Ave	
Carroll E. Mz	5206 Talbot Place	21227
MR & MRS JOHN E. MEEKINS	5204 TALBOT PLACE	21227
Earl Harlan	5202 TALBOT PLACE	21218
David Howell	1225 NORTH AVE	21227
Angelina Zaccari	1225 North ave	21227
Sandy Kelly	1225 NORTH	21227

#406

SW, 5-D


TALBOTT PL.
LINDEN
HEIGHTS
NORTH
2500
CIRCLE DR.
D.R.5.5
D.R.5.5
AVENUE
RO
BL
LINDEN
RD
RO
LEEDS
AVENUE
AVENUE
BL
STEVENS
AVENUE
AVENUE
VIEW
DR
MAPLE
AVENUE
AVENUE
BL-CCC
HIGH
BIRCH
AVENUE
ST
AVENUE
98-406-A

98-406-A

#406

Maryland Department of Transportation

MOTOR VEHICLE ADMINISTRATION
6601 RITCHIE HIGHWAY, N.E.
GLEN BURNIE, MARYLAND 21062

REGISTRATION CERTIFICATE

TAG NUMBER	UNIT #	STICKER NUMBER
TT4804		7281161

TITLE NUMBER	MAKE AND BODY SYLE OF VEHICLE
24401357	INTL TK

YEAR	CLASS	EXCEPT	VEHICLE IDENTIFICATION NUMBER
95	T	U26	1HTSCABM8SH211119

GR. VEH. WT.	GR. COMB. WT.	FEE	EXPIRATION DATE
00N/A	00N/A	108.00	04/30/99

OWNER'S DRIVER LICENSE/SOUNDEX NO.	CO-OWNER'S DRIVER LICENSE/SOUNDEX NO
Z975000831947	

NAME(S) AND ADDRESS OF REGISTERED OWNER(S)

VARSITY AUTO REPAIR INC
5625 OLD FREDERICK RD
BALTIMORE MD 21228

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
FRANK RETTERER	1220 NORTH AVE
	ARBUTUS MD 21227
FRANCES M. LEONARD	1220 NORTH AVE
	ARBUTUS MD 21227
LORNA OCHS	1222 NORTH AVE
	ARBUTUS, MD. 21227

Printed with Soybean Ink
on Recycled Paper

Plat to accompany Petition for a ZONING VARIANCE

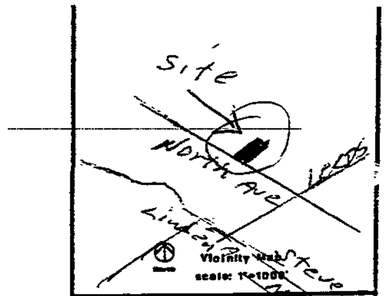
Property Address: 1220 North Ave. (21227)

Subdivision Name —

Plat Book — folio — lot — section #

Owner: Frank D. Reitterer & Frances M. Leonard

Pet No1



LOCATION INFORMATION

Councilmanic District: 12

Election District: 13th

1"=200' scale map#: SW, 5-D

Zoning: DR-5.5

Lot size: 0.149 acreage / 6500 square feet

SEWER: ☒ public ☐ private

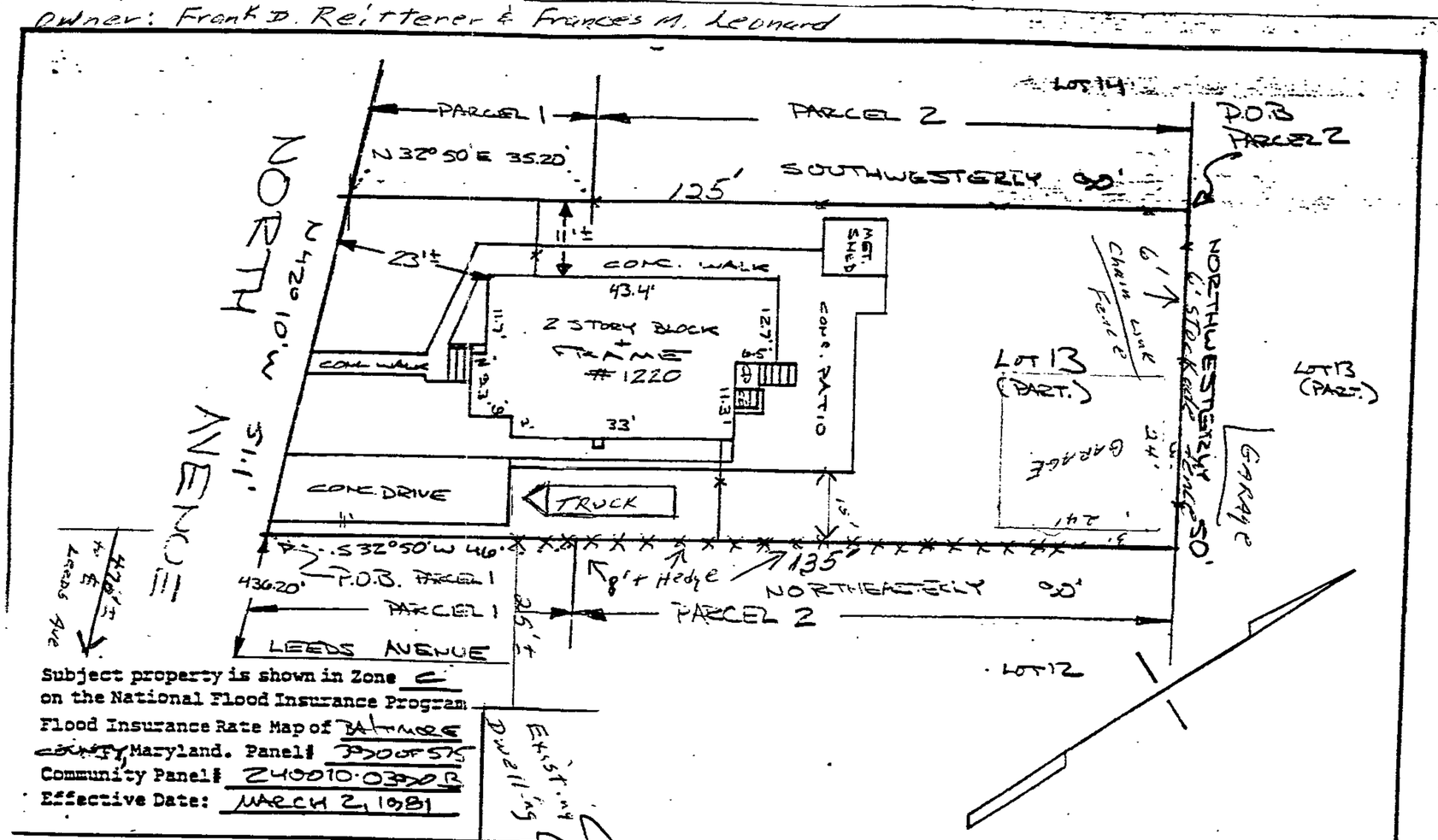
WATER: ☒ public ☐ private

Chesapeake Bay Critical Area: ☐ ☒

Prior Zoning Hearings: NONE

Zoning Office USE ONLY!

reviewed by:	ITEM #:	CASE#:
RJ	406	



Scale: 1" = 20'

* PLAT altered for ZONING PURPOSES

98-406-A

Pet. #3

VARSITY AUTO REPAIR, INC.
5625 OLD FREDERICK ROAD CATONSVILLE, MARYLAND 21228
PHONE 744-3600

April 13, 1998

Baltimore County, Maryland
Department Of Permits & Development Management
111 W. Chesapeake Avenue
Room 100
Towson, Maryland 21204

ATTENTION: Mr. Arnold Jablon, Director

REFERENCE: Variance / Special Off Street Parking Permit

Dear Mr. Jablon,

I am writing to you at the request of an employee, Mr. Frank Reitterer, 1220 North Avenue, Arbutus, Maryland, 21227. Mr.Reitterer moved to this address in April, 1989. He has used his company assigned truck from the day he moved in to his house to now. His duties include towing for the Baltimore County Police Department as described in the Baltimore County Code, Section 24-230, arriving at a scene within 20 minutes of a call. Mr. Reitterer is on call 24 hours per day, 365 days a year. Driving from Arbutus to Catonsville, to pick up a truck to go on an Accident Tow would not be feasible. The vehicle is parked off of the street, well maintained, and out of sight.

Therefore, in the best interest of Mr. Reitterer, keeping his job, and the Baltimore County Police Department, getting immediate service, I ask that you can see favorably for the Variance or Special Parking Permit.

Thank you!

Sincerely,

Dennis W. McElgunn

DENNIS W. MCELGUNN
MANAGER, VARSITY TOWING

Pet: # 4 (3pgs.)

THE BOARD OF APPEALS

THE PEOPLES COUNCIL

January 25, 1999

NOTICE TO ALL PARTIES

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NEIGHBORS

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Marcella Engel	1218 North Ave	no problem
Donald T. Engel	1218 NORTH AVE	NO PROBLEM
[illegible]	1214 North AVE	No Problem
Terry Dillwig Nauman	1214 North Ave.	No objection to truck
Valentine A. Crawleyko	1216 North Ave	NO OBJECTION TO TOW TRUCK
Joan Crawleyko	1216 North ave	No Objection
Salvador Cordero	1213 North Ave.	No objection Arbutus MD 21227
Judi Cordero	1213 North Ave Arbutus, Md. 21227	No objection to tow truck

THE BOARD OF APPEALS

THE PEOPLES COUNCIL

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Sue Katlen	5200 Leeds AVE.	no problems
Margo Phillips	1207 North ave	No Problem
Ann Lauenroed	5201 Talbot Pl	" "
Marguerite Hockett	5207 Talbot Pl	- No Problems
James A. Hockett	5207 Talbot Place	No Problem
Barbara Stewart Wallace	1238 Linden Ave	
Dave Owens	1221 North Ave	NO Problem

NAME	ADDRESS	COMMENT
DAVE SADLER	1235 Linden Ave	
Kenny Hill	1239 Linden Ave	
Carroll E. Mz	5206 Talbot Place	21227
MR & MRS JOHN E. MEEKINS	5204 TALBOT PLACE	21227
Earl Harlinton	5202 TALBOT PLACE	21227
David Howell	1225 NORTH AVE	21227
Angelina Zaccari	1225 North ave	21227
Sandy Kelly	1225 NORTH	21227

Ret. #5

April 05, 1998

BALTIMORE COUNTY DEPARTMENT OF PERMITS
& DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING

Baltimore County Zoning Commissioner,
I Frank Reitterer employee of Varsity Auto, Catonsville, MD as a tow truck operator am applying for a variance or a parking permit that would enable me to park the truck in question in my driveway, see photos enclosed.

For the sole purpose of providing service for the Baltimore County Police Department prect #1 Wilkens and prect #2 Woodlawn/ occasionally Maryland State Police. The vehicle is kept clean and maintained., it is inspected by the Baltimore County and MD State Police on a regular basis.

The vehicle is not prohibiting anyone's view or obstructing anyone's parking or movements. I have been working on a "on-call" basis since 1989, parking various trucks in the driveway, without any problems or complaints.

The truck is on the road working a greater percentage of time than it is parked. My continued employment at Varsity depends on it. Any further questions contact Denny McElgunn at 410-747-6797.

Sincerely,

Frank Reitterer

Pet. #6

March 10, 1998

Please investigate the following situation:

98-0899 1. A car without license plates has been parked for over a year in the driveway of 1253 Linden Ave. 21227 NCF

98-0900 2. Presently, two cars without license plates are parked on the front lawn at 1250 Linden Ave. 21227. Often vehicles without license plates are parked at this address with "FOR SALE" signs on them. NCF

98-0901 3. A large commercial vehicle (I believe it is called a "rollback") which appears to belong to: Varsity Auto Repair, 5625 Old Frederick Road, 21228, is parked in the driveway of 1220 North Ave. 21227. This truck parks at this address at various times of day and often overnight. It also regularly drives on the roads of the 1200 block North Ave. and the 5200 block Talbot Place which are posted with signs banning the trucks. NCF

13th DP
3/13

Thank you.

1319 510380

RECEIVED
MAR 12 1998
PDM

P.C. #2

LICENSE NO. 1

BALTIMORE COUNTY TOWING LICENSE

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
410-887-3616

****

LICENSE IS HEREBY GRANTED TO:

NAME VARSITY AUTO REPAIR, INC. T/A VARSITY TOWING
(Proprietor, Partner or Officer of Corporation)

ADDRESS 5625 Old Frecerick Rd. CITY/STATE Catonsville, MD. ZIP CODE 21228

" To operate TOWING VEHICLES within the bounds of Baltimore County in accordance with the terms and provisions of Article VI, TOWING BUSINESS, Sec. 24.226 through 24-235 of the Baltimore County Code, as amended and any Rules and Regulations from the Department of Permits and Development Management in accordance with Section 24-223. "

Director of Permits and Development Management

January 5, 1999
Date Issued

LICENSE EXPIRES DECEMBER 31, 1999

****

I hereby certify that this is a true copy of the original license issued on 1/5/99.

Deborah L. Kendall, Supervisor
Miscellaneous Permits and Licenses

REV 11/98

THE UNDERSIGNED HEREBY CERTIFIES THAT ALL STATEMENTS CONTAINED HEREIN ARE TRUE AND CORRECT.

WITNESS SIGNATURE:	OWNER SIGNATURE(S)	DATE
		10/15/98

****

ZONING APPROVAL/DISAPPROVAL _____ DATE _____

If disapproved, state reasons why _____
****

POLICE REVIEW:

How many requests for a tower were made in this general area of the request within the last 12 months? _____

In the Police departments view, was the response time from existing tower(s) adequate in meeting demands? YES _____ NO _____

Other comments _____
********** OFFICE USE ONLY **********

Application/License No: 1 Date Paid 10/15/98 Cash Receipt No. B020938 Fee Paid 50.00 Date Issued _____

REV 8/98

FEES:
NEW APPLICANTS $125.00
RENEWAL APPLICANTS $ 50.00

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 101
410-887-3616

LICENSE YEAR JANUARY 1 - DECEMBER 31 99

MAKE CHECK OR MONEY ORDER PAYABLE TO "BALTIMORE COUNTY, MARYLAND".

TRADE NAME OF BUSINESS VARSITY TOWING

BUSINESS ADDRESS 5625 OLD FREDERICK RD ZIP CODE

MAILING ADDRESS CATONSVILLE, MD ZIP CODE 21228

DAY TELEPHONE NUMBER 410-747-6797 NIGHT TELEPHONE NUMBER 410-747-6797

FULL CORPORATE NAME VARSITY AUTO REPAIR, INC

NAME OF INSURANCE COMPANY CNA POLICY NO. GAR 107427 5117
(Evidence of comprehensive general liability coverage policy must be attached.)

MD MVA LICENSE TAG NO.	MAKE	VEHICLE SERIAL NO.	MODEL YEAR	NAME REGISTERED UNDER
211-4TT	INT	1HTSCABM4VH472879	(97)	VARSITY AUTO REPAIR, INC
TT6-536	INT	1HTSCABM8SH211119	(95)	"
TT8-836	INT	1HTSCABM8SH600485	(95)	"
134-1TT	INT	1HTSCACL9TR115624	9524	(94) "
TTD-542	UD	JNAMC02JJNGF69267	(92)	"

(All new/replacement towing vehicles must be registered immediately with the Department of Permits and Development Management.)

In consideration of the granting of this license, the applicant agrees that he will conform to and abide by all of Article VI. TOWING BUSINESS, Sec. 24-221 through 24-235 of the Baltimore County Code, 1988, as amended and any Rules and Regulations from the Department of Permits and Development Management in accordance with section 24-223.

THE UNDERSIGNED HEREBY CERTIFIES THAT ALL STATEMENTS CONTAINED HEREIN ARE TRUE AND CORRECT.

WITNESS SIGNATURE: OWNER SIGNATURE(S) DATE

Walter C. Amm 10/15/98

****

ZONING APPROVAL/DISAPPROVAL DATE

If disapproved, state reasons why
****

POLICE REVIEW:

How many requests for a tower were made in this general area of the request within the last 12 months?

In the Police departments view, was the response time from existing tower(s) adequate in meeting demands? YES NO

Other comments
********** OFFICE USE ONLY **********

Application/License No. 1 Date Paid 10/15/98 Cash Receipt No. B020938 Fee Paid 50.00 Date Issued /

REV 8/98

BALTIMORE COUNTY POLICE DEPARTMENT
INTRA-DEPARTMENT CORRESPONDENCE

TO: Lieutenant Minda Foxwell **DATE:** December 8, 1998

FROM: Officer Frederick B. Denker

SUBJECT: Towing Renewal Application
Varsity Auto Repair, Inc, 99-01, TRM# 98-13

The undersigned conducted inspections of Varsity Towing, located at 5625 Old Frederick Road, Baltimore, MD 21228. The purpose of these inspections was to fulfill the Department's responsibilities in the annual permit renewal process. An inspection was conducted on the tow vehicles and of the facilities on 11/17/98. Dennis McElgunn Owner, signed the attached rate schedule (original on file).

This tow company has five tow vehicles. They were found to be properly equipped and in good working order.(Copies of the Inspection reports are attached.)

Reg. Plate	Make	VIN	Year
1. 2114TT	Int'l	1HTSCABM4VH472879	1997
2. TT8658	Int'l.	1HTSCABM8SH211119	1995
3. TT8836	Int'l.	1HTSCABM8SH604585	1994
4. 1341TT	Int'l.	1HTSCACL9RH569524	1994
5. TT0542	UD	JMAME08J0NGF65207	1992

This tow company's storage lot was also inspected and found to be approximately one half full with adequate storage for additional vehicles, and properly enclosed.

A check of this company's file revealed no sustained complaints or missed calls for service. During the period from November 1, 1997 to October 31, 1998, this company handled 1,037 calls for service,(totals for the month of June and July from precinct one were not received and are not available, and are therefore not included in this total).

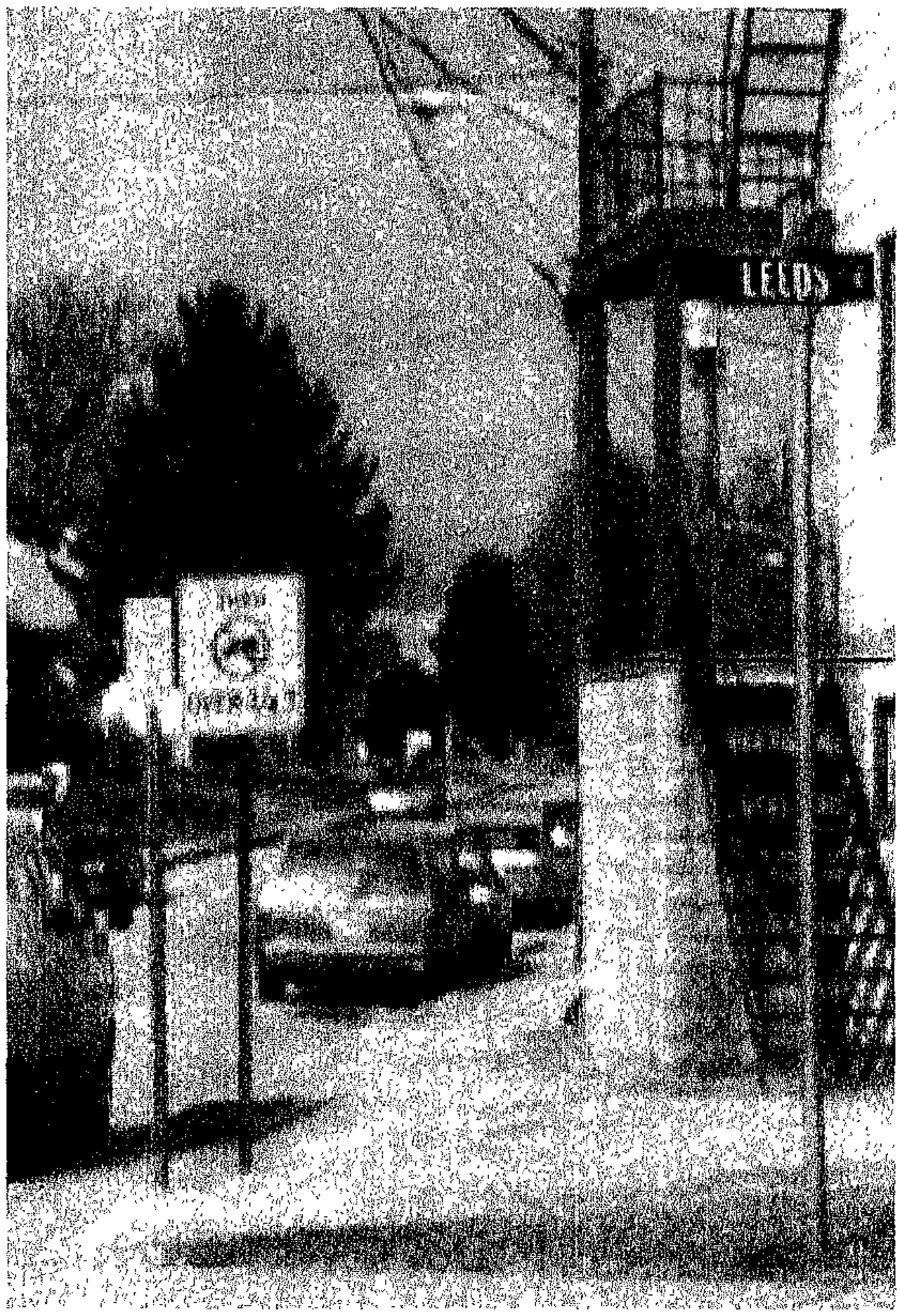
A copy of the insurance coverage is attached.

Respectfully,

Officer Frederick B. Denker #3247
Traffic Management Unit

Attachments

P.C. #4



NORTH AVE. AND LEEDS AVE.

2/13/99

P.C. # 5

LINDEN AVE. AND TALBOT PLACE

2/13/99

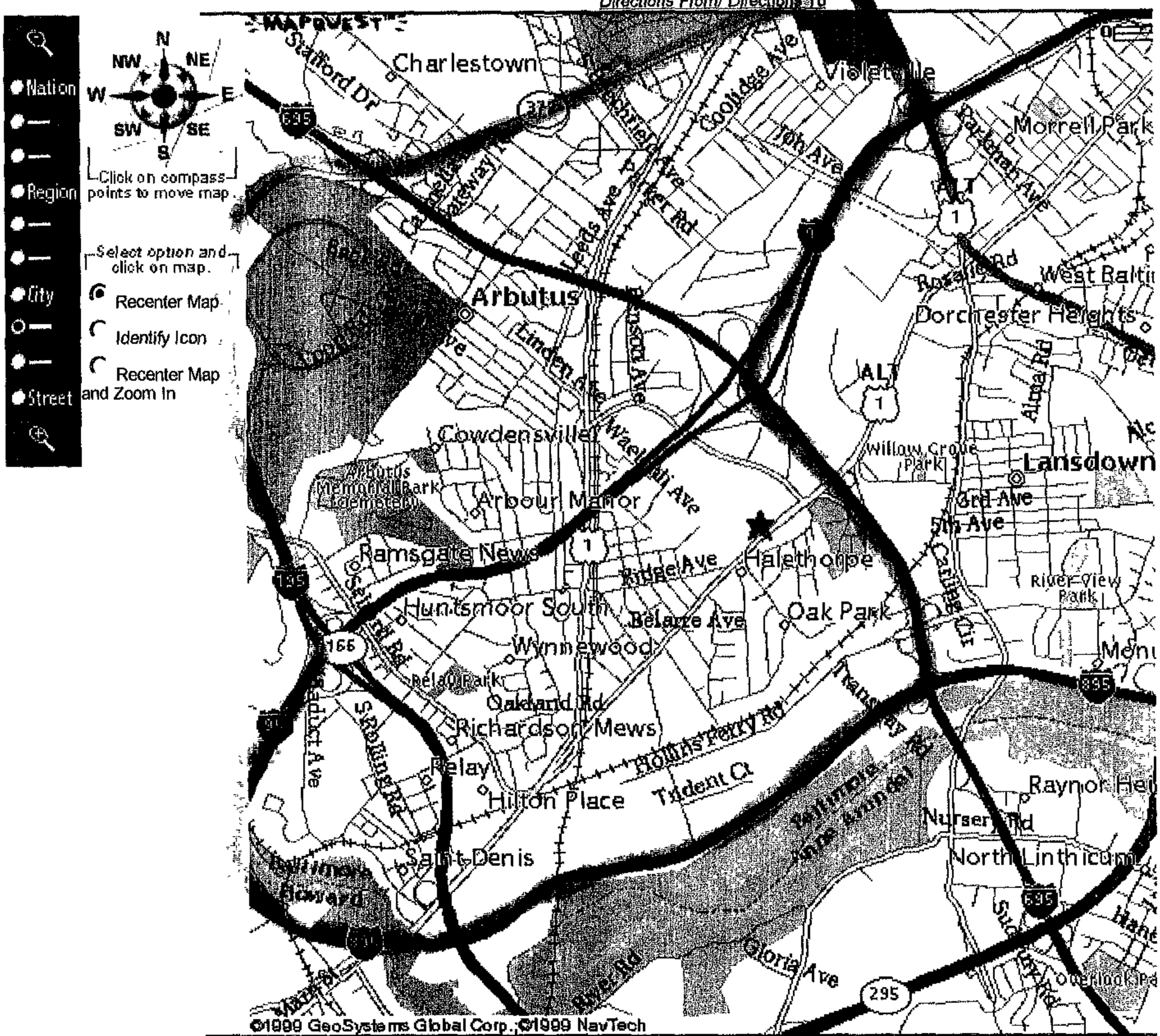
Maps | Driving Directions | Travel Guide | Buy a Map | Free Membership | Products & Services

Map Results

use subject to license/copyright

www.Mamma.com

Your search origin is : , ARBUTUS, MD, US
Directions From/ Directions To



Tip: You must have the zoom level set at City level or lower in order to view any Places Of Interest (POIs) on the Map.

Quick Places of Interest

Click on buttons to show/remove the location(s) on the map.

BLOCKBUSTER
BORDERS
kinko's
Volkswagen

Places of Interest (US/Eu

Select a category and click on Up

- Attractions
- Banks & ATMs
- Dining
- Education
- Lodging
- Recreation
- Transportation
- Personal

P.C. #8

Greater Arbutus
Community Alliance

P.O. Box 18223 Baltimore, MD 21227

RESOLVED: That at the meeting of the general membership of the Greater Arbutus Community Alliance, Inc., held on January 21, 1999, the membership voted unanimously to support the appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusion of Law dated August 19, 1998 of the Baltimore County Zoning Commissioner in the case entitled Petition for Zoning Variance, 1220 North Avenue, 470' NW of c/l of Leeds Avenue, 13th Election Dist., 1st Councilmanic, Frank D. Reitterer, et al., Petitioners, Case No. 98-406A.

AS WITNESS OUR HANDS AND SEAL this 15th day of February, 1999.

ATTEST:

GREATER ARBUTUS COMMUNITY ALLIANCE, INC.

Donna Cameron
Secretary

By: Paula Wolf
President

Greater Arbutus
Community Alliance

P.O. Box 18223 Baltimore, MD 21227

RESOLVED: That at the meeting of the general membership of the Greater Arbutus Community Alliance, Inc., held on January 21, 1999, the membership voted unanimously to support the appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusion of Law dated August 19, 1998 of the Baltimore County Zoning Commissioner in the case entitled Petition for Zoning Variance, 1220 North Avenue, 470' NW of c/l of Leeds Avenue, 13th Election Dist., 1st Councilmanic, Frank D. Reitterer, et al., Petitioners, Case No. 98-406A.

AS WITNESS OUR HANDS AND SEAL this 15th day of February, 1999.

ATTEST:

GREATER ARBUTUS COMMUNITY ALLIANCE, INC.

Donna Cameron
Secretary

By: Paula Wolf
President

Greater Arbutus
Community Alliance
P.O. Box 18223 Baltimore, MD 21227

AFFIDAVIT

I, Paula Wolf, President of the Greater Arbutus Community Alliance, Inc. ("Association"), hereby certify that the following duly authorized officers and directors of the Association may represent, speak and/or testify on behalf of the Association at any proceeding, hearing, trial, and/or meeting held in the State of Maryland for the period January 21, 1999, through December 31, 1999:

Paula Wolf	President
Evelyn Paul	Vice President
Katheryn Hartig	Treasurer
Donna Cameron	Secretary
Eleanor VanDevender	Zoning Committee member
Marva Heier	Zoning Committee member

I hereby certify under penalty of perjury that the information contained herein is accurate to the best of my knowledge, information, and belief.

AS WITNESS OUR HANDS AND SEAL this 15th day of February, 1999.

ATTEST:

Donna Cameron
Secretary

GREATER ARBUTUS COMMUNITY ALLIANCE, INC.

By: Paula L. Wolf
Paula Wolf
President

P.C. #9

Lansdowne Improvement ASSOCIATION, Inc.

RESOLVED: That at the Annual meeting of the Lansdowne Improvement Association held on May 12, Tuesday, 19 98, it was decided by the Association that responsibility for review and action on all zoning matters for the period June 1998 Till June 1999 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members:

Theresa Lowry
Rose Marie Miller
Dixie Yanoklov
Patricia Snyder.
Bob Hooe

AS WITNESS OUR HANDS AND SEAL THIS Tuesday **day of** May 12 Tuesday, 19 98.

ATTEST:

Lansdowne Improvement Association, INC

Dorothy Winke Dorothy Winke
Secretary

Rose Miller Rose Miller
President

Lansdowne Improvement ASSOCIATION, Inc.

RESOLVED: That the position of the Lansdowne Improvement Association as adopted by the (Board of Directors) (Zoning Committee) on the zoning matter known as:

parking a Truck in a residential zone.

is that: We believe that this issue-changes the residential caracter of the community and it will create blight in a residential zone. expecially if you live in a blue-collar area. It will also create Traffic problems in the smaller street areas.

AS WITNESS OUR HANDS AND SEAL THIS Tuesday day of Feb 9th, 19 99.

ATTEST: Lansdowne Improvement Association Inc

Dorothy Wiseke Dorothy Wiseke
Secretary

Rosemary Miller Rosemary Miller
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the (Board of Directors) (Zoning Committee) of the Lansdowne Improvement Association. INC

Shirley Mary Lowy

ATTEST:

Lansdowne Improvement Association

Dorothy Stricker
Secretary

Rosemary Miller
President

DATE: Feb 17, 1998

IN THE MATTER OF THE APPLICATION OF KATHERINE A. GERRY FOR VARIANCE ON PROPERTY LOCATED ON THE SOUTH SIDE OF STEVENS ROAD, 120' WEST OF CENTERLINE CORELEY BEACH ROAD (5834 STEVENS ROAD) 11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	* * * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 97-7-A

* * * * * * * * * * *

OPINION

This case comes before the Board on appeal from a decision of the Zoning Commissioner dated August 7, 1996, granting a Variance from Section 431.B.3.b.c of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle with advertising to be parked in the front yard of the subject property.

Appearing and testifying as a Protestant in the matter was Mark A. Guelta, who was represented by Francis X. Borgerding, Jr., Esquire. The Petitioner, Katherine A. Gerry, who was not represented by counsel, appeared and testified in her own behalf.

Based on the testimony and evidence presented as exhibits, the Board finds the following facts. The subject property, at 5834 Stevens Road in White Marsh, is a waterfront home located on Bird River and zoned R.C.2. Wayne Gerry, Jr., the son of the Petitioner, lives with her. He is employed by the Caplan Glass Company and parks a company truck, which he uses on the job, on the subject property, in the yard abutting the road, when he is not working.

Mr. Guelta, who lives next door to the Petitioner, opposes the granting of the Variance for safety reasons. He testified that children run and ride out into the narrow street from behind the truck without looking, and that he once nearly hit Mr. Gerry, Jr.'s young son when the boy ran out from behind the truck. He also objects to the Variance on the grounds that the truck may detract from property values if allowed to be parked near the street.

Bernie Steinharter, vice-president of Caplan Brothers, testified that Mr. Gerry, Jr., uses the truck for emergency repairs, which can occur at night and on weekends. However, Mr. Steinharter conceded on cross-examination that it is not a job requirement for Mr. Gerry to take the truck home, but more of a convenience, as the company has a commercial parking lot at 700 West Hamburg Street.

may not display any advertising except on the driver's door or front seat passenger's door (Section 431.B.3.b); and that the vehicle shall be parked in a side or rear yard (Section 431.B.3.c).

It is therefore necessary to determine what is the rear yard and what is the front yard of the subject property, which is a waterfront home. Baltimore County Zoning Regulations offer no definitions of front and rear yards in relation to the street, or, if a waterfront property, in relation to the water. However, this Board has found in past cases that waterfront homes are considered to have their front yards facing the water and their rear yards abutting the street, since people with homes on the water generally treat the yard facing the water as their front yard because of its view.

As an example, in Case No. 93-393-SPH, William P. Jordan, which concerned a property fronting on the Chesapeake Bay, the Board said that an enclosed structure in the yard facing the water was in the front yard.

The Zoning Commissioner, in Case No. 96-104-A, Joseph G. Bittle, Jr., et ux, stated: "This Zoning Commissioner, as well as the Board of Appeals, has consistently held that the front of waterfront property is that side of the site which faces the water."

In the instant case, the truck in question is being parked in the yard abutting the road. The Board finds that because the subject property is a waterfront property, the truck is being parked in the rear yard, and thus no variance is needed from Section 431.B.3.c.

The Petitioner does need a variance from Section 431.B.3.b, however. Photographs submitted by the Protestant show advertising across the entire side of the truck (Protestant's Exhibits 2A, 2B, 2D, 4 and 5E).

The Board finds that the Petitioner has failed to satisfy the requirements of Section 307.1 and will therefore deny her Petition for Variance from Section 431.B.3.b.

ORDER

IT IS THEREFORE this 11th day of April, 1997, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from Section 431.B.3.b.c of

the Baltimore County Zoning Regulations to allow a commercial vehicle with advertising to be parked in the front yard of the subject property be and is hereby **DENIED**; and it is further

ORDERED that the subject commercial vehicle shall be removed within 30 days from the date of this Order.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Kristine K. Howanski, Acting Chairman

Margaret Worrall

S. Diane Levero

IN THE MATTER OF THE APPLICATION OF STEPHEN R. MALLOY FOR VARIANCES ON PROPERTY LOCATED ON THE SOUTHEAST CORNER OF EASTERN AVENUE AND 47TH STREET (7103 EASTERN AVENUE) 12TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	* * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 94-76-A

* * * * * * * * * * *

OPINION

This matter comes to the Board on appeal from a decision of the Zoning Commissioner dated October 7, 1993, denying the requested variances to permit a commercial vehicle in excess of 10,000 pounds to be parked on a residential lot, and to permit a garage height of 20 feet in lieu of 15 feet. The Appellant was not represented by counsel. The Protestants were represented by Carole Demilio, People's Counsel for Baltimore County.

According to testimony and evidence presented in the case, the Appellant, Stephen R. Malloy, is a self-employed hauler who has lived at the subject property for two years. The property, which consists of a detatched home on .22 acres of land, is located in the residential subdivision of Graceland and is zoned DR 5.5. The Appellant owns a dump truck that is 24 feet long and 10 feet high; it weighs 21,000 pounds unloaded and 42,000 pounds loaded. He hauls for Genstar and other contractors, generally leaving home early in the morning and returning early in the evening. On occasion he plows for the State Highway Administration, in which case he might work some nights and weekends. He usually parks the truck in his driveway, but sometimes parks it in the street.

The Appellant testified that he asked for the variance to allow him to park the truck on his property because he has no place else to park it. He testified that he didn't even want a garage, but he asked for the height variance to build one because neighbors have complained that the truck was an eyesore.

Mr. Malloy testified that he must plug in the truck and run it for 15 minutes to start it in cold weather, and then he is gone all day, while other trucks run up and down Eastern Avenue all day long. He submitted as evidence photos of numerous businesses in the neighborhood (Appellant's Exhibits 3-A through 3-K).

Under cross-examination he conceded that although his property fronts on Eastern Avenue, he must use an access road to get to his property, and he admitted to using roads in the area other than Eastern Avenue. He further testified that he has washed the truck on the subject property on occasion, but stopped doing so when a neighbor complained.

Roxanne Mitchell, who lives at the same address, testified that Mr. Malloy usually arrives home from work after the neighborhood children are home from school, and therefore his truck does not pose a danger in that respect. She testified that he has no other employees and that she never drives the dump truck.

The first witness for the Protestants was Richard Sause, who lives at 538 South 48th Street, a block from the subject property. Mr. Sause, a licensed residential and commercial appraiser, was accepted as an expert witness in real estate appraisal. Mr. Sause testified that the presence of the dump truck had a negative impact on the appearance and property values of the neighborhood.

Nancy Novak testified on behalf of the Graceland Park Improvement Association, of which she is president, stating that the neighborhood is an old, fairly stable residential area consisting primarily of single-family dwellings. She testified that access to the residential area streets is denied to trucks over three-quarters of a ton, and that in her opinion, the safety of the residents is compromised by the dump truck, which must make a sharp left-hand turn to get onto the access road from Eastern Avenue. She further testified that the neighborhood businesses referred to by the Appellant are grandfathered in and that the improvement association has fought long and hard to deny any additional variances. She objected to the construction of a 20-foot-high garage, saying that a garage that large would look like another home.

Maxine Geize, who has lived at 7111 Eastern Avenue for 47 years, testified that on one occasion, when the Appellant was changing a tire on the truck, the tire blew up, making a tremendous noise. She testified that when she was in the house next door to the subject property, the house vibrated when the truck was running its engine. She further testified that if a 20-foot-high garage were built on the Appellant's property, it would take away her view of the harbor.

Joseph Lamb, who resides three houses from the subject property, testified that his and his wife's sleep are interrupted by the noise of the truck.

The Appellant seeks relief from Section 431 of the Baltimore County Zoning Regulations (B.C.Z.R.), which prohibits parking of commercial vehicles exceeding 10,000 pounds in vehicle weight on residential property, and from Section 400.2 of the B.C.Z.R., which limits garages on residential properties to a height of 15 feet.

Section 307.1 of the B.C.Z.R. states that a variance may be granted only in cases where special circumstances exist that are peculiar to the land or structure that is the subject of the variance request and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship; further, such a variance may be granted only if in strict harmony with the spirit and intent of the subject regulations and only if it does not do injury to the public health, safety and general welfare.

The Appellant stressed as a practical difficulty that he had been unable to find any other place to store his truck, which he needs to make a living. However, he presented no evidence to show that any special circumstances or conditions exist that are peculiar to the land or structure of the subject property and that would justifiy the granting of the requested variances.

Further, the Board finds that the requested variances would violate the spirit and intent of the cited regulations, which are aimed at preserving the character and quality of residential neighborhoods. The Board also finds that granting the variances would compromise the safety of the neighborhood, because the daily operation of the dump truck from the subject property poses a potential safety hazard to residents.

Regarding the request to build a garage 20 feet high in lieu of 15 feet, Section 101 of the B.C.Z.R. defines an accessory structure as one relating to the principal use of the property. The Board finds that a garage built of a size to store a commercial truck is not a proper accessory use for a residence.

For all these reasons, the Board will deny the Appellant's Petition for Variance.

O R D E R

IT IS THEREFORE this 14th day of March, 1994, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance to permit a commercial vehicle in excess of 10,000 pounds to be parked on a residential lot be and is hereby **DENIED**; and it is further

ORDERED that the Petition for Variance to permit a garage height of 20 feet in lieu of the required fifteen feet be and is hereby **DENIED**; and it is further

ORDERED that the Petitioner shall cease and desist the parking/storage of his truck and any vehicle in excess of 10,000 pounds on the subject property within 30 days from the date of this Opinion.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

Michael B. Sauer

S. Diane Levero

IN THE MATTER OF THE APPLICATION OF DAVID RAY PICKLE, ET UX FOR A ZONING VARIANCE ON PROPERTY LOCATED ON THE NORTH SIDE OLIVER BEACH ROAD, 780 FT. EAST OF THE CENTERLINE OF GUNPOWDER ROAD (7222-A OLIVER BEACH ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	* * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO: 94-374-A

* * * * * * * * * * * * * * *

O P I N I O N

David R. and Elizabeth M. Pickle appeal from the Deputy Zoning Commissioner's Order dated May 17, 1994 denying their Petition for Variance to permit a commercial vehicle of 13,000 lbs. in lieu of the maximum permitted 10,000 lbs. to be parked in a residential area for a period exceeding the time essential to its immediate use. The subject property and relief sought are more particularly described on the plat which accompanied the Petition filed in this matter and marked as Petitioner's Exhibit 2.

Petitioners David R. and Elizabeth M. Pickle appeared and testified, represented by T. Wray McCurdy, Esquire. Also appearing in support of the requested variance was Lacy Jones, next-door neighbor to Petitioners residing at 7224 Oliver Beach Road.

From the testimony and evidence, we find the facts as follows. The subject site consists of 9500 sq. ft., more or less, zoned D.R. 5.5 and is improved with a single-family dwelling and accessory shed. Mr. Pickle owns a 13,000 lb. truck which he uses in his business as a private owner/operator truck driver for the U.S. Postal Service. He has parked this vehicle in the crusher run driveway of his property for approximately the past 4 years. Mr. Pickle travels all over the East Coast, and the truck is parked on his property an average of 2 days every 2 weeks. The time varies as to when he must travel for the U.S. Postal Service. Mr. Pickle further testified that his daughter suffers from seizures and from

time to time, it has become necessary to take her to the hospital. Other than the tractor-trailer rig, the family owns only one other vehicle, a conversion van. Mr. Pickle contends that if the variance is denied and an emergency would occur, it would be difficult to transport his daughter to the hospital if he was using the van to drive to where his tractor-trailer rig was being stored.

Appearing and testifying in opposition to the relief requested were Michael Sudbrink, and Gary and Charlotte Cullings, the former and the adjoining property owners on the sides of the subject site. They are generally opposed to the tractor-trailer rig being stored on the property. The Protestants voiced concern over this large vehicle travelling up and down this dead-end road where small children in the neighborhood ride their bikes and play, as well as walk to the elementary school up the street. The Protestants fear for the safety of their children and others given the size of this vehicle. Further testimony revealed that the Petitioner performs maintenance on the vehicle in his driveway and has on occasion used floodlights to work on the vehicle at night. The Protestants testified that the vehicle is both noisy and unsightly, and that the Petitioner makes it a point to blow the air horn when he leaves his house in the morning and when he returns. Further testimony revealed that the Petitioner has caused damage to the sides of the road and drain pipes as a result of the maneuvering he must do to get his truck in the driveway.

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

must meet the following:

1. Whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2. Whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that special circumstances or conditions exist which are unique to the Petitioners' land or structure so that they would experience practical difficulty or unreasonable hardship if the requested variance were denied. Even if the Baltimore County Zoning Regulations (BCZR) would allow substituting the word "vehicle" for "land or structure," there are no special circumstances with regard to the particular vehicle which exist. It does not appear that IDM Trucking requires a vehicle of this size, nor does the evidence provide a factual understanding to make that finding. Certainly, if Petitioner gets a new truck 10,000 lbs or under, he is permitted by the zoning regulations to park in a residential area, and all concerned should be aware that this use is permitted by the BCZR. Furthermore, it is clear that the storage of a commercial truck of this size is inappropriate for the community, given the fact that this road is a dead-end street and is used as a play area by the children of this neighborhood. The testimony presented by

Petitioners was in support of a matter of convenience rather than of the necessity for the variance. The Petitioners have failed to show that relief can be granted in such a fashion that the spirit of the ordinance will be observed and the public safety and welfare of all the residents in this community secured. Therefore, the variance requested must be denied.

O R D E R

IT IS THEREFORE, this 11th day of January, 1995, by the County Board of Appeals of Baltimore County,

ORDERED that a variance from Section 431.A of the Baltimore County Zoning Regulations to permit a commercial vehicle of 13,000 lbs. in lieu of the maximum permitted 10,000 lbs. to be parked in a residential area for a period exceeding the time essential to its immediate use be and is hereby DENIED; and it is further

ORDERED that Petitioners shall remove this vehicle from the subject property no later than sixty (60) days from the date of this Order.

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

C. William Clark, Acting Chairman

Robert O. Schuetz

Harry E. Buchheister, Jr.

IN THE MATTER OF THE APPLICATION OF FRANCIS J. REINSFELDER FOR VARIANCE ON PROPERTY LOCATED ON THE SOUTH SIDE THIRD AVENUE, 400' +/- SOUTHEAST OF CENTERLINE HARFORD ROAD (3013 THIRD AVENUE) 11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO: 94-176-A

* * * * * * * * * * * * * * * * *

O P I N I O N

This case comes before the Board on appeal from the Zoning Commissioner's Order dated November 30, 1993, denying Petitioner's request for a variance from Section 431 of the Baltimore County Zoning Regulations (BCZR), to permit one commercial vehicle (large step van) to be parked in his front yard rather than the required rear or side yard. Francis J. Reinsfelder appeared and testified on his own behalf. Robert Browning, Gloria L. Marken, Jerry Miller, and Catherine M. Tracey testified in opposition to the requested relief, and Carole S. Demilio, Deputy People's Counsel, also participated in the proceedings.

From the testimony, the Board finds that Mr. Francis J. Reinsfelder is the owner of 3013 Third Avenue. The subject property is located within an established community known as Thornwood. Mr. Reinsfelder operates a business known as Fire and Ice Heating and Air Conditioning. Mr. Reinsfelder uses a white step van in the pursuit of his business. The step van measures approximately 26 ft. in length, 7.5 ft. in width, and 9 ft. in height, and is frequently parked on the parking pad in front of Mr. Reinsfelder's residence at 3013 Third Avenue.

Case No. 94-176-A Francis J. Reinsfelder

From the evidence, the Board concludes that Mr. Reinsfelder has failed to meet his burden of proof in this case. Under McLean v. Soley, 270 Md. 208 (1973), the Petitioner has failed to prove practical difficulty or undue hardship. The Board further concludes that the requested relief would not be in harmony with the spirit of the BCZR nor in the best interests of securing the public's safety and welfare. The Board bases its conclusions on, among other things, the testimony of the protestants that the large commercial step van is out of character with the residential neighborhood which is over 50 years old. The Board also accepts the testimony of Catherine M. Tracey that the parking of the subject vehicle causes her difficulty in backing and pulling out of her driveway, which creates a safety hazard for her and other drivers in the neighborhood.

O R D E R

IT IS THEREFORE, this 10th day of May, 1994, by the County Board of Appeals of Baltimore County,

ORDERED that the Petition for Variance to permit one commercial vehicle to be parked in the front yard of a residential lot, in lieu of the required side or rear yard, be and is hereby DENIED.

1. The Petitioner shall be allowed thirty (30) days from the date of this Order to cease parking his commercial vehicle in the driveway of the front yard of his property at 3013 Third Avenue.

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

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Judson H. Lipowitz, Acting Chairman

Harry E. Buchheister, Jr.

Robert O. Schuetz

1 Reinsfelder vs. Baltimore County Board of Appeals

2 Case Number 94-CV-5408

3 Before Honorable Robert E. Cadigan, Associate Judge

4 December 6, 1994

5

6 Opinion of the Court

7

8 My standard of review for this Court, as Ms.
9 Demilio pointed out and you have agreed, is very limited.
10 The Courts recognize that the zoning agency is
11 charged with the fact finding process and this process
12 involves the drawing of inferences. This Court cannot, as
13 pointed out in the Mangeone case, substitute its judgment on
14 the question as to whether the inference drawn is the right
15 one or whether a different inference would be better. The
16 test is reasonableness.
17 This Court has to give due deference to the rights
18 of an administrative agency, such as Baltimore County Board of
19 Appeals, to draw reasonable inferences from the facts and
20 circumstances presented before it.
21 This Court cannot conclude that the decision of
22 the County Board of Appeals was arbitrary and/or capricious
23 and, accordingly, will dismiss your appeal and affirm the
24 decision of the County Board of Appeals.
25 ***

P.C. Exh. #

IN THE MATTER OF THE APPLICATION OF JAKE RUBINSTEIN -Petitioner FOR A VARIANCE ON PROPERTY LOCATED ON THE WEST SIDE WINDSOR ROAD, 75' NORTH OF THE CENTERLINE OF CARYSBROOK ROAD (902 WINDSOR ROAD) 2ND ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 97-52-A

* * * * * * * * *

O P I N I O N

This case comes to the County Board of Appeals of Baltimore County based on an appeal by the Appellant whereby the Petitioner is seeking relief from Section 431 of the Baltimore County Zoning Regulations (BCZR) to permit a commercial vehicle of 15,000 lbs. to be parked in the front yard of his property in lieu of the maximum permitted 10,000 lbs. in the side or rear yard. The Deputy Zoning Commissioner for Baltimore County had denied the variance relief requested by Order dated September 17, 1996.

The Appellant, Mr. Jake Rubinstein, testified in support of the variance. He indicated that he owned a 14,500 lb. roll-back towing vehicle used in his business that he normally parks on his driveway at the subject property, 902 Windsor Road, which is situated in the Sudbrook Park area of Baltimore County. He indicated that he operates his business essentially from his home; and was required to respond to his clients' towing requests as soon as they are received on his pager. He stated that he had resided at the Windsor Road property for approximately 18 years, and has always had a commercial vehicle parked on the premises. The Petitioner explained that, while Sudbrook Park is located in the National Register of Historic Districts, his property was slightly

outside the boundaries of that District. Mr. Rubinstein indicated that he had always attempted to park the truck in the driveway as infrequently as possible, since he works 10 to 12 hours a day. He stated that there were two residences across the street from his property; and described other homes in proximity to his. Petitioner's Exhibits No. 1, 2 and 3 were admitted into evidence, detailing deed descriptions of 904 Windsor Road, 906 Windsor Road, and 908 Windsor Road. All of these properties reflected the original sale prices of the various properties and subsequent indications that the various properties had increased in value from the original dates of purchase.

The Appellant did not believe that the on-site parking of his truck had had any detrimental effect on the immediate neighborhood by reason of the appreciation on the houses recently sold in the area as reflected on the deeds. Appellant's Exhibits No. 4 and 5 were admitted into evidence, reflecting the Petitioner's truck and other commercial vehicles and Mr. Rubinstein related the various comparisons between the various commercial vehicles. The Petitioner stated that he had made extensive efforts to find another area in which to park the tow truck, but had not been successful. Those areas that he had searched were either not secure for his truck or in sections of the County that were not safe for him to travel at night, or were not accessible during the times that he might be required to tow a disabled vehicle. Petitioner's Exhibit No. 6 was admitted reflecting various newspaper articles outlining the Sudbrook area as a "good place to

live." The Petitioner stated that the presence of his one tow truck could not have any serious impact on the livability aspects of Sudbrook Park.

On cross-examination by Mr. Holzer, the Petitioner admitted that he was aware of the limitations imposed by Baltimore County relative to his tow truck; and the 10,000 lb. GVW imposed on such vehicles. He stated that in September 1995 he had received a letter from the Sudbrook Community Association relative to the tow truck parking, which first objection went back as far as 1982. He stated that he had met with an officer of the Association, Mr. Frank, and realized he was in violation of the parking restriction. He again restated that he only owned this one vehicle but did have a trailer parked at Liberty and Millford Road, but it was not the safest area to park the towing vehicle. The Petitioner further described his property as perpendicular to Windsor Road with a small garage used for limited storage. He was never aware that he could apply for a variance, but admitted that the other houses in the area were basically of the same configuration as his, and that some garages had been converted to smaller, private residences. He stated that the size of his lots were about 6 feet to 8 feet to the property line; and, while his home was not in the Historic District, it was immediately on the other side of the street delineating the District. He restated that the truck was only present on the property at night and on Sundays, and also that he frequently worked a full six days a week. The Petitioner indicated that he did not perform any work on the vehicle on the premises and

that he was a member of a local towing organization, but he was not aware of any formal areas that had been designated by the towing organization on which vehicles such as his could be stored when not in use.

In closing, Petitioner stated that the towing vehicle was needed to be parked on his property essentially to provide clients' service when he was called on his pager, and he also felt that the vehicle would be more secure if he could monitor its presence on the property. Petitioner's Exhibits 7, 8 and 9 were submitted to the Board for consideration and represented comments from local neighbors in which they did not register any specific complaint about the towing vehicle being parked on Petitioner's property.

Mr. Thomas A. Hayden, 1004 Kingston Road, Pikesville, also testified on behalf of the Petitioner and indicated that his property was outside the Historic District and that he had moved to the area in 1991. He stated that he had purchased his home in the Sudbrook area for $90,000 and was fully aware of the Petitioner's towing operation, and of the vehicle being parked on Petitioner's property. He indicated that he did not have any difficulty with the truck being there.

Mr. Brian H. Reynolds, 904 Windsor Road, the Petitioner's next-door neighbor also testified on behalf of the Petitioner and indicated he had purchased his home in the area because Sudbrook was fine residential area, and that he was aware of the commercial vehicle being parked on the premises, but that this did not affect his lifestyle.

Mr. Eddie James Jones, 7 Greenwood Road, also testified on behalf of the Appellant. He indicated he had purchased his home in 1980, was aware of the vehicle, and did not have any difficulty with it being parked in the residential area. On cross-examination, Mr. Jones indicated that he lived about 10 blocks away from the Petitioner's property, and that he uses the Petitioner's towing service.

That finalized the Appellant's case-in-chief, at which point in time Mr. Holzer moved for dismissal of the matter based on the fact that the Appellant had not produced any testimony or evidence that would enable this Board to grant the variance, in light of Section 301.7 of the Baltimore County Zoning Regulations; and also the variance guidelines that have been established by the Court of Special Appeals and the Court of Appeals in both Cromwell v. Ward and the Chesterhaven cases. The Board adjourned for approximately 15 minutes and reconvened, at which time the Motion to Dismiss was granted. Section 307.1 of the BCZR specifically states that a variance may only be granted in cases where special circumstances exist that are peculiar to the land or structure that is the subject of the variance request, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship; and, further, such a variance may be granted only if in strict harmony with the spirit and intent of the subject regulations, and only if it does not do injury to the public health, safety and general welfare.

In accordance with the decision rendered in the Cromwell v.

Ward case, it is first necessary that this Board establish that there are special circumstances that exist that are peculiar to the land or structure that is the subject of the variance request, and if that cannot be established by the testimony and evidence produced at the hearing, the Board is not required to probe any further relative to the practical difficulty or unreasonable hardship issue. It was very clear and conclusive to all the Board members that the Petitioner had failed to meet that burden and had not demonstrated in any way that either the land or structure was in any way different than any other dwelling or land areas in the immediate community; and, indeed, by the Petitioner's own admission, the housing in the general area of the subject property was basically the same configuration. Additionally, the Appellant indicated that the only reasons the vehicle was being parked on his property was essentially for his own convenience and security purposes, but there was no conclusive evidence that the vehicle could not be parked elsewhere.

For all of these reasons, the Board will deny the Appellant's Petition for Variance.

O R D E R

THEREFORE, IT IS THIS 17th day of April, 1997 by the County Board of Appeals of Baltimore County

ORDERED that the request for variance from Section 431 of the Baltimore County Zoning Regulations (BCZR) to permit a commercial vehicle of 15,000 lbs. to be parked in the front yard of the subject property in lieu of the maximum permitted 10,000 lbs. in

the side or rear yard be and is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Acting Chairman

Margaret Worrall

S. Diane Levero

P.C. #10

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
and Development Management

DATE: May 18, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 1220 North Avenue

INFORMATION

Item Number: 406

Petitioner: Reitterer Property

Zoning: DR 5.5

Requested Action: Variance

Summary of Recommendations:

This office is opposed to the storage of any commercial vehicle in excess of 10,000 pounds gross vehicle weight on residential property.

Prepared by: Jeffrey W. Long

Division Chief: Carl L. Kerns

AFK/JL

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RECEIVED
MAY 19 1998
PDM

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 10

BILL NO. 70-88

B.C. EXH. #11

MESSRS. EVANS & HICKERNELL, COUNCILMEMBERS

BY THE COUNTY COUNCIL, May 16, 1988

A BILL ENTITLED

AN ACT concerning

Commercial Vehicles on Residential Property

FOR the purpose of amending the Baltimore County Zoning Regulations in order to define a commercial vehicle and to regulate the parking of such vehicles on residential property in Baltimore County.

BY adding

Section 101 - Definitions, the definition of "Commercial Vehicle"

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 101 - Definitions, the definition of "Garage, Residential"

Baltimore County Zoning Regulations, as amended

BY adding

Section 431

Baltimore County Zoning Regulations, as amended

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

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the definition of "Commercial Vehicle" be and it is hereby added, alphabetically, to Section 101 - Definitions, of the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101 - DEFINITIONS

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
<u>Underlining</u> indicates amendments to bill.

Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these Regulations, certain terms and words are defined as follows:

COMMERCIAL VEHICLE - ANY VEHICLE WITH A GROSS VEHICLE WEIGHT OR GROSS COMBINATION WEIGHT OVER 10,000 POUNDS, OR ANY VEHICLE, REGARDLESS OF WEIGHT, WHICH: ~~(1) IS REGISTERED AS A TRUCK; OR~~ ~~(2)~~ (1) IS USED FOR THE TRANSPORTATION OF MATERIALS, PRODUCTS, FREIGHT, OTHER VEHICLES, OR EQUIPMENT IN FURTHERANCE OF ANY COMMERCIAL ACTIVITY; OR ~~(3)~~ (2) IS USED "FOR HIRE"; OR ~~(4)~~ (3) DISPLAYS ADVERTISING THEREON. IDENTIFICATION OF THE VEHICLE'S MANUFACTURER, MODEL OR DEALER SHALL NOT BE CONSIDERED AS ADVERTISING. COMMERCIAL VEHICLES SHALL NOT BE DEEMED TO INCLUDE ANY FARM VEHICLE OR FARM EQUIPMENT ACTUALLY AND REGULARLY USED ON A FARM, SATELLITE FARM, OR FARMETTE; SCHOOL OR CHURCH VEHICLE LOCATED AT A CIVIC, EDUCATIONAL, SOCIAL, RECREATIONAL OR RELIGIOUS INSTITUTION; RECREATIONAL VEHICLE AS DEFINED IN SECTION 101; TRAILER (OR MOBILE HOME) AS DEFINED IN SECTION 101; VANPOOL OR HISTORIC VEHICLE AS REGISTERED WITH THE STATE MOTOR VEHICLE ADMINISTRATION. AS USED HEREIN, GROSS VEHICLE WEIGHT OR GROSS COMBINATION WEIGHT MEANS THE WEIGHT RECORDED BY THE STATE MOTOR VEHICLE ADMINISTRATION ON THE VEHICLE'S REGISTRATION CERTIFICATE OR RECORDED BY THE MANUFACTURER ON THE CERTIFICATE OF ORIGIN IF NO SPECIFIC WEIGHT IS RECORDED ON THE REGISTRATION CERTIFICATE.

SECTION 2. And be it further enacted, that the definition of "Garage, Residential", in Section 101 - Definitions, of the Baltimore County Zoning Regulations, as amended, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

Garage, Residential: An accessory building, portion of a main building, or building attached thereto, used for storage of private motor vehicles [, only one of which may be a commercial vehicle].

SECTION 3. And be it further enacted that Section 431 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

SECTION 431 - PARKING OF COMMERCIAL VEHICLES ON RESIDENTIAL PROPERTY

(A) A COMMERCIAL VEHICLE EXCEEDING 10,000 POUNDS GROSS VEHICLE WEIGHT OR GROSS COMBINATION WEIGHT MAY NOT BE PARKED ON A RESIDENTIAL LOT FOR A PERIOD EXCEEDING THE TIME ESSENTIAL TO THE IMMEDIATE USE OF THE VEHICLE.

(B) ONE COMMERCIAL VEHICLE PER DWELLING UNIT MAY BE PARKED ON A RESIDENTIAL LOT FOR A PERIOD EXCEEDING THE TIME ESSENTIAL TO THE IMMEDIATE USE OF THE VEHICLE ~~IF THE GROSS VEHICLE WEIGHT OR GROSS~~ SUBJECT TO THE FOLLOWING CONDITIONS:

(1) THE GROSS VEHICLE WEIGHT OR GROSS COMBINATION WEIGHT SHALL NOT EXCEED 10,000 POUNDS.

(2) THE OWNER OR OPERATOR OF THE VEHICLE SHALL RESIDE ON THE LOT.

(3) THE VEHICLE SHALL BE PARKED WITHIN A FULLY ENCLOSED STRUCTURE OR, ALTERNATIVELY, IF NOT WITHIN A FULLY ENCLOSED STRUCTURE:

(a) NO MATERIALS, PRODUCTS, FREIGHT, OR EQUIPMENT SHALL BE VISIBLE;

(b) THE VEHICLE SHALL DISPLAY NO ADVERTISING OTHER THAN LETTERING, FIGURES OR DESIGNS LOCATED ON THE DRIVER'S DOOR OR FRONT SEAT PASSENGER'S DOOR; AND

(c) THE VEHICLE SHALL BE PARKED IN A SIDE OR REAR YARD.

~~COMBINATION WEIGHT EXCEEDS 7,000 POUNDS BUT DOES NOT EXCEED 10,000 POUNDS, OR IF THE VEHICLE DISPLAYS ADVERTISING OTHER THAN LETTERING, FIGURES OR DESIGNS ON THE DRIVER'S DOOR OR FRONT SEAT PASSENGER'S DOOR OF THE VEHICLE, AND~~

~~1) THE VEHICLE SHALL BE PARKED WITHIN A FULLY ENCLOSED STRUCTURE OR IN A REAR OR SIDE YARD FULLY SCREENED FROM PUBLIC VIEW; AND~~

~~2) THE OWNER OR OPERATOR OF THE VEHICLE SHALL RESIDE ON THE LOT.~~

~~C. TWO COMMERCIAL VEHICLES PER DWELLING UNIT MAY BE PARKED ON A RESIDENTIAL LOT FOR A PERIOD EXCEEDING THE TIME ESSENTIAL TO THE IMMEDIATE USE OF THE VEHICLE IF THE GROSS VEHICLE WEIGHT OR GROSS COMBINATION WEIGHT IS 7,000 POUNDS OR LESS, AND IF THE VEHICLE DISPLAYS NO ADVERTISING OTHER THAN LETTERING, FIGURES OR DESIGNS ON THE DRIVER'S DOOR OR FRONT SEAT PASSENGER'S DOOR OF THE VEHICLE, AND~~

~~1) THE VEHICLE SHALL BE PARKED WITHIN A FULLY ENCLOSED STRUCTURE OR IN A REAR OR SIDE YARD FULLY SCREENED FROM PUBLIC VIEW; OR ALTERNATIVELY, ALL MATERIALS, FREIGHT, PRODUCTS, OR EQUIPMENT MUST BE FULLY ENCLOSED WITHIN THE VEHICLE; AND~~

~~2) THE OWNER OR OPERATOR OF THE VEHICLE SHALL RESIDE ON THE LOT.~~

SECTION 4. And be it further enacted, that this Act shall take effect forty-five days after its enactment.

P.C. #13

DATE: 2-18-99

PEOPLE'S COUNSEL'S SIGN IN SHEET

CASE: Frank Reitterer 98-406

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Phone No.	(Community Group You Represent?) Basis of Your Concerns
✓	Paula Wolf GACA P.O. Box 18223 410/247-3125 Halethorpe MD 21227	Greater Arbutus Community Alliance
✓	KATHY HARTIG GACA P.O.B. 18223 410/242-4639 Baltimore 21227	Greater Arbutus Community Alliance
✓	Eleanor VanDevender GACA, P. O. Box 18262	
✓	Yvette Dowry Zoning Chair Lansdowne Imp Assoc.	Lansdowne Improv. Assoc Inc 2517 Hammonds Ferry 21227
✓	Robert Noce 242-3536	Lansdowne Improvement Assoc
✓	Gerard Noce 242-3836	Lansdowne Improvement Assoc
✓	410-665-4322 8719 Eddington Rd Donna Spicer Balto MD. 21234	Loch Raven Community Council & Community Conservation Action Group opposed

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 10

BILL NO. 70-88

B.C. Exh. #

MESSRS. EVANS & HICKERNELL, COUNCILMEMBERS

BY THE COUNTY COUNCIL, May 16, 1988

A BILL ENTITLED

AN ACT concerning

Commercial Vehicles on Residential Property

FOR the purpose of amending the Baltimore County Zoning Regulations in order to define a commercial vehicle and to regulate the parking of such vehicles on residential property in Baltimore County.

BY adding

Section 101 - Definitions, the definition of

"Commercial Vehicle"

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 101 - Definitions, the definition of

"Garage, Residential"

Baltimore County Zoning Regulations, as amended

BY adding

Section 431

Baltimore County Zoning Regulations, as amended

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

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the definition of "Commercial Vehicle" be and it is hereby added, alphabetically, to Section 101 - Definitions, of the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101 - DEFINITIONS

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SECTION 2. And be it further enacted, that the definition of "Garage, Residential", in Section 101 - Definitions, of the Baltimore County Zoning Regulations, as amended, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

Garage, Residential: An accessory building, portion of a main building, or building attached thereto, used for storage of private motor vehicles [, only one of which may be a commercial vehicle].

SECTION 3. And be it further enacted that Section 431 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

SECTION 431 - PARKING OF COMMERCIAL VEHICLES ON RESIDENTIAL PROPERTY

(A) A COMMERCIAL VEHICLE EXCEEDING 10,000 POUNDS GROSS VEHICLE WEIGHT OR GROSS COMBINATION WEIGHT MAY NOT BE PARKED ON A RESIDENTIAL LOT FOR A PERIOD EXCEEDING THE TIME ESSENTIAL TO THE IMMEDIATE USE OF THE VEHICLE.

(B) ONE COMMERCIAL VEHICLE PER DWELLING UNIT MAY BE PARKED ON A RESIDENTIAL LOT FOR A PERIOD EXCEEDING THE TIME ESSENTIAL TO THE IMMEDIATE USE OF THE VEHICLE ~~IF THE GROSS VEHICLE WEIGHT OR GROSS~~ SUBJECT TO THE FOLLOWING CONDITIONS:

(1) THE GROSS VEHICLE WEIGHT OR GROSS COMBINATION WEIGHT SHALL NOT EXCEED 10,000 POUNDS.

(2) THE OWNER OR OPERATOR OF THE VEHICLE SHALL RESIDE ON THE LOT.

(3) THE VEHICLE SHALL BE PARKED WITHIN A FULLY ENCLOSED STRUCTURE OR, ALTERNATIVELY, IF NOT WITHIN A FULLY ENCLOSED STRUCTURE:

(a) NO MATERIALS, PRODUCTS, FREIGHT, OR EQUIPMENT SHALL BE VISIBLE;

(b) THE VEHICLE SHALL DISPLAY NO ADVERTISING OTHER THAN LETTERING, FIGURES OR DESIGNS LOCATED ON THE DRIVER'S DOOR OR FRONT SEAT PASSENGER'S DOOR; AND

(c) THE VEHICLE SHALL BE PARKED IN A SIDE OR REAR YARD.

~~COMBINATION WEIGHT EXCEEDS 7,000 POUNDS BUT DOES NOT EXCEED 10,000 POUNDS, OR IF THE VEHICLE DISPLAYS ADVERTISING OTHER THAN LETTERING, FIGURES OR DESIGNS ON THE DRIVER'S DOOR OR FRONT SEAT PASSENGER'S DOOR OF THE VEHICLE, AND~~

~~1) THE VEHICLE SHALL BE PARKED WITHIN A FULLY ENCLOSED STRUCTURE OR IN A REAR OR SIDE YARD FULLY SCREENED FROM PUBLIC VIEW, AND~~

~~2) THE OWNER OR OPERATOR OF THE VEHICLE SHALL RESIDE ON THE LOT.~~

~~e. TWO COMMERCIAL VEHICLES PER DWELLING UNIT MAY BE PARKED ON A RESIDENTIAL LOT FOR A PERIOD EXCEEDING THE TIME ESSENTIAL TO THE IMMEDIATE USE OF THE VEHICLE IF THE GROSS VEHICLE WEIGHT OR GROSS COMBINATION WEIGHT IS 7,000 POUNDS OR LESS, AND IF THE VEHICLE DISPLAYS NO ADVERTISING OTHER THAN LETTERING, FIGURES OR DESIGNS ON THE DRIVER'S DOOR OR FRONT SEAT PASSENGER'S DOOR OF THE VEHICLE, AND~~

~~1) THE VEHICLE SHALL BE PARKED WITHIN A FULLY ENCLOSED STRUCTURE OR IN A REAR OR SIDE YARD FULLY SCREENED FROM PUBLIC VIEW, OR ALTERNATIVELY, ALL MATERIALS, FREIGHT, PRODUCTS, OR EQUIPMENT MUST BE FULLY ENCLOSED WITHIN THE VEHICLE, AND~~

~~2) THE OWNER OR OPERATOR OF THE VEHICLE SHALL RESIDE ON THE LOT.~~

SECTION 4. And be it further enacted, that this Act shall take effect forty-five days after its enactment.

Baltimore County
Office of Planning & Zoning
Towson, Maryland 21204
494-3211

Norman E. Gerber
Director

PETER M ZIMMERMAN
BALTO CO PEOPLE'S COUN
MS 2206

MAY 20 1987

April 30, 1987

Dennis F. Rasmussen
County Executive

Enclosed is a final report of the Baltimore County Planning Board. This report has been transmitted to the Baltimore County Council. The County Council will establish the date of any public hearing on this report.

Very truly yours,

Norman E. Gerber

Norman E. Gerber, AICP
Director

NEG:slb

Enclosure: Final report adopted April 16, 1987 containing possible amendments to the BCZR concerning Commercial Vehicles on Residential Property

P.C. Exh. # 12

Dennis F. Rasmussen
County Executive

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FINAL REPORT of the
Baltimore County Planning Board
Adopted April 16, 1987

(No Public Hearing Held)

MAY 20 1987
COUNSEL

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING COMMERCIAL VEHICLES ON RESIDENTIAL PROPERTY

Office of Planning and Zoning
Baltimore County, Maryland

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING COMMERCIAL VEHICLES ON RESIDENTIAL PROPERTY

MAY 20 1987

A Final Report of the Baltimore County Planning Board
(Adopted April 16, 1987)

Project Description

County Council Resolution No. 47-86 (see Attachment) requests that the Planning Board consider proposing amendments to the Zoning Regulations in order to define commercial vehicles and regulate the placement of such vehicles on residential property.

Discussion

The Zoning Office frequently receives complaints about vehicles used for business purposes parked on residential property. The number of these complaints is proliferating as County residents increasingly turn to such occupations as light hauling, home repair, yard maintenance, etc., as primary or secondary sources of income. Other County residents drive vehicles belonging to the firm for which they work. These vehicles display advertising for the firm. When vehicles used for commercial purposes are regularly parked overnight and visible off-site, neighbors may find them unsightly and want them removed from the property.

County Council recently adopted amendments to the Zoning Regulations which prohibit outside storage of inoperative vehicles and limit outside storage of unlicensed vehicles to 15 days on residential property (Bill No. 135-86). Unlike inoperative and unlicensed vehicles, which merely require storage, commercial vehicles are licensed, operating vehicles which are used regularly. Regulating their placement on residential property in the same way as unlicensed and inoperative vehicles would not be appropriate.

The Zoning Regulations contain no explicit provisions regarding commercial vehicles parked on residential property. "Commercial vehicle" is referred to within the definition of residential garage in Section 101:

> Garage, Residential: An accessory building, portion of a main building, or building attached thereto, used for storage of private motor vehicles, only one of which may be a commericial vehicle.

Based on this definition, the Zoning Office interprets the Zoning Regulations to mean that one commercial vehicle is permitted on residential property, only if it is parked in a residential garage. The Zoning Office infers from the definition that commercial vehicles may not be parked outside. The Zoning Office considers any vehicle which is used for business purposes to be a commercial vehicle. A vehicle which displays advertising is considered by the Zoning Office to be a commercial vehicle.

Because the Zoning Regulations contain no definition of commercial vehicle, cases prohibiting their placement on residential property tend to be dismissed from Maryland District Court. A definition of commercial vehicle, accompanied by explicit regulations regarding their placement on residential property, would clarify under what circumstances these vehicles are in violation of the Zoning Regulations.

There are several categories of vehicles used for business purposes. Construction equipment, tractor-trailers, moving vans and large buses are heavy vehicles used exclusively for commercial activity. Heavy commercial vehicles are objectionable in residential communities because of their noise, weight and bulk. The County Code prohibits them from parking on public roads and streets in residential zones:

> Sec. 17-36. Parking commercial vehicles in residential zones.
>
> (a) It shall be unlawful for any person to park a commercial vehicle, other than automobiles, station wagons or pickup trucks and panel-body delivery trucks having not more than three-quarters of a ton manufacturer's rating capacity, used for commercial purposes, upon any public road, street or way within any residential zone in the county, such residential zones being those as now or hereafter provided for in the zoning regulations for the county, for any period longer than four (4) hours, unless such parking or standing is essential to the immediate use then being made of any such commercial vehicle. Any person violating the provisions of this section shall be guilty of a misdemeanor.
>
> (b) In the event the commercial vehicle referred to in subsection (a) of this section consists of a tractor, trailer or a combination tractor-trailer, the person violating the provisions of this section shall be subject to a fine of fifty dollars ($50.00) each or the tractor or trailer and one hundred dollars ($100.00) for a tractor and trailer, in combination, for each day the violation exists. (Bill No. 135, 1979, § 1)

The cut-off between light and heavy commercial vehicles is generally considered to be a carrying capacity of three-quarters of a ton. There are some one ton pickup trucks. A carrying capacity of one ton is equivalent to a gross vehicle weight (vehicle weight plus capacity) of 10,000 pounds. Light weight commercial vehicles include pickup trucks, vans and passenger cars which are used to carry goods or passengers. These vehicles can be identical to those used strictly for personal transportation.

Light commercial vehicles are sometimes considered undesirable by neighbors because of the equipment they carry or because of the lettering they display. However, these vehicles are often used by the occupant of the property for transportation to work or for family transportation in addition to being necessary for business purposes. Completely prohibiting outside parking of these vehicles could create undue hardship and deprive the occupant of a reasonable accessory use of the property.

Howard County, Prince George's County and Fairfax County, Virginia provide commercial vehicle regulations in their zoning ordinances. Fairfax and Prince George's Counties permit outside parking of one light commercial vehicle on a residential lot. Howard County permits two to three commercial vehicles to be parked on a residential lot, regardless of weight. Zoning administrators from these counties find the regulations easy to administer and enforce.

Comments/Recommendations

It is not always feasible for County residents who use a vehicle for business purposes to build a garage or leave the vehicle at a business location. In addressing the issue of permitting commercial vehicles to park overnight on residential property, it is necessary to balance preserving the character of residential neighborhoods with the need for some County residents to park commercial vehicles at home. Regulating overnight parking of commercial vehicles by the size of the vehicle and restricting the number per dwelling unit provides a way to achieve this balance.

Commercial vehicles should be considered those which are used for business purposes, that is, which carry goods, equipment or passengers for hire. Vehicles which display advertising (other than identification of the vehicle's manufacturer, make or dealer) should also be considered commercial vehicles.

Prohibiting heavy commercial vehicles from parking overnight on residential property would be consistent with County law which prohibits these vehicles from public streets and roads in residential neighborhoods. These vehicles should not be permitted even if parked in a garage, because of their bulk and noise.

Heavy vehicles should be considered those with a gross vehicle weight (or gross combination weight) over 10,000 pounds. Because this information is recorded by the Motor Vehicle Administration on the vehicle's registration form, it is easier to obtain than carrying capacity which requires correspondence with the manufacturer of the vehicle. For a few classes of vehicles, the Motor Vehicle Administration records the weight as more or less than a certain weight, rather than specifying a figure. For those cases, the Zoning Regulations should permit the manufacturer's certificate of origin to be used for verification.

Allowing up to two light commercial vehicles to be parked outside on residential property would be consistent with policy in other jurisdictions. This would permit the occupant of the property to park a vehicle which is necessary for transportation and business purposes outside the residence. The vehicle would be no larger than those used for personal transportation. Requiring that the owner or operator of the commercial vehicle reside on the lot would assure that the parked commercial vehicle is a use accessory to the dwelling unit. Limiting the number of commercial vehicles to two would prevent fleets of commercial vehicles from parking on residential property.

To control the appearance of commercial vehicles on residential property, the Planning Board recommends that any commercial vehicle parked outside be required to store all equipment and materials inside the vehicle so as not to be visible to neighbors. The Planning Board also recommends that advertising be limited to the front doors of the vehicle. If a vehicle weighs 10,000 pounds or less, displays no advertising, and has all materials and equipment stored completely inside the vehicle, it should not be considered a commercial vehicle.

The Planning Board recommends that the Baltimore County Zoning Regulations, 1955, as amended, be further amended as set forth below:

1) Add the following definition to Section 101:

COMMERCIAL VEHICLE - Any vehicle with a gross vehicle weight or gross combination weight over 10,000 pounds, or any vehicle, regardless of weight, which: (1) is used, or normally associated with, the transportation of materials, products, freight, other vehicles, or equipment in furtherance of any commercial activity; or (2) is used "for hire"; or (3) displays advertising thereon except as provided for in Section 431. Identification of the vehicle's manufacturer, model or dealer shall not be considered as advertising. Commercial vehicles shall not be deemed to include any vehicle with a gross vehicle weight of 10,000 pounds or less if the vehicle displays no advertising and all materials, products, freight, or equipment are fully enclosed within the vehicle; any farm vehicle or farm equipment actually and regularly used on a farm, satellite farm, or farmette; school or church vehicle located at a civic, educational, social, recreational, or religious institution; recreational vehicle as defined in Section 101, trailer (or mobile home) as defined in Section 101; vanpool or historic vehicle as registered with the State Motor Vehicle Administration. As used herein, gross vehicle weight and gross combination weight mean the weight recorded by the State Motor Vehicle Administration on the vehicle's registration certificate or recorded by the manufacturer on the certificate of origin if no specific weight is recorded on the registration certificate.

2) Modify the definition of residential garage in Section 101 as follows by deleting the material that is struck out:

<u>Garage, Residential</u>: An accessory building, portion of a main building, or building attached thereto, used for storage of private motor vehicles~~, only one of which may be a commercial vehicle~~.

3) Add a new Section 431 immediately following Section 430 (Unit Developments) as follows:
Section 431 -- Parking of Commercial Vehicles on Residential Property

Two commercial vehicles per dwelling unit may be parked on a residential lot for a period exceeding the time essential to the immediate use of the vehicle, subject to the following conditions:

431.1 The gross vehicle weight or gross combination weight shall not exceed 10,000 pounds.

431.2 The owner or operator of the vehicles shall reside on the lot.

431.3 Any such vehicle shall be parked within a fully enclosed structure or, alternatively, if not within a fully enclosed stucture:

a. All materials, products, freight, or equipment must be fully enclosed within the vehicle; and

b. The vehicle shall display no advertising other than lettering, figures or designs located on the driver's door or front seat passenger's door, except that advertising displayed on other parts of the vehicle shall be permitted until 365 days from the date of the enactment of this legislation..

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1986, LEGISLATIVE DAY NO. 18

RESOLUTION NO. 47-86

MR. EUGENE W. GALLAGHER, COUNCILMAN

BY THE COUNTY COUNCIL, OCTOBER 6, 1986

A RESOLUTION to request the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to define commercial vehicle and to regulate the placement of such vehicles on residential property in Baltimore County.

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

WHEREAS, the Baltimore County Zoning Regulations do not define commercial vehicles, but attempt to regulate their placement on residential property through the definition of a residential garage; and

WHEREAS, the Baltimore County Council, by Resolution No. 44-85, had previously requested the Planning Board to propose amendments to the Zoning Regulations in order to regulate the placement of unlicensed motor vehicles on residential property; and

WHEREAS, the placement of commercial vehicles on residential property is a related problem that has yet to be addressed by the Planning Board.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to define commercial motor vehicles and to regulate the placement of such vehicles on residential property in Baltimore County.

- COPY - P.C. #14

Greater Towson Council of Community Associations, Inc.

334 Ridge Avenue, Towson, Maryland 21286

February 11, 1999

Kenneth Oliver
Board of Appeals Chairman
Baltimore County Office of Planning
401 Bosley Avenue
Towson, MD 21204

Dear Mr. Oliver,

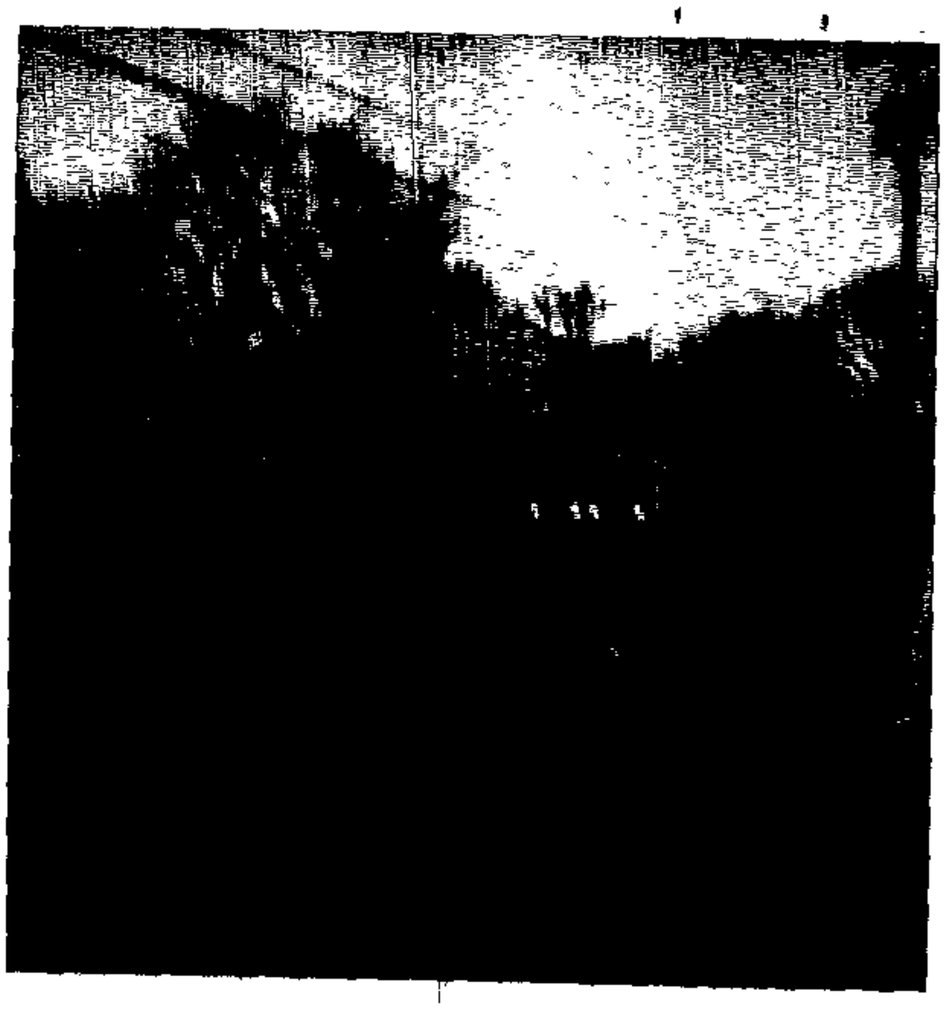
I am writing to you in regard to Case #98-406A, set to be heard by the Board of Appeals on February 18, 1999, regarding the permission to park a large lift-back tow truck in a residential driveway.

The main goal of the Greater Towson Council of Community Associations (GTCCA) is to preserve the integrity of our residential communities. Certainly, permitting the parking of a large tow truck in a residential driveway runs counter to that goal and could easily set a bad precedent for the county at large. Therefore, GTCCA recommends that the Board of Appeals overturn Commissioner Schmidt's decision.

Thank you for your attention to this matter.

Sincerely,

Susan Hughes Gray
President, Greater Towson Council of Community Associations
410/828-1474



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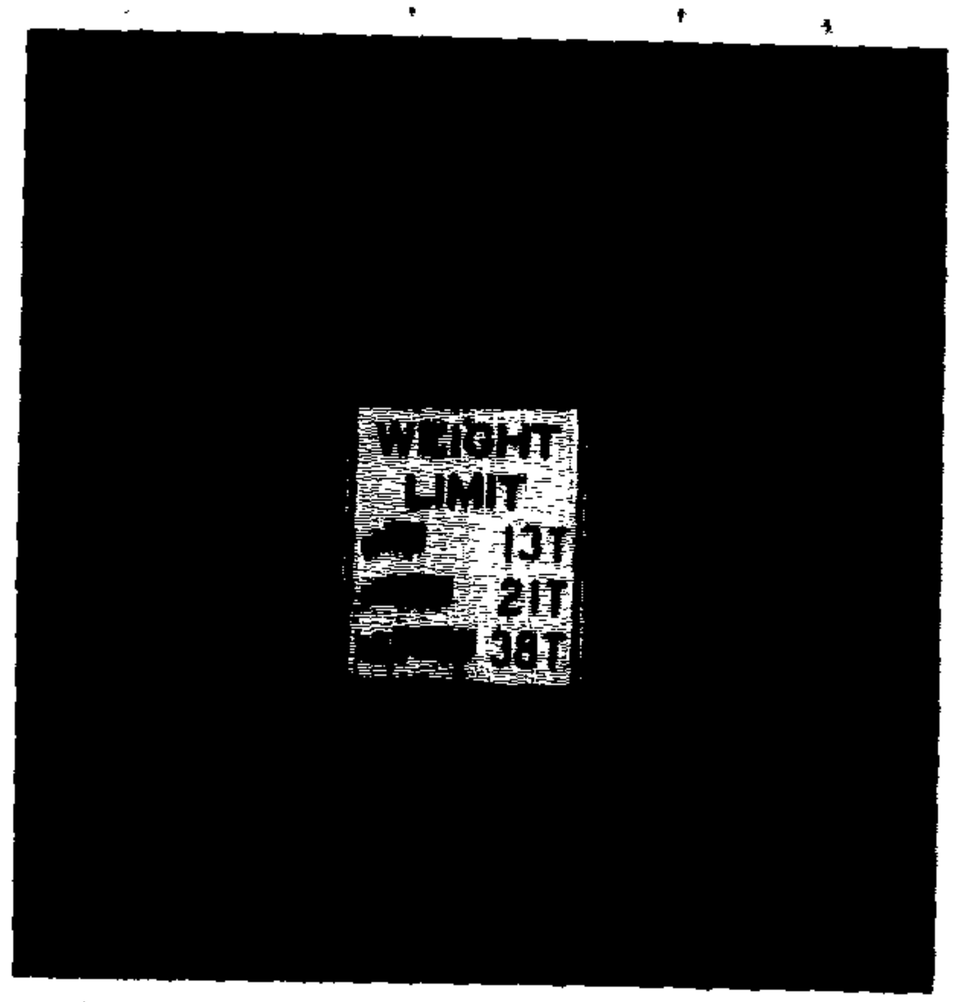

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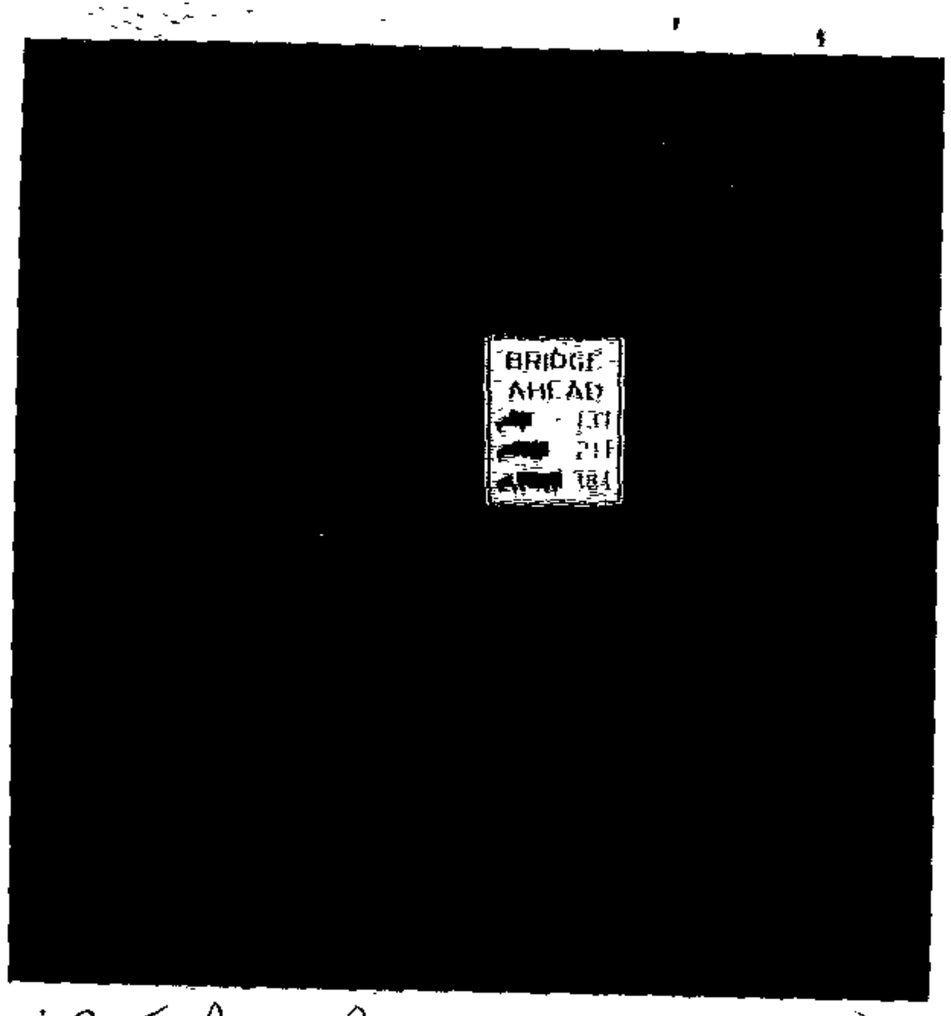

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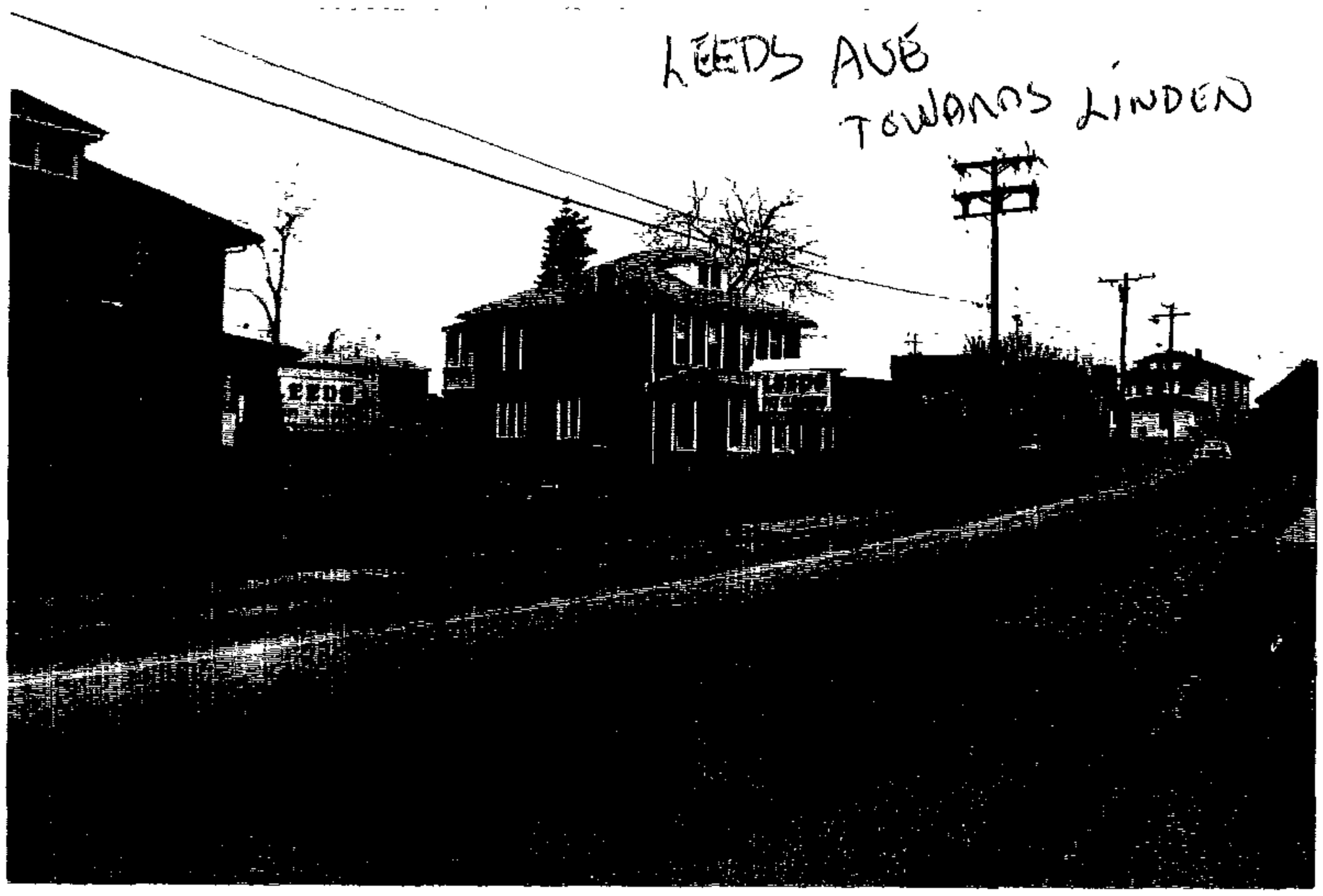
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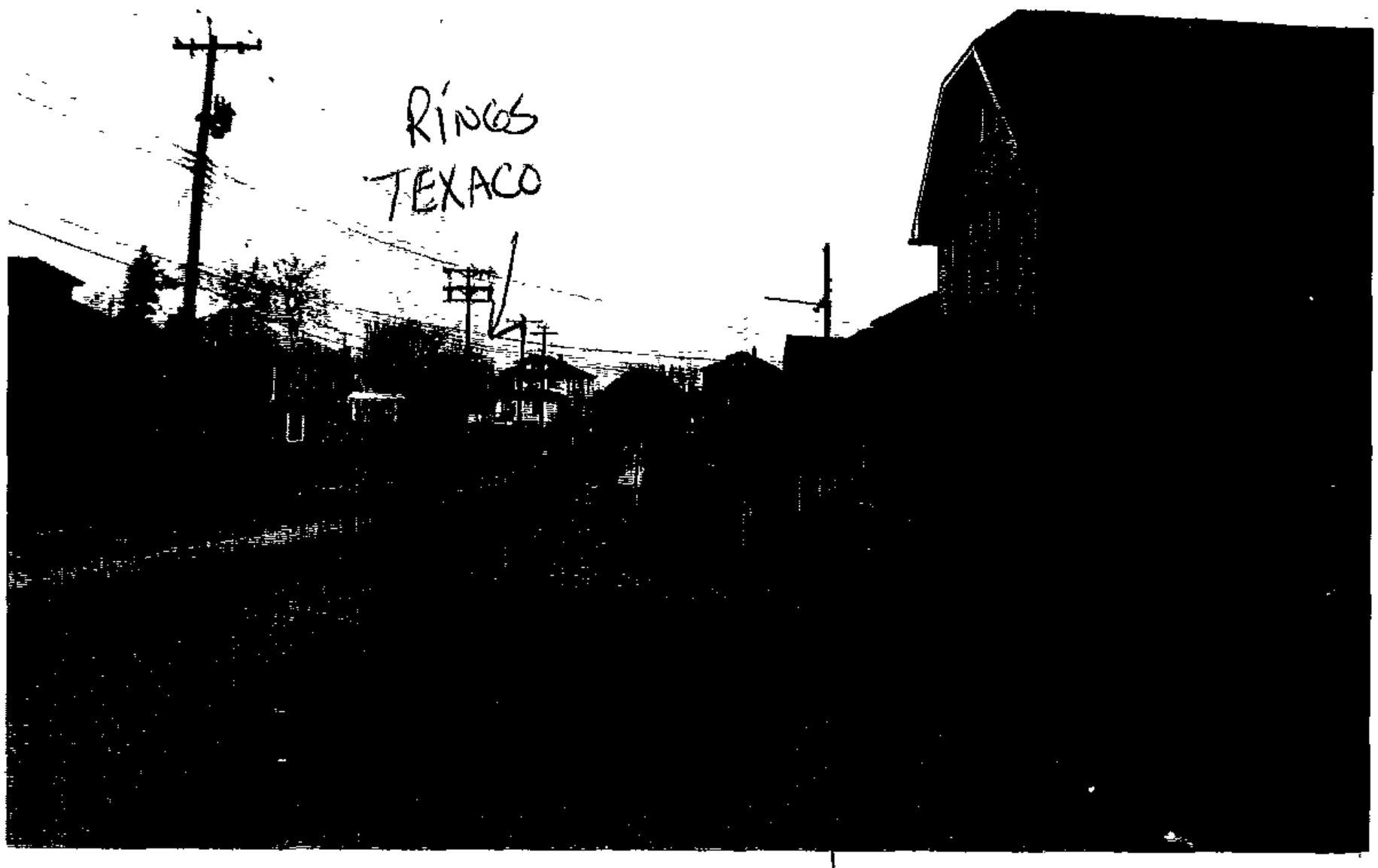
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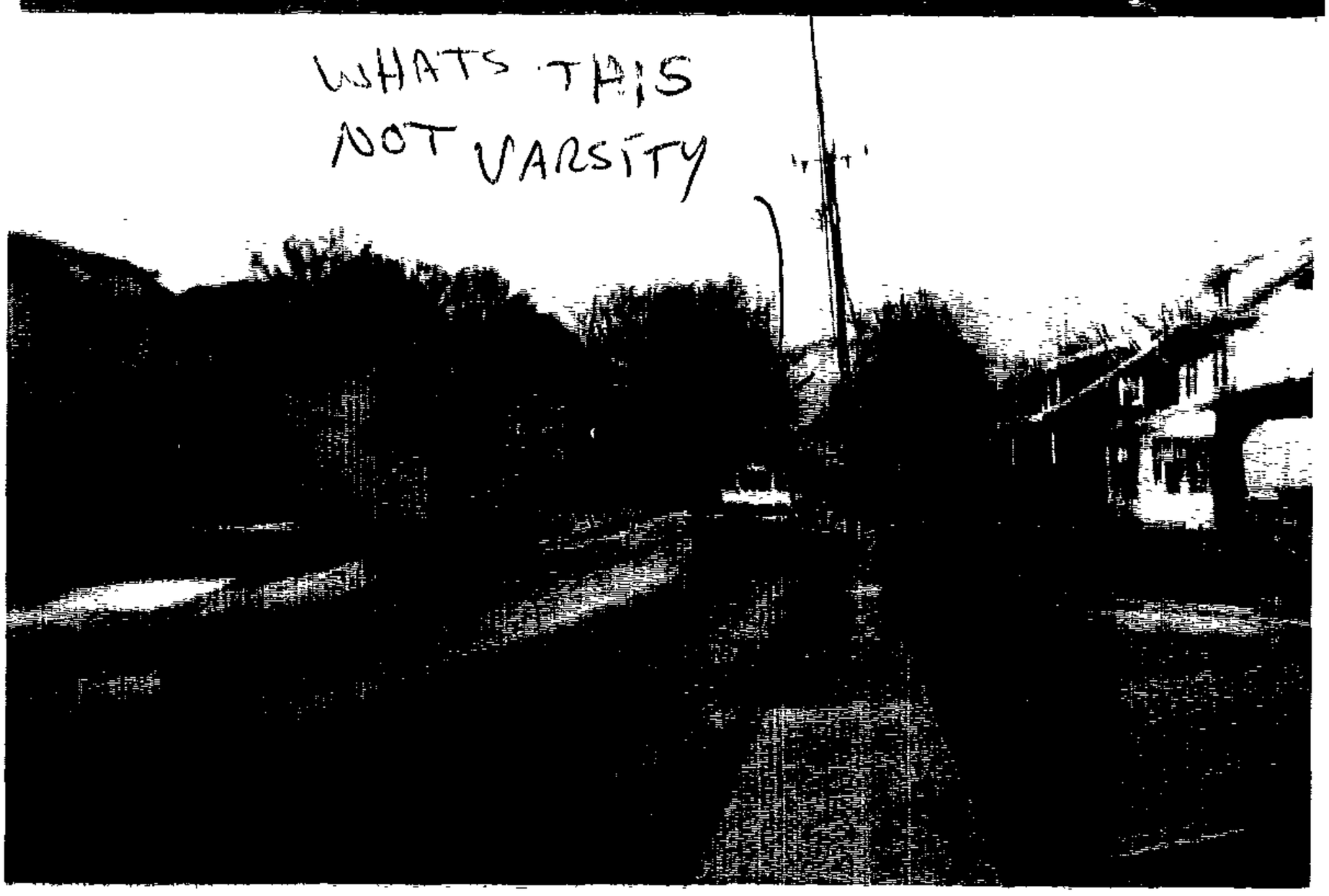
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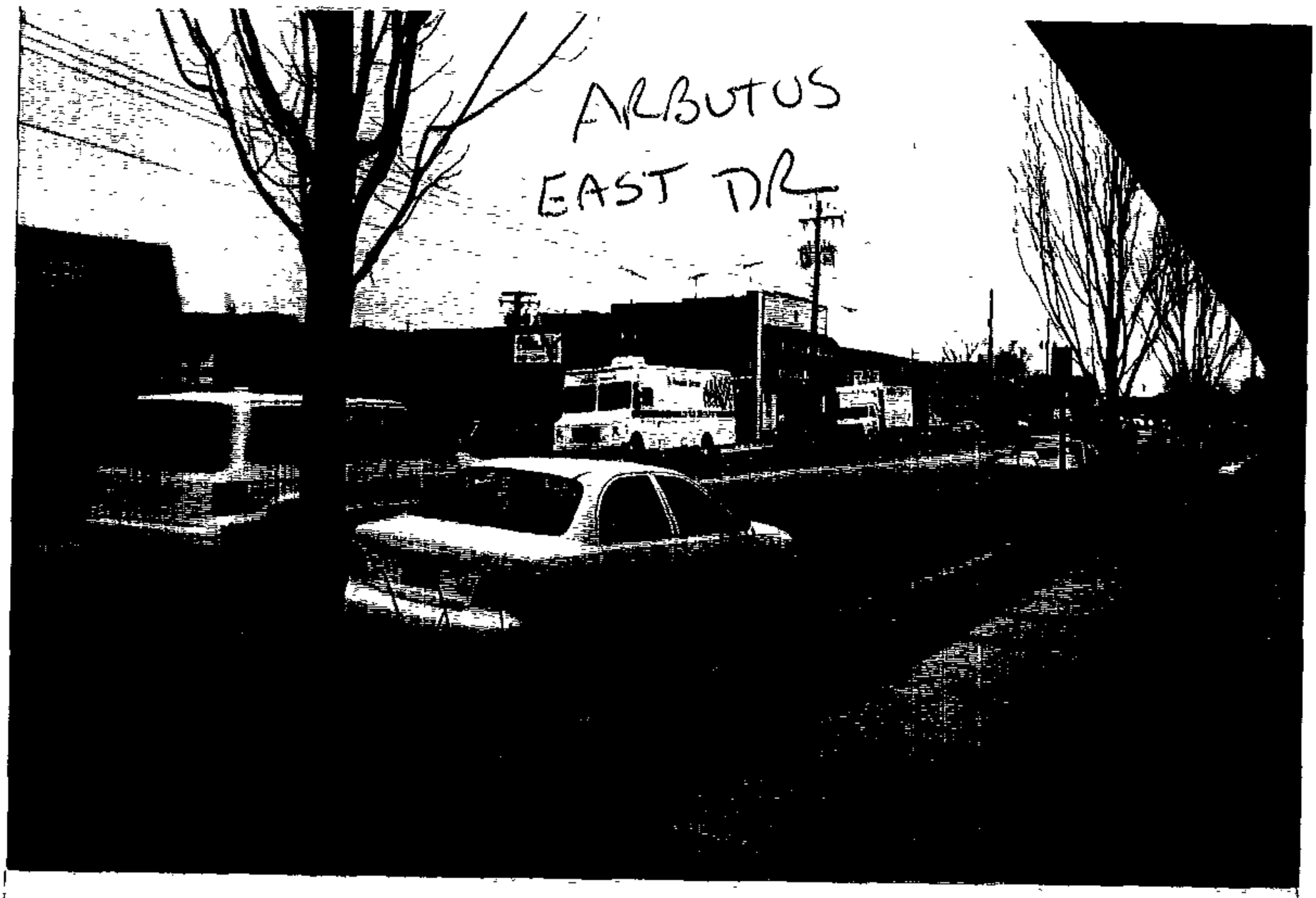
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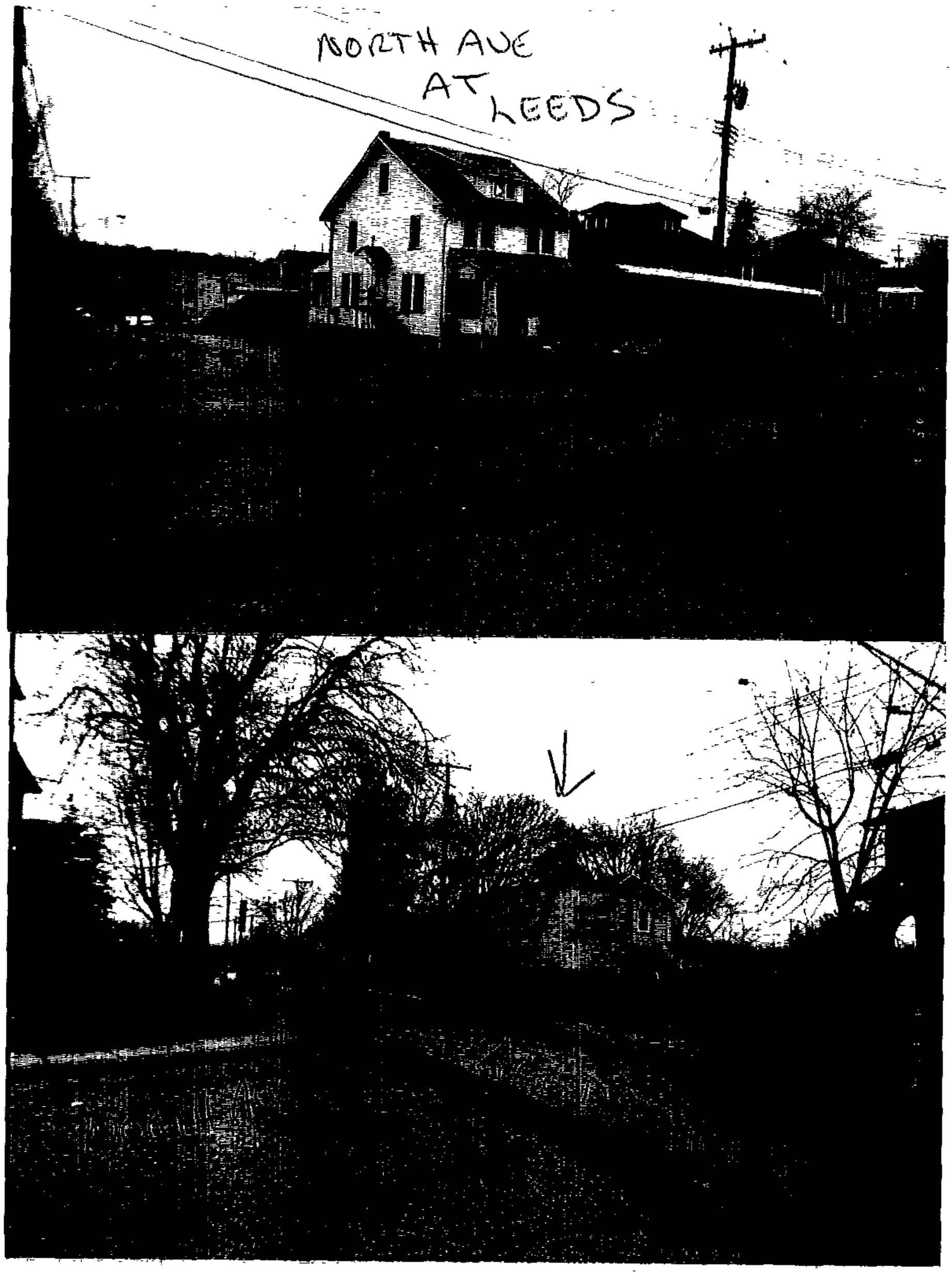
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98-406-A - Reitterer

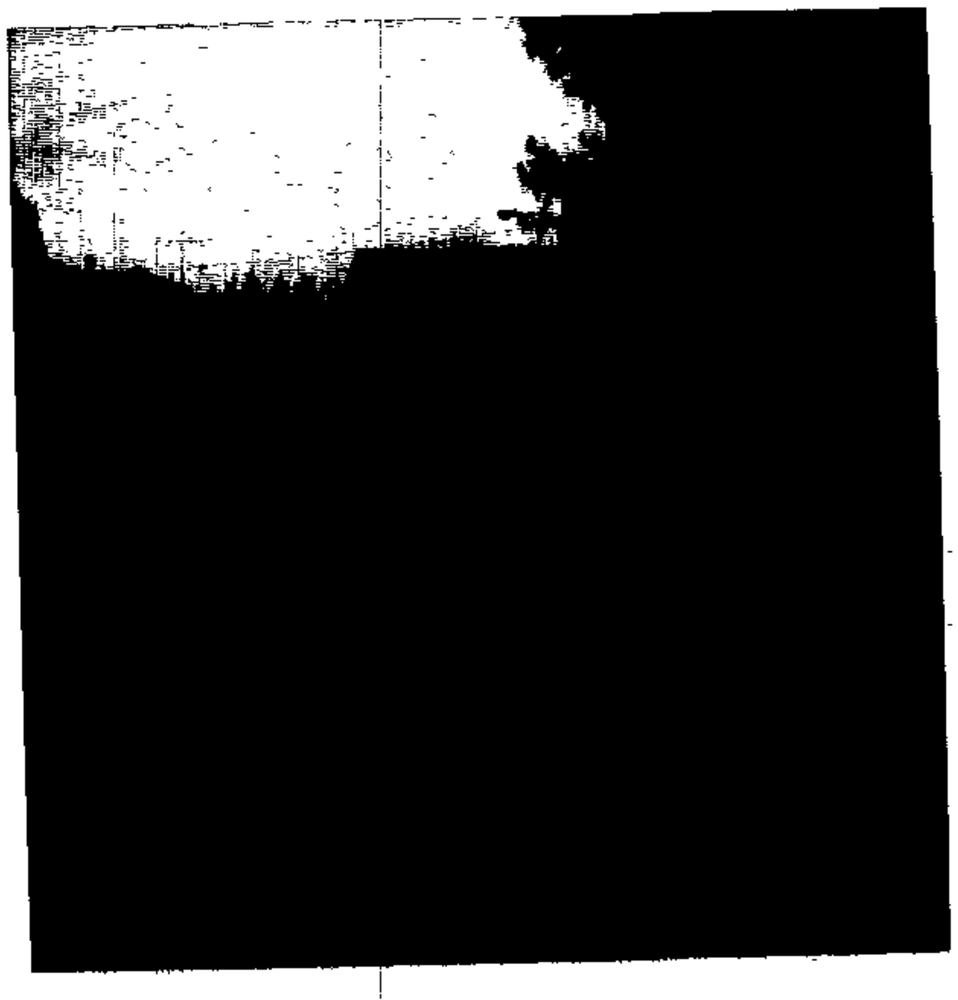
CBA exhibits

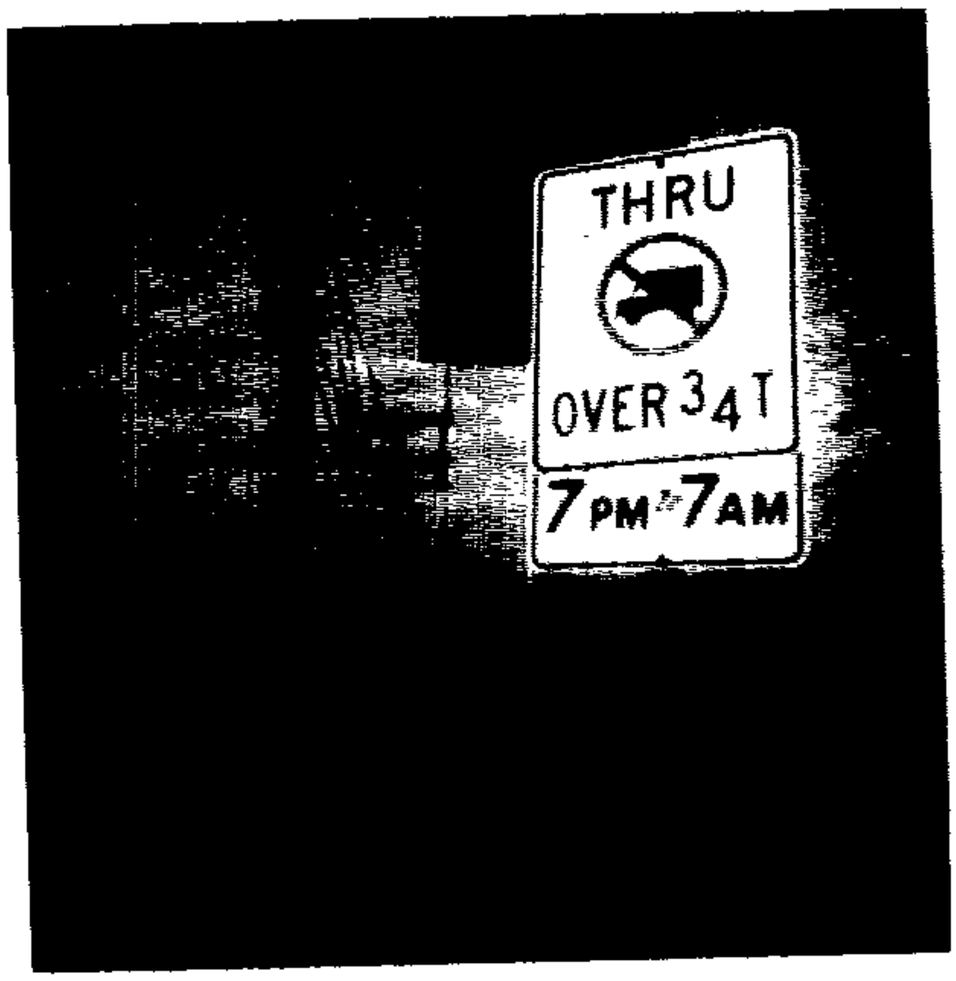
Petitioners' 1 and 2

(2 photos)

Pet. #1

Pet. #2





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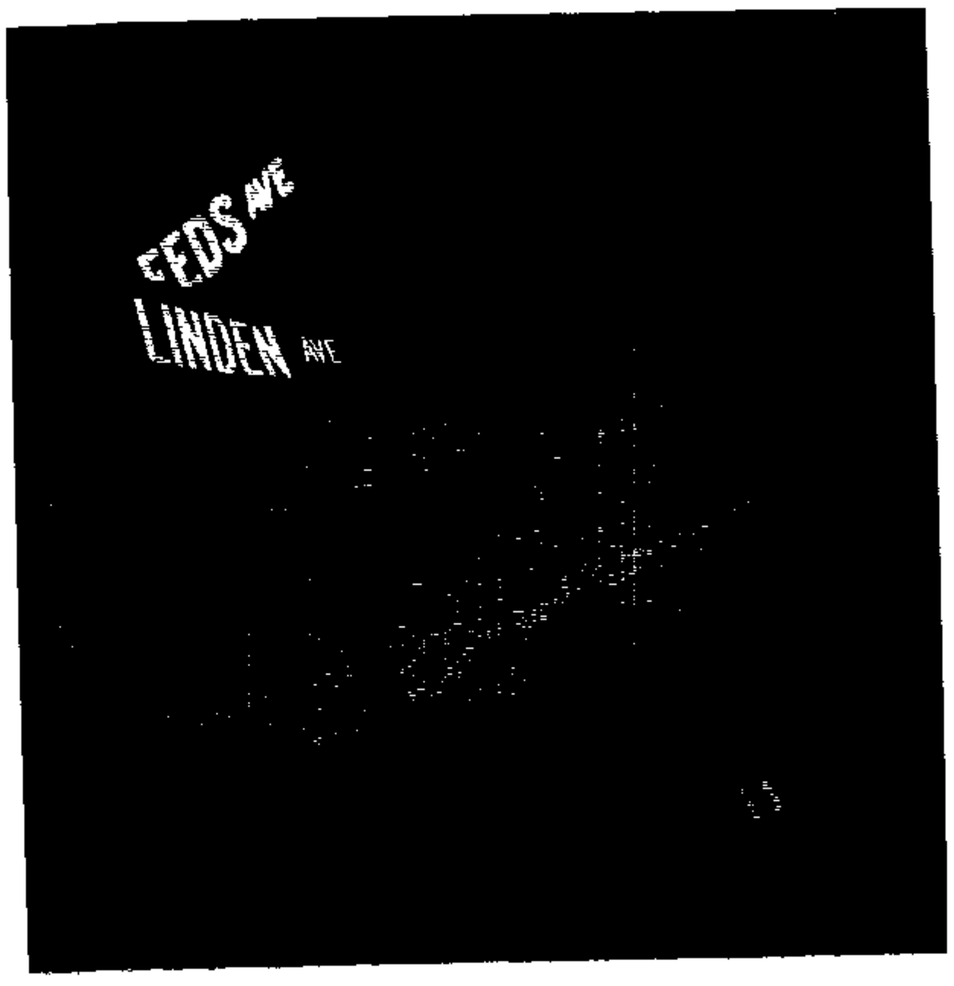

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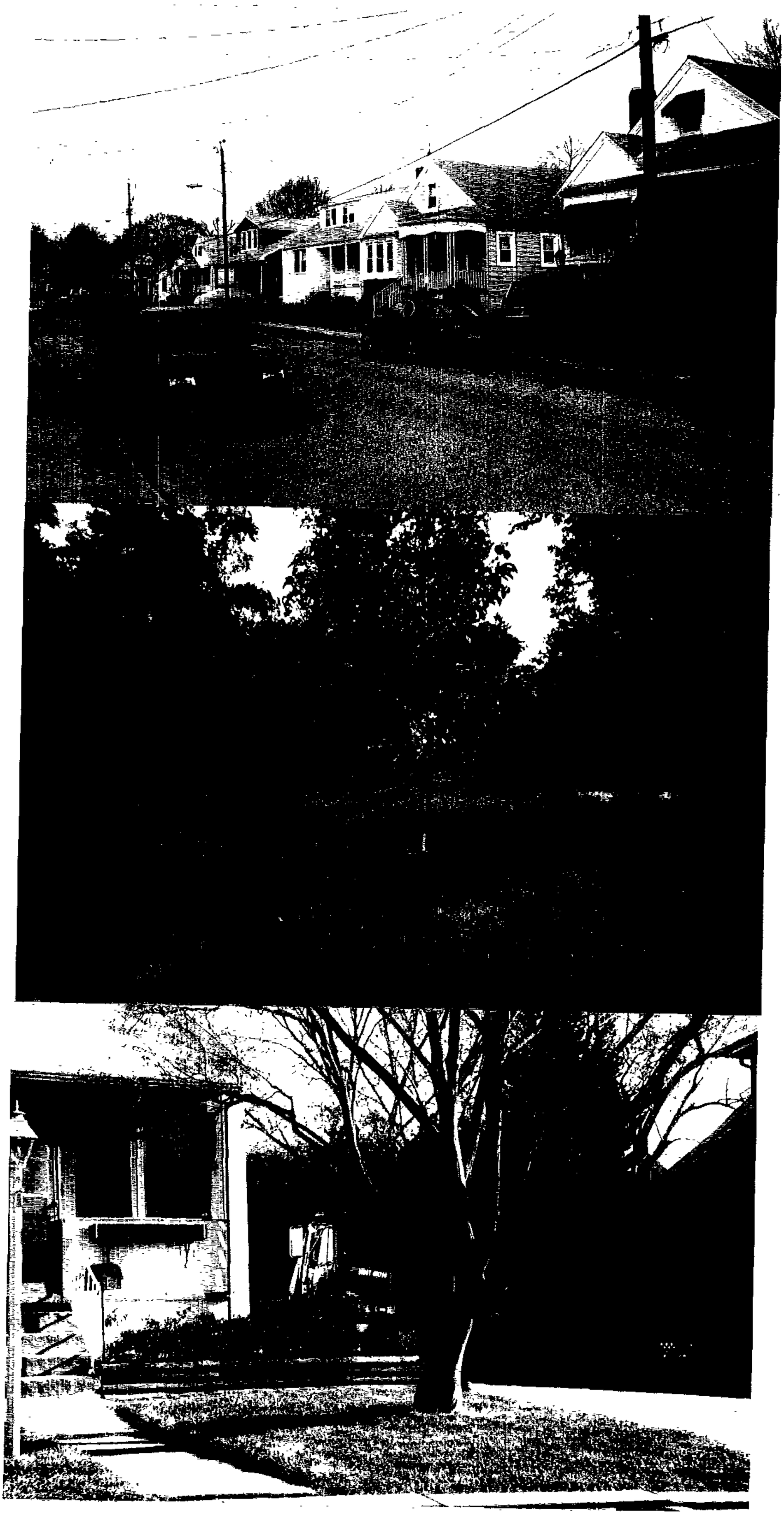

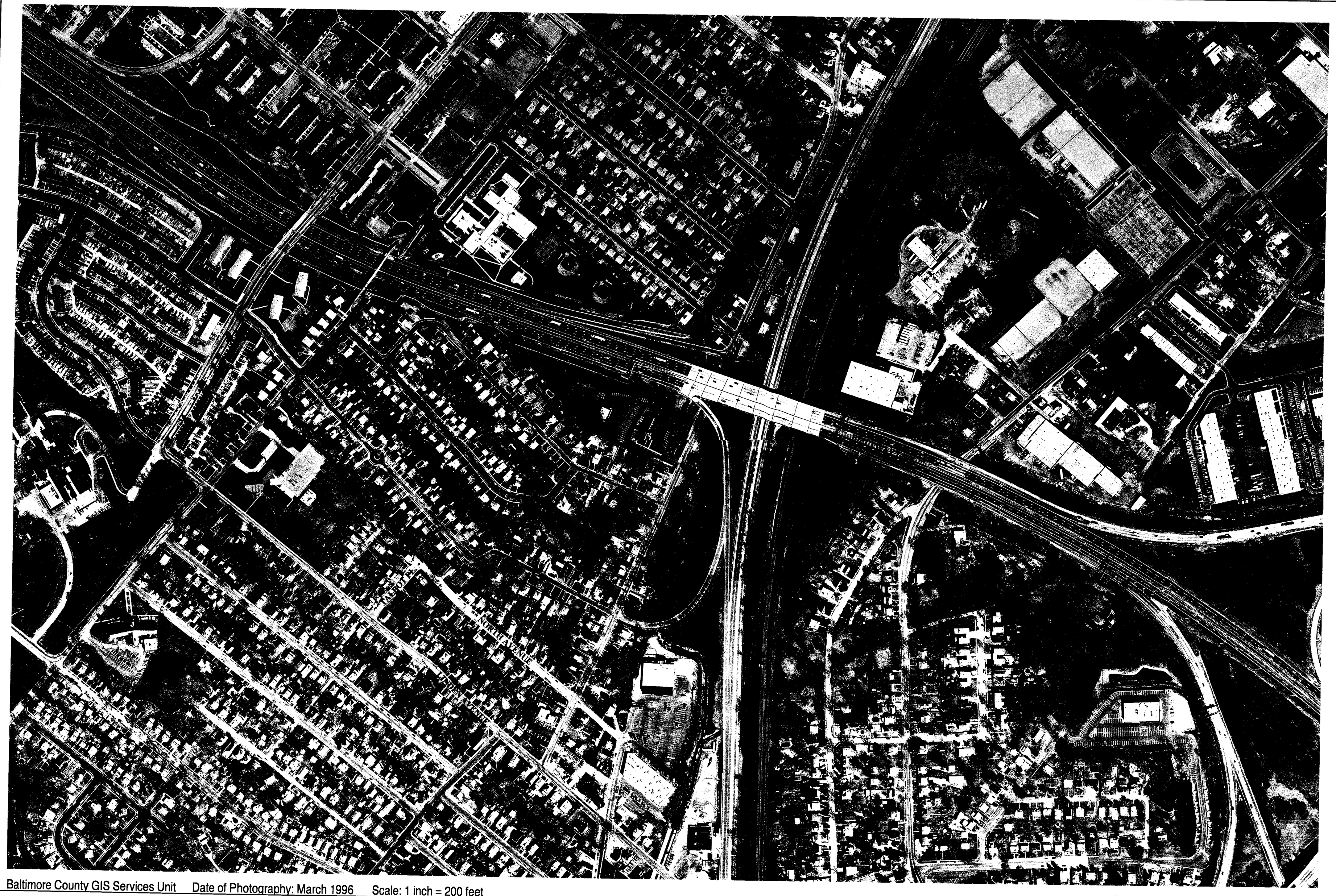

Baltimore County GIS Services Unit Date of Photography: March 1996 Scale: 1 inch = 200 feet

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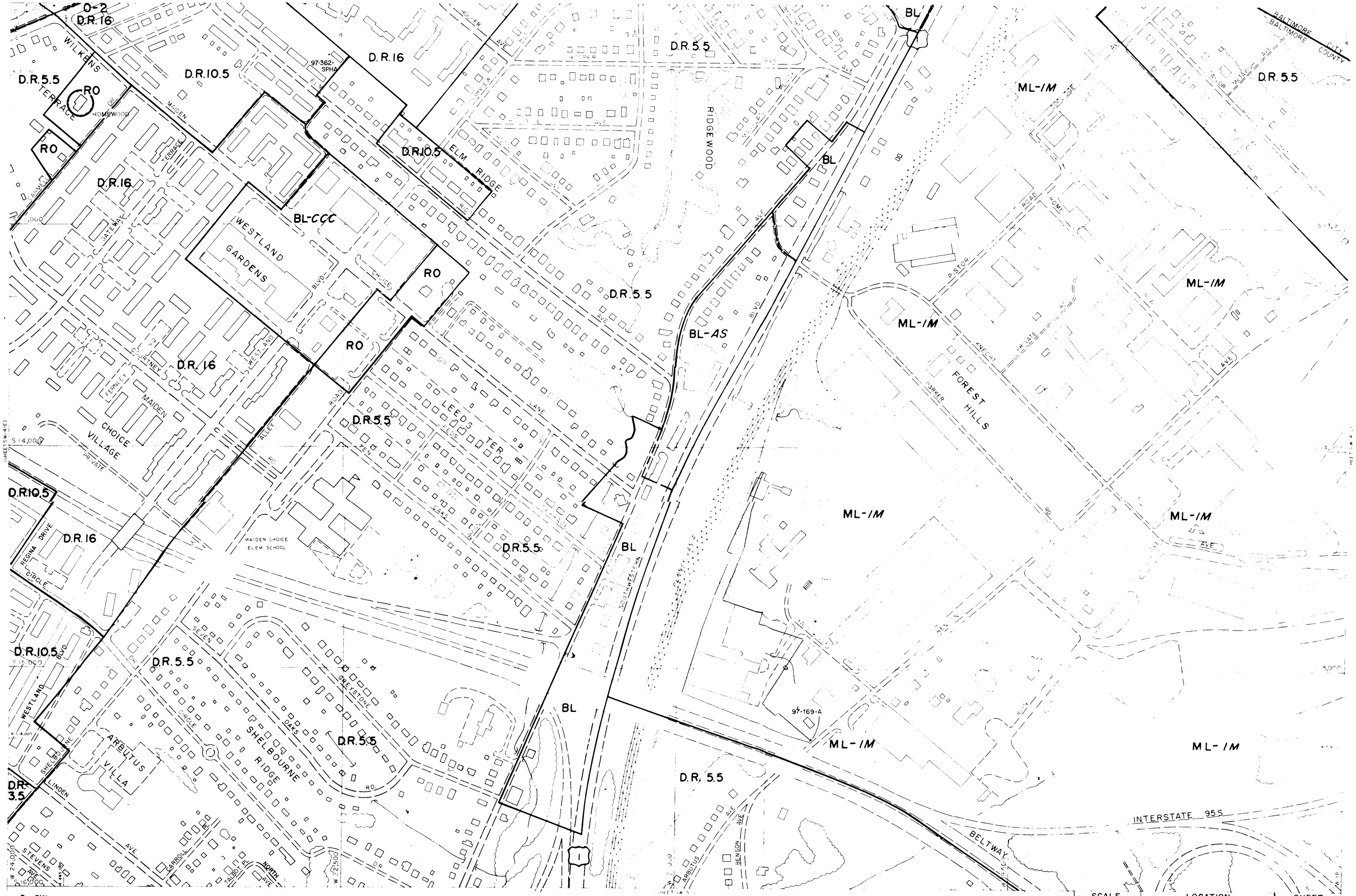


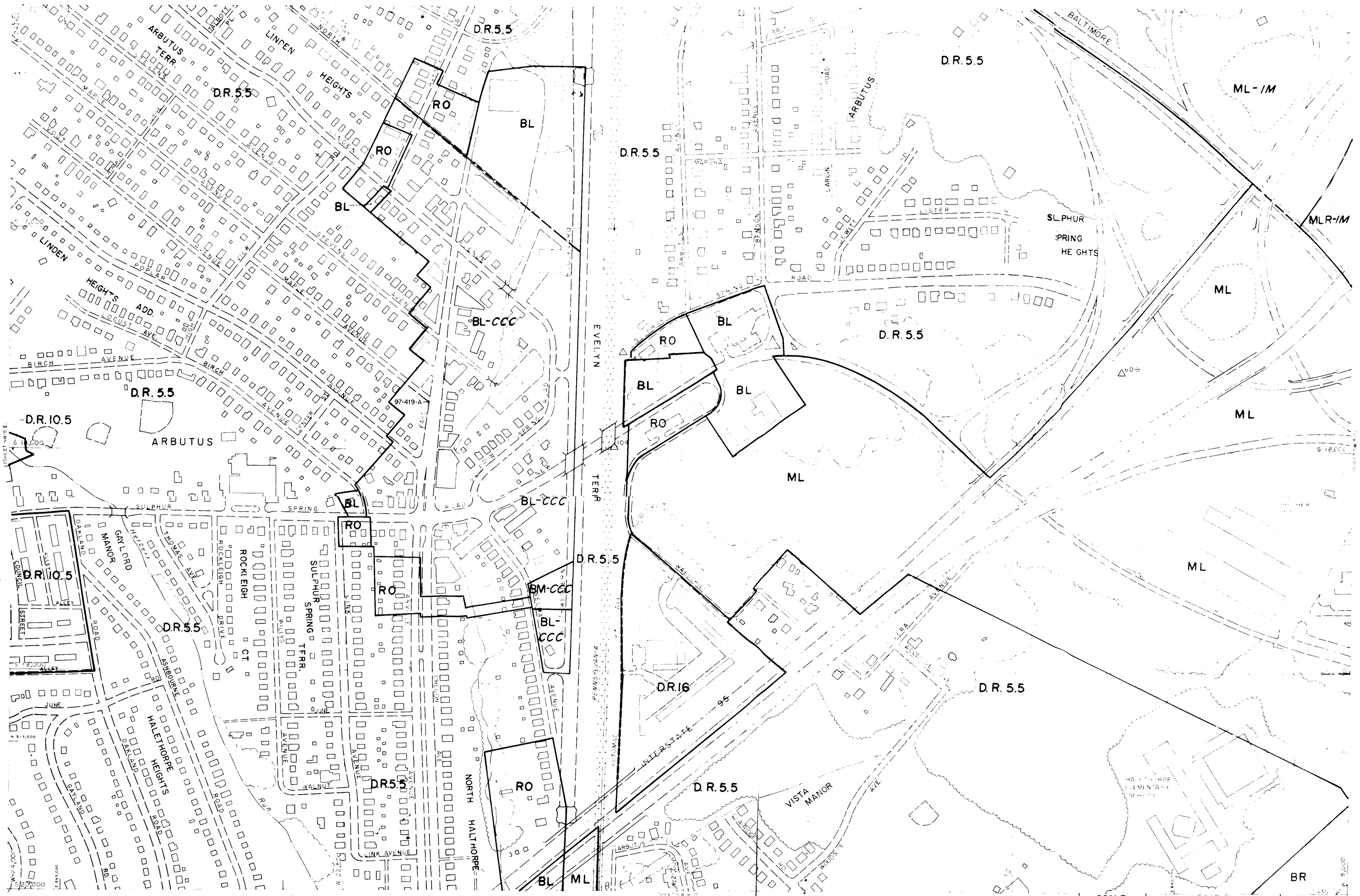
G - SW

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

SCALE	LOCATION	SHEET
1" = 200'±	ARBUTUS COWDENTOWN	S.W. 4-D
DATE OF PHOTOGRAPHY JANUARY 1986		

P.C. #156



G-SW
C-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	HALETHORPE	S.W. 5-D
DATE OF PHOTOGRAPHY JANUARY 1986		

P.C. # 15a

3 A - 3 H (8 photos)
6 (1 photo)

P.C. Exhibits
(photos)

CBA

Case # 98-406-A
Reitterer