

03-572-A

~~7/07/2004 @ 10 a.m. ppd~~

8-17-2004 @ 10 a.m.

9-15-2004 @ 9³⁰ a.m. Deliberation

November 24, 2004
(20030572)
supplemental

03-572-A

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5/19/07
IN THE MATTER OF
CAROL SUSAN GREEN-BOTELER
1809 Sutton Avenue
St. Denis, MD 21227

Case No. 03-572-A before the
County Board of Appeals for
Baltimore County

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
*
* Case No.: 03-C-04-013124

* * * * *

**-OPINION-
APPEAL FROM THE
BALTIMORE COUNTY BOARD OF APPEALS**

Questions Presented on Appeal

In light of the evidence presented, did the Board of Appeals ("the Board") err in concluding that Petitioner's property was not unique, and thus not entitled to a variance from the Baltimore County Zoning Regulations ("BCZR")? Based upon the evidence presented, did the Board err in concluding that Petitioner failed to meet the practical difficulty and undue hardship standards?

Summary

The Board's ruling is inconsistent with the evidence. The Board misinterpreted the standard of uniqueness, and its legal conclusion is contradictory to its factual findings. Based on the substantial evidence presented, Petitioner's property is in fact unique for zoning purposes, and Petitioner has shown that a practical difficulty would exist if the ordinance is enforced without variance relief. The decision of the Board of

FILED MAY 24 2008

cc: Tanczyn, DeSa

Appeals is reversed, and the ruling of the Deputy Zoning Commissioner, subject to the four conditions imposed in the original Findings of Fact and Conclusions of Law as well as the two additional conditions provided in the Order on Motion for Reconsideration, is to be reinstated.

Procedural History

On June 5, 2003, Susan Carol Green-Boteler submitted a Petition for Administrative Variance to the Zoning Commissioner of Baltimore County for the property located at 1809 Sutton Avenue, St. Denis, Maryland. In her Petition, Ms. Green-Boteler ("Petitioner") requested variance from BCZR Sections 400.1 and 400.3 for the following relief: 1) to permit a garage to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road; 2) to permit a rear setback to the rear valley of 6.5 feet in lieu of the required 15 feet; 3) to permit a rear yard coverage of 43.5% in lieu of the required 40%; and 4) to permit a height of 20 feet in lieu of the required 15 feet.¹

A request for hearing was submitted by a protestant neighbor, and the Deputy Zoning Commissioner ("the Commissioner") conducted a hearing on August 6, 2003. On August 12, 2003, the Commissioner issued his Findings of Fact and Conclusions of Law, whereby he granted the Petitioner's variance relief, subject to the following conditions:

- "That Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her 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

¹ Petitioner later withdrew this final request and modified the height specification of the garage to 15 feet.

Petitioner would be required to return, and be responsible for returning said property to its original condition.

- The Petitioner or subsequent owners shall not allow or cause the garage to be converted to a second dwelling and/or apartment.
- When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.
- The final site plan for the garage may not violate Section 102.5 of the Baltimore County Zoning Regulations regarding obstructions located at the corner of the alley behind the Petitioner's property and Willow Avenue."

In so concluding, the Commissioner found that special circumstances and conditions did in fact exist "that are peculiar to the land or structure which is the subject of the variance request and that strict compliance with the Zoning Regulations of Baltimore County would result in practical difficulty or undue hardship." The Commissioner also concluded that this type of variance is in strict harmony with the spirit and intent of the BCZR and would not result in any detriment to the public health, safety, and general welfare of the community.

Two Motions for Reconsideration were filed with the Deputy Zoning Commissioner, who then issued an Order on Motion for Reconsideration dated October 31, 2003, denying both motions and imposing two additional conditions to the August 12, 2003 Order:

- "The Petitioners shall submit elevation drawings to the Planning Office prior to obtaining building permits to insure the design is compatible with the neighborhood.
- The Petitioners shall not allow or cause the garage to be used for commercial purposes."

The Protestants filed a timely appeal, and the matter was scheduled for a hearing before the Baltimore County Board of Appeals. On November 24, 2004, by a 2-1

decision, the Board denied the area variance requested by the Petitioner, concluding that Petitioner had not met her burden of proving "uniqueness," and, thus, the issue of practical difficulty need not be considered.

Petitioner filed a Petition for Judicial Review on December 17, 2004, and a hearing was held on this matter on May 5, 2005 before this Court. Counsel for Petitioner appeared with his client, however, no one appeared on behalf of Respondents.

Statement of Facts

Petitioner has lived at the property in question since 1973; the house itself was constructed in 1900 and the plat on which the house is located was prepared in the year 1866. The lot on which the house is located is 40 feet wide by 110 feet long, and the house is on the northeast the corner of two intersecting thoroughfares, Sutton Avenue and Willow Street. Parking is permitted on the north side of Willow Street, but not on the south side, as it is a very narrow street. Behind the property runs an alley that separates the houses on Sutton Avenue from those on Centre Street, which runs parallel to Sutton. The alley, however, has never been used for motorized vehicular traffic as it is mostly grass-covered and bisected by numerous fences in the side and rear-yards of properties on Sutton Avenue and Centre Street.

Petitioner's proposed garage, with dimensions of 32 feet long by 24 feet wide by 15 feet high, would face Willow Street. Her purpose in building this garage was for housing three vehicles, a mini-van, a pick-up truck, and an RV, thereby reducing the congestion on Willow Street. She also intended to use the garage for storing her flea market property.

All of the lots in St. Denis are of similar size, and many of the owners have made improvements and additions over the years in efforts to modernize their properties, some even without administrative variances or building permits. (T. 45-46, 48-49). Two of Petitioner's neighbors, Mr. DeSa and Mr. O'Heir ("DeSa" and "O'Heir," or "Protestants" collectively), have both petitioned the County in the past for variance relief to make additions to their property, however, both Protestants have challenged her proposal on the grounds that such a variance would negatively affect the health, safety, and welfare of the community. According to DeSa's testimony, he was concerned about the amount of miscellaneous items that were accumulating in Petitioner's backyard;² Mr. O'Heir was more concerned about the size of the proposed garage in relation to other structures on surrounding properties. (T. 199-20).

Standard of Review

The standard of review of the action of an administrative agency is whether a reasoning mind could have determined the same conclusion that the administrative

² When asked to tell the Board of Appeals how this proposed variance would adversely impact the health, safety, and welfare of the community, Mr. DeSa made the following response: "Maybe it wouldn't impact that badly, if there were no ulterior motives. Ms. Boteler's partner, Royce Allen, I believe his name is, runs a flea market business. The place is absolutely overwhelmed with – may I use the term junk? Ms. Boteler has received many citations for junk yard conditions over the last three or four years, and all of the penalties imposed by the county are in abeyance now until this hearing has reached some type of conclusion. If these ulterior things were not happening, we and the community might say, Well [sic], go ahead. Rick got his variance. I got my variance. Who else has gotten their variances, I don't know. All I know is I received for my first addition, and Mr. O'Heir received a variance for his home addition. If it wasn't for all these other things, I would say it doesn't impact on the health or safety or welfare of the community. But we have these other things. They might not be as tangible as we need to have to reach a decision, but all one has to do is look at the track record of this property. It is literally a junk yard, and it has been a junk yard for five years, and the county has been out there numerous times." (T. 114-115).

agency reached. Nnoli v. Nnoli, 101 Md. App. 243, 646 A.2d 1021 (1994); State Ins. Commissioner v. Nat'l Bureau of Casualty Underwriters, 248 Md. 292, 236 A.2d 282 (1967). The agency decision is presumptively correct, and the correctness of an agency's findings of fact must be reviewed under the substantial evidence test. Dept. of Human Resources v. Thompson, 103 Md. App. 175, 652 A.2d 1183 (1995); State Election Board v. Billhimer, 314 Md. 46, 548 A.2d 819 (1988). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Supervisor of Assessments v. Group Health Ass'n, Inc., 308 Md. 151, 159, 517 A.2d 1076 (1986) quoting Bulluck v. Pelham Wood Apts., 283 Md. 505, 512, 390 A.2d 1119 (1978). Accordingly, this Court must affirm the findings of the Baltimore County Board of Appeals if substantial evidence exists to conclude that its determinations were reasonable.

A reviewing court may, and should, examine facts found by an agency to see if there is evidence to support each fact found. If evidence exists in the record to support an agency's fact-finding, the reviewing court cannot substitute its assessment of credibility of the evidence for that of the agency, no matter how questionable or conflicting the source of evidence may be. Commissioner, Baltimore City Police Dept. v. Cason, 34 Md. App. 487, 368 A.2d 1067 (1977), *cert. denied*, 280 Md. 728 (1977). It is well settled that the reviewing court should not substitute its judgment for the expertise of the agency, as the agency has a superior ability to understand its own rules and regulations. Board of Education v. Paynter, 303 Md. 22, 35, 491 A.2d 1186 (1985); Bulluck, 283 Md. 505, 512, 390 A.2d 1119. When an agency infers the existence of a fact that is not supported by direct proof from the record, the reviewing court should examine such an inference to

determine if it reasonably flows from other facts that are supported by direct proof. Even though an agency may have been reasonable in drawing a different inference, the court has no power to disagree with the facts so inferred. Id. at 508.

The court should review the agency's conclusion to determine whether "reasoning minds could reasonably reach that conclusion from facts in the record before the agency, by direct proof, or by permissible inference. If the conclusion could so be reached, then it is based upon substantial evidence, and the court has no power to reject that conclusion." Id. When reviewing a zoning board's legal conclusions, the circuit court must determine whether the board applied the correct principles of law governing the case. Eastern Outdoor Advertising Co. v. Mayor and City Council of Baltimore, 128 Md. App. 494, 514 (1999). An agency decision that is not supported by substantial evidence will be given no deference because such a finding is arbitrary, illegal, and capricious. Id.; See also Moseman v. County Council of Prince George's County, 99 Md. App. 258, 262 (1994); Mortimer v. Howard Research, 83 Md. App. 432, 441, *cert. denied*, 321 Md. 164 (1990).

Discussion

In pertinent part for these proceedings, Section 307 of the Baltimore County Zoning Regulations states:

"The Zoning Commissioner of Baltimore and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations 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 with the Zoning Regulations would result in practical difficulty or unreasonable hardship.*" [Emphasis added].

According to the language of the BCZR, a petitioner must satisfy a two-step process before variance relief can be granted, which the Court of Special Appeals outlines in Cromwell v. Ward, 102 Md. App. 691 (1995). The first step in granting a variance requires a finding that the property in question 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.” Id. at 694. Unless the reviewing agency determines that the property is unique, unusual, or different, the process ends and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If the property is determined to be unique or unusual, then the analysis must proceed to the second step, where a determination is made as to whether a disproportionate impact of the ordinance causes a practical difficulty and/or undue hardship on the property owner. Id. at 694-695.

Despite being located in a footnote, though nevertheless persuasive for purposes of this discussion, Cromwell breaks down the language of the zoning regulations in relation to the two-step variance analysis. Some jurisdictions in Maryland have adopted zoning regulations – covering the same substantive matter as BCZR § 307 – that use the conjunctive, “AND,” to separate “practical difficulty” and “undue hardship” in the statute. This creates a requirement that *both* practical difficulty and undue hardship exist before variance relief can be granted. Undue hardship is the more difficult standard to meet, and the regulations containing the conjunctive language require this condition to be satisfied regardless of whether an area or use variance is sought. Some ordinances, like the BCZR, use the disjunctive, “OR,” to separate the two standards. Here, the “undue

hardship” standard is used when use variances are sought, as they are considered to be more disruptive of zoning goals and purposes; the “practical difficulty” standard is applied when an area variance is requested. Cromwell, 102 Md. App. 691, 695.

To begin this two-step process, the Court must first determine whether the Board of Appeals correctly or incorrectly determined that Petitioner’s property failed to qualify as “unique” for purposes of variance relief.

A. Uniqueness

A review of the record, exhibits, and transcript indicates that the Board had substantial evidence before it to decide the issue at hand. The Majority Opinion and the Minutes of Deliberation highlight the facts considered in determining whether Petitioner’s property is unique, however, the Majority’s analysis and conclusions do not comply with its factual findings. In addition, this Court agrees with the Dissenting Opinion as far as Petitioner’s property satisfies the “uniqueness” requirement.

The majority and the dissent both address “uniqueness” as defined in the Cromwell line of cases³, and both opinions highlight issues involving the size and shape of the lot, restrictions of abutting properties, and the historical significance of St. Denis as a whole. In addition, the record indicates that the property is located on the corner of two intersection thoroughfares with limited access in both directions.

³ “In the zoning context the ‘unique’ aspect of a variance requirement does not refer to the extent of improvements upon the property or upon neighboring property. ‘Uniqueness’ of a property for zoning purposes requires that the subject property have inherent characteristic not shared by other properties in the area, *i.e.*, its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.” Cromwell, 102 Md. App. 691, 710.

It is this Court's opinion that while the Board majority addressed the elements of uniqueness in discussing the features of the property, its conclusion was arbitrary and capricious based on the weight of the evidence. This Court agrees with the Dissenting Member's analysis:

"The property in question is clearly unique. Its lot size is 40 feet wide by 110 feet long, and at the rear of the property is a grass alleyway that is in fact really not an alley. This additional property is not owned by the homeowners on the street, but rather it is owned by Baltimore County. The unusual shape of this lot, which was platted in 1866, years before zoning regulations and even before the automobile, is without question unique."

The only real disagreement between the majority and the dissent concerns the term "area" as it is used in the definition of uniqueness: uniqueness of a property for zoning purposes requires that the subject property have inherent characteristics not shared by other properties in the *area*. The Board majority feels that "area" should be restricted only to the properties in St. Denis, while the dissent argues that "area" should apply to a broader radius, *i.e.*, the Petitioner's property should be compared to homes in surrounding communities rather than neighboring homes in St. Denis. This Court will not determine what the exact scope of "area" should be, but this Court does agree with the dissent in that the majority's interpretation of "area" is too narrow. The evidence indicates that other property owners in St. Denis have successfully petitioned the County for variance relief to add structures onto their property. If the Board's interpretation of "area" had been adopted in evaluating all these past petitions, each and every request for variance relief would have to have been denied. This point will be discussed in greater detail below.

Petitioner's property, along with the township of St. Denis, was built in a time where horse and buggies were the chief mode of transportation, and the lots and

roadways in St. Denis were constructed in a fashion to accommodate this way of life. The Board even mentions that Mr. DeSa testified that St. Denis has a “unique quality” to it. This clearly makes Petitioner’s property unique in relation to other properties in the surrounding area, and at least as unique as the neighboring properties in St. Denis.

In light of the fact that both Protestants have in the past sought variances from Baltimore County to make additions or modifications to their respective properties, and because no evidence was presented to indicate that the other lots in St. Denis have since been realigned, or re-platted so to speak, Petitioner must therefore be held to the same standard as the Protestants were in their variance requests. Both DeSa and O’Heir were granted variance relief, which is necessitated by a determination of “uniqueness” for their respective properties. Applying the Board’s own reasoning in the instant matter, had the Protestants’ properties not been unique, the question of practical difficulty/undue hardship could never have been raised, and the variance requests would have been summarily denied. Granting variances to the Protestants but meanwhile denying the Petitioner’s request suggests that DeSa and O’Heir were held to one standard while Petitioner was held to another. This rationale, in and of itself, is arbitrary and capricious. Based on a review of the record, the Petitioner’s property does meet the “uniqueness” standard, and the Dissenting Opinion is thus correct in its analysis. Having determined the property to be unique, Petitioner must also satisfy the second prong of the two-part test for variance relief to be granted.

B. Practical Difficulty or Undue Hardship

Applying a “practical difficulty” or “undue hardship” standard depends on whether the variance requested is a use variance or an area variance. A use variance

permits a use other than that permitted in a particular district by an ordinance, such as a variance for an office or commercial use in a zone restricted to residential uses; an area variance is a variance from area, height, density, setback or sideline restrictions, such as a variance from the distance required between buildings. Anderson v. Board of Appeals, 22 Md. App. 28, 37-38 (1974). Additionally, a use variance changes the character of the zoned district and an area variance does not. Use variances are customarily concerned with "hardship" cases, where the land cannot yield a reasonable return if the restrictions of the ordinance are enforced, while area variances typically pertain to "practical difficulty." Id. at 38; See also Loyola Loan Ass'n v. Buschman, 227 Md. 243, 248 (1961).

Petitioner's request for variance relief to construct a garage, which slightly encroaches upon height and setback restrictions provided by the zoning regulations, qualifies as an area variance; therefore, the standard of "practical difficulty" applies. This standard is set forth in Anderson, 22 Md. App. 28, 39: "Where the standard of 'practical difficulty' applies, the applicant is relieved of the burden of showing a taking in a constitutional sense, as is required under the 'undue hardship' standard. In order to justify the grant of an area variance the applicant need only show that:

- 1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- 2) Whether a grant of the variance applied would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to property owners.

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

A review of the record indicates that the Petitioner has shown that the zoning ordinance would have a disparaging impact by creating a practical difficulty on the property.

Petitioner owns three vehicles – a truck, a minivan, and an RV – that she currently parks on the street in front of her home. She also has a collection of flea market property, which she is storing in her backyard. Petitioner has stated that the reason for putting up a garage with these specifications is so that she can park her three vehicles off the street and store some of the items that are currently located in her backyard. This proposal would address DeSa’s concern in that it would create a storage facility for flea market items, thereby removing them from open view. To disallow her variance request in light of these circumstances would be unnecessarily burdensome to the Petitioner.

O’Heir’s objection that the proposed garage would be too large in relation to other structures on surrounding properties is completely unfounded. A review of the photographs, as well as Petitioner’s Exhibit 18 and the aerial layout of St. Denis, shows that the structure that O’Heir has built on the rear of his home is just as big, if not bigger, than Petitioner’s proposed garage. For him to say that her proposed garage is too large in relation to other additions that have been made to homes in St. Denis is preposterous.

Finally, granting Petitioner a variance will allow her to move her vehicles from the street, thus freeing up the limited space for traffic on Willow Street and further securing the public safety and welfare.

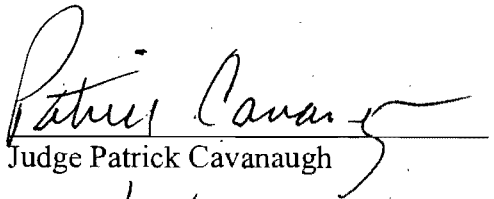
Based on a review of the record, the transcript, all of the testimony, and the exhibits, it appears as though the Petitioner has been singled out in this small community.

She is being prohibited from using her property in a way in which others have already been allowed, and the interests of substantial justice require an equal application of the standard. She has sufficiently shown that she would suffer a practical difficulty if she were not granted the variance relief. The Board, therefore, erred in overturning the ruling of the Deputy Zoning Commissioner.

Conclusion

The Board of Appeals had substantial evidence before it to render a decision regarding the issuance of a variance to the Petitioner. The Board's conclusion, however, is inconsistent with the weight of the evidence presented at the hearing. The Board's findings are arbitrary and capricious, and its decision to overturn the decision of the Deputy Commissioner must be vacated.

The Petitioner's property does meet the uniqueness standard, and the implementation of the ordinance would create a practical difficulty on the Petitioner's property. Accordingly, the original ruling of the Deputy Zoning Commissioner, subject to the four conditions imposed in the original Findings of Fact and Conclusions of Law as well as the two additional conditions provided in the Order on Motion for Reconsideration, is to be reinstated.


Judge Patrick Cavanaugh
5/19/05
Date

CLERK TO NOTIFY

11/24/04

IN THE MATTER OF
THE APPLICATION OF
CAROL SUSAN GREEN-BOTELER – LEGAL
OWNER /PETITIONER FOR VARIANCE ON
PROPERTY LOCATED ON NE/COR SUTTON
AVENUE AND WILLOW STREET
(1809 SUTTON AVENUE)
13TH ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 03-572-A

* * * * *

MAJORITY OPINION

This case comes before the Baltimore County Board of Appeals on appeal from a decision of the Deputy Zoning Commissioner dated August 12, 2003 in which the requested variance relief for location of garage and setbacks was granted with conditions and the Deputy Zoning Commissioner's subsequent Order dated October 31, 2003 in which the Motions for Reconsideration filed by People's Counsel and by Alan J. DeSa were denied. The subject property is located at 1809 Sutton Avenue, Baltimore, Maryland, 13th Election District, 1st Councilmanic District.

A public hearing before the Board of Appeals was held on August 17, 2004. A public deliberation followed on September 15, 2004. Mr. DeSa represented himself and unofficially the Relay Improvement Assn. Petitioner Carol Susan Green-Boteler was represented by Michael P. Tanczyn, Esquire.

Testimony

Carol Susan Green-Boteler, Petitioner, was the first witness. She testified that she had lived at her current address for over 30 years, since 1973. The first exhibit presented was a plat to accompany petition for a zoning hearing of subject property prepared by Ms. Green-Boteler with the assistance of Baltimore County zoning office (Petitioner Exhibit 1). Petitioner based her request for variance relief on a plat prepared by her neighbor, Mr. O'Heir, of 1807 Sutton Avenue, when he obtained his administrative variance to build a large addition on the rear of his home.

Petitioner lives in St. Denis. A plat of St. Denis (Petitioner's Exhibit 3) was admitted showing Petitioner's property and neighboring properties. The St. Denis plat was prepared in April 1866, indicating the age of the subdivision.

The Petitioner requested an administrative variance relief to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley of 6.5 feet in lieu of the required 15 feet, to permit a rear yard coverage of 43.5 % in lieu of the required 40%. A request for a variance from the height of the structure was withdrawn by Petitioner and dismissed by the Deputy Zoning Commissioner.

The subject property lot is 40 feet wide by 110 feet long, a total of 4,400 square feet. It is zoned D.R. 5.5 (Density Residential). The property is located on the corner of Sutton Avenue and Willow Street. The front of the property is on Sutton. Parking is allowed on Sutton, and on the north side of Willow Street. Behind the property is an alley separating the houses on Sutton from those on Centre Street, which runs parallel to Sutton. The planned garage would face Willow Street.

The Petitioner requests variances to build a garage that is 24 feet (w) x 32 feet (l) x 15 feet (h). Petitioner testified that it would not extend into the alley.

Petitioner entered a series of photos into evidence showing her own property (Petitioner's Exhibit 2A and 2B) and a number of garages and other structures in the area of St. Denis (Petitioners Exhibits 4 [A-C], 5 [A-D], 9, 12, 13 [A-B], and 14). Petitioner testified that she believed some of these other garages and additions were built without a request for variance relief, possibly even without permits. An aerial photo of St Denis was also entered into evidence

showing the garages built in the area (Petitioners Exhibit 15A).

Petitioner testified that the aerial photo showed that the alley behind her house was unusable, due to fences and other structures encroaching on the alley. She also noted that it had never, in her experience, been used as an alley for the purpose of vehicular traffic. Petitioner's Exhibits 12 and 14 show the alley behind the houses on Sutton St. and indicate fences crossing into the alley. Petitioner's Exhibit 19 (A-C) shows personal property in the alley.

Photos of the O'Heir property were also submitted into evidence (Petitioner's Exhibit 16) regarding the variance Mr. O'Heir obtained for building an addition the full length of the property to the property line on the alley. A photo of Mr. Alan DeSa's house was also submitted, showing numerous additions built after being granted administrative variances (Petitioner's Exhibit 20).

Petitioner also entered into evidence her deed to property dated April 17, 1989, which was signed over to her by her former husband.

Ms. Green-Boteler further testified that if a variance was granted, it would not increase density in the area. She wanted a larger garage so she could store her vehicles, including a truck.

On cross-examination, Ms. Green-Boteler testified that she had a minivan and RV that she would like to store in the garage.

Mr. Alan DeSa of 1816 Sutton Avenue in St. Denis, testified for the Appellants. Mr. DeSa is a ship's officer and has lived in St. Denis for 14 years. He testified that there is a unique quality to the town of St. Denis. He thought that granting this variance would change the atmosphere of the area. He admitted that other structures had been built without permits or variances. However, he believed that the size of the proposed garage was excessive and out of

character with the rest of the neighborhood. He submitted a memo from the Baltimore County Planning Director to the Director of the Department of Permits and Development Management (PDM) indicating that a smaller garage could be built on the property without granting a variance and stating that "the subject property is not unusual compared with other properties in the neighborhood."

Final testimony was given by Richard O'Heir of 1807 Sutton Avenue. Mr. O'Heir testified that he lived next to Petitioners. He had obtained a variance to build within 3 feet of the property line. He also owned the property behind his house, across the "alley." He submitted two tax bills for both lots, each of which measured 40 feet by 110 feet, and opined that these showed that the County recognized an alley between the two properties.

Decision

Section 307 of the *Baltimore County Zoning Regulations* (BCZR) permits granting of a variance from height and area regulations "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 with the zoning regulations would "result in practical difficulty or unreasonable hardship." Furthermore, according to § 307, "any such variance shall be granted only if in strict harmony with the spirit and intent" of said regulations.

The first burden on the Petitioner for variance is to prove that the property is unique. This standard must be met before other parts of the variance requirements can be properly considered.

In *Cromwell v. Ward* 102 Md.App. 691, the Court of Special Appeals defined the term "uniqueness" and stated:

In the zoning context, the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.

“Uniqueness” of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restriction.

After a review of the evidence before us, the Board finds that the Petitioner has not met this burden. Petitioner, through her counsel, argues that her lot is unique because it is located in a subdivision platted in 1866 and “erected [sic] in a time of horses and buggies.” The lots in St. Denis are narrow, as are the streets. Further, the Petitioner argues that the subdivision, and thus her property, was platted 89 years before zoning regulations. However, numerous subdivisions in Baltimore County were also created prior to the development of zoning regulations in 1955, and many houses were also built prior to the automobile. This fact does not make St. Denis unique.

In addition, the standard here is not whether St. Denis is a unique community, but rather, whether the Petitioner’s lot is unique among lots in St. Denis, for the purposes of granting a variance from zoning regulations. We find that it is not. An examination of Petitioner’s Exhibit 3, a plat of the town of St. Denis, shows that Petitioner’s lot is nearly identical to the other lots in the area of St. Denis. The Petitioner’s lot was not shown to have any inherent characteristics that are not shared by other properties in the area by nature of its shape, topography, etc.

Since the standard of uniqueness has not been met, the Board as a matter of law need not consider practical difficulty or spirit and intent.

However, the question of hardship should be noted and was discussed during deliberations – whether Ms. Green-Boteler would suffer a hardship by not being able to build a garage due to the nature /size of the lots in St. Denis. The question of the size of the proposed

garage seemed to be the central issue in this case, not whether the Petitioner would or would not be able to build a garage at all. Petitioner never established that a garage of any size could not be built. In fact, as shown on Protestants' Exhibit 1, the letter from the Director of Planning to the Director of PDM, a "smaller garage could be erected on this property without the need for variances." Therefore, although she could not build a garage as large as requested, Petitioner is not prohibited by the zoning regulations from building a smaller garage.

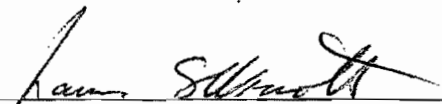
ORDER

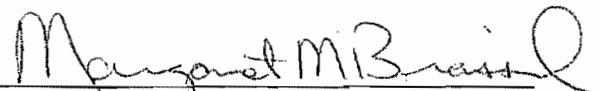
THEREFORE, IT IS THIS 24th day of November, 2004 by the County Board of Appeals of Baltimore County

ORDERED that the Petitioners' request for variance to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley of 6.5 feet in lieu of the required 15 feet, to permit a rear yard coverage of 43.5 % in lieu of the required 40% be and the same 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*.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Chairman


Margaret M. Brassil, Ph.D.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

November 24, 2004

Mr. Alan DeSa
1816 Sutton Avenue
Baltimore, MD 21227

RE: *In the Matter of: Carol Susan Green-Boteler*
Legal Owner -Petitioner / Case No. 03-572-A

Dear Mr. DeSa:

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. Also enclosed is a copy of the Dissenting Opinion of Mr. Mohler.

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*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** 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,

Kathleen C. Bianco
Kathleen C. Bianco
Administrator

Enclosure

c: Gina Hrybyk /Relay Improvement Assn.
Richard O'Heir
Michael P. Tanczyn, Esquire
Carol Susan Green-Boteler
Dawn DaCosta
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM



11/24/04

IN THE MATTER OF
THE APPLICATION OF
CAROL SUSAN GREEN-BOTELER – LEGAL
OWNER /PETITIONER FOR VARIANCE ON
PROPERTY LOCATED ON NE/COR SUTTON
AVENUE AND WILLOW STREET
(1809 SUTTON AVENUE)
13TH ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 03-572-A

* * * * *

DISSENTING OPINION

The following is a dissenting opinion in Case 03-572-A, Carol Susan Green-Boteler. The case involves a request for administrative variance from BCZR 440.1 and 400.3 to allow the construction of a garage with a setback of 6 ½ feet in lieu of the required 15 feet and also permit rear-yard coverage of 43.5% instead of the required 40%.

In its public deliberation on September, 15, 2004, the Board voted 2-1 to deny the variance. This dissent is based upon review of several legal precedents and statutory requirements cited during the hearing by both the petitioner and the appellant. This dissent will focus on the following: The definition of the term “area” as defined in *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995); the “unreasonable hardship” and “practical difficulty” defined in BCZR 307; and the distinction drawn between “area variances” and “use variances” as defined in *Anderson v. Town of Chesapeake Beach*, 22 Md. App. 28, 322 A 2d 220.

Regarding the first point, it is the opinion of this Board member that the Board relied on a narrow definition of the terms “area” and “neighborhood” as outlined in the *Cromwell* case in deciding to deny the variance. *Cromwell* states, “Uniqueness of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area.” In the same case, the court also wrote, “Had there been evidence before the Board indicating that the subject property was peculiar or unusual and, thus, disproportionately affected by the height restriction, then we might have been able to conclude that the Board was correct.” The property in question in this case is clearly unique. Its lot size is 40 feet wide by 110 feet

long, and at the rear of the property is a grass alleyway that is in fact really not an alley. This additional property is not owned by the homeowners on the street, but rather it is owned by Baltimore County. The unusual shape of this lot, which was platted in 1866, years before zoning regulations and even before the advent of the automobile, is without question unique. The only issue then is the definition of the terms "neighborhood" and "area" that *Cromwell* states must be the standard used in looking for the uniqueness and peculiarity of a property. It is the opinion of this Board member that the court never intended the terms "area" and "neighborhood" to be narrowly construed to limit the analysis to the few homes on streets surrounding a specific property. If one is to apply a broader definition of both of these terms, this property clearly meets the standards of "uniqueness" and "peculiar and unusual." One does not have to travel more than one mile from the property to find lot after lot that are much more typical of modern American subdivisions. If one were to ask the question as to whether or not the property in question is unique when compared to surrounding communities in Relay and Arbutus and the other subdivisions in the 1st Councilmanic District, the answer is unequivocally yes. Having met this standard, the variance should have been approved.

In its public deliberation, the Board also discussed *Anderson v. Town of Chesapeake Beach* 22 Md. App. 28, 322 A. 2d. 220. The Board focused its discussion on whether or not this particular case made it clear that the standard for granting "area" variances should be subject to a lesser standard than requests for "use" variances. In the *Anderson* case the court outlined three standards an applicant must meet to fulfill the "undue hardship" necessary to receive a variance. The key findings of that ruling are:

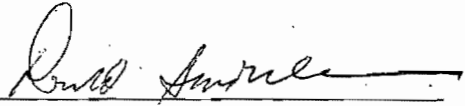
1. Denial of a variance would prevent the petitioner from making "reasonable use of his property."

2. That the property must have difficulties or hardships that are "peculiar to the property in question and contrast with those of other property owners in the same district."
3. The hardship on the particular property may not be the "result of the applicant's own actions."

In the opinion of this Board member, the request for variance in this case clearly meets each of the standards outlined above. It is particularly significant to focus on the term "district" cited in the second point in the previous paragraph. The term "district" would appear to be a much more reasonable standard to use when evaluating properties in relationship to its community.

In a brief on behalf of the Petitioner, Michael P. Tanzyn, Esquire, wrote the following regarding the relevance of the *Anderson* case to this variance request: "As the Board of Appeals is well aware, area variances are deemed not to change the character of an area and to be less significant and subject to a lesser standard of approval required under the zoning statute, including BCZR, Section 307. *Anderson v. Town of Chesapeake Beach*, 22 Md. App 28, 322, A.2d 220.

For the reasons outlined above, I believe that the Board erred in denying the variance request in Case 03-572-A, and that the variance request should have been approved.


Donald I. Mohler, Member

DATE: November 24, 2004

8/31/04

IN THE MATTER OF:

1809 Sutton Avenue
13th Election District
1st Councilmanic District

Legal Owner/Petitioner
Carol Susan Green-Boteler

* BEFORE THE
* BOARD OF APPEALS
* OF BALTIMORE COUNTY

CASE NO.: 03-572-A

RECEIVED

AUG 31 2004

BALTIMORE COUNTY
BOARD OF APPEALS

* * * * *

MEMORANDUM OF PETITIONER

NOW COMES Petitioner, Carol Susan Green-Boteler, by her counsel, Michael P. Tanczyn and submits the within Memorandum to assist the Board of Appeals in making its decision in this case.

STATEMENT OF THE CASE

The Petitioner, Carol Susan Green-Boteler, submitted a Petition with request for administrative variance relief from BCZR 400.1 and 400.3, first, to allow an accessory structure (a garage), to be located in the third part of the rear yard closest to the road, in lieu of the required third portion farthest removed from the road, second, to permit a rear setback to the alley of 6 ½ feet, in lieu of the required 15 feet, third, to permit a rear yard coverage of 43.5, in lieu of the required 40%, and to permit a height of 20 feet, in lieu of the required 15 feet. The above requested relief was originally filed as an administrative variance, with a closing date of June 30, 2003. Prior to the expiration of the closing, a request for hearing was received from a nearby property owner. The property was duly posted and advertised, and hearing heard by the Deputy Zoning Commissioner of Baltimore County, who by Findings of Fact and Conclusions of Law and Order,

August 12, 2003 granted the variance relief requested, subject to four conditions. Two Motions for Reconsideration were filed with the Deputy Zoning Commissioner, who, without further hearing, then issued an Order on Motion For Reconsideration, October 31, 2003, denying both motions for reconsideration and adding two additional conditions to the August 12, 2003 Order. A timely appeal was filed by the Protestants and this matter was scheduled for hearing July 7, 2004 before the Board of Appeals. On request of the Protestants of July 1, 2004 for a postponement, to which no objection was raised by the Petitioner, the Board of Appeals granted the postponement and rescheduled the hearing for August 17, 2004 at 10:00 a.m. The matter was heard by the Board of Appeals on August 17, 2004.

STATEMENT OF FACTS

Carol Susan Green-Boteler has owned and resided at 1809 Sutton Avenue, continuously since 1973. Shown on the plat of St. Denis, admitted as Petitioner's Exhibit 3, her lot is Lot 29, located on the northeast corner of Sutton Avenue and Willow Street in the town of St. Denis. The lot is 40 feet wide by 110 feet long. To the rear of Petitioner's property is a platted unnamed paper alley, separating homes on Sutton Avenue from the homes on Centre Street, which is parallel with Sutton and the first travel street due east of Sutton Avenue. Parking is permitted on the north side of Willow Street, but not on the south side. The St. Denis subdivision plat was prepared by Templeman & Shipley Surveyors in April 1866 and recorded in the Plat Book of Baltimore County, JWS #1, part 1-9. Ms. Green-Boteler testified that when she wanted to build a garage on the rear portion of her property, she first consulted with the Baltimore County Zoning Office and was given a plan utilized by her neighbor, Mr. O'Heir of 1807 Sutton Avenue, when he obtained his administrative variance in case 01-232A for 1807 Sutton Avenue, to build a large addition on the rear of his home. The O'Heir property original residential structure was built according to

Petitioner's Exhibit 17 from SDAT in 1870. Ms. Green-Boteler testified that the original improvements on her property had been built in 1900. She had owned this property in her sole name since she received a Deed to the property April 17, 1989, Petitioner's Exhibit 6. She was aware of numerous other oversized garages that had been built in the neighborhood without seeking administrative variances or even building permits. Those were shown on the following Petitioner's Pictorial Exhibits: 4 (a)(b)(c) for 1813, 1815, and 1817 Sutton Avenue; 5(a) and (b) for 510 South Street, and 5(c) and (d) for 1833 Sutton Avenue, rear, as well as Exhibit 9, showing the south side of Willow Street, with the neighbor fences and additions, and Petitioner's Exhibit 12, showing the alley south of Willow Street, with numerous garages and fences, as well as Exhibits 13(a) and (b). Petitioner's Exhibit 14 showed the view from the rear of Sutton Avenue, showing numerous garages built south of Willow Street. Further, the GIS aerial plat Baltimore County tile 108(b)(3) in Petitioner's Exhibit 15(a) clearly showed numerous garages in place and also the lack of the usable alley to the rear of the Petitioner's property or going south of Willow Street, as depicted as a paper alley on the plat of St. Denis, Petitioner's Exhibit 3.

Petitioner further testified about the fact that the alley to the rear of Sutton and north of Willow Street did not presently function as an alley and never had in the time that she had lived there. The pictures showed that the alley was bisected by numerous fences in the side yards and rear yards of properties from Sutton, as well as Centre Street, south of Willow Street, including Petitioner's Exhibit 12 and 14 for the area north of Willow Street. Petitioner's Exhibit 16, particularly depicted the rear area fences in the alley north of Willow Street to the rear of Sutton Avenue, as well as Petitioner's Exhibits 19(a), (b), and (c), which showed the alley with lawn chairs and other accoutrements going all the way down to the O'Heir fence and showed the large O'Heir addition. Petitioner's amended plat presented to the Board, as Exhibit 18, depicted the Petitioner's

request for the Board for a 24 x 32 foot garage which would face and have two garage doors facing Willow Street.

The unique aspects of the Petitioner's property include the fact that the plat of St. Denis was prepared in 1866, nearly 90 years before the 1955 zoning regulations were adopted in Baltimore County. The St. Denis subdivision as platted had very long, narrow lots, in keeping with the fact that automobiles had not been invented in 1866, and that the narrow streets and alleys were suitable to horses and carriages, which were the vehicular modes of transportation, other than pedestrian traffic available at the time that the subdivision was platted. Further, Petitioner's property, because of its location on the corner of Sutton Avenue and Willow Street, is distinguishable from the remaining streets of St. Denis, because Sutton Avenue is the main thoroughfare leading into and out of the community, which is land-locked to the north by the railroad tracks, and is bordered to the south by the State park, south of South Street. To the west of Sutton Avenue, south of Petitioner's house, lies only woods, except for the DeSa home, which also obtained an administrative variance, Case 96-450 A, for 1816 Sutton Avenue. As was testified to by Mr. Alan DeSa (depicted as Petitioner's Exhibit 20), which showed the entire current DeSa house, the only portion which existed prior to the numerous additions put on by Mr. DeSa since he purchased the property, was the portion shown on the left front corner of the picture, and that the remainder had been built up by him after he obtained his administrative variance. Another unique factor contributing to the unique aspect is that the original improvements, as built in the late 1800s and all the way to 1900 were small, narrow structures, which provided on a less than 1/10th of an acre lot, a very small post Civil War home.

The desire of the Petitioner, in this case, to have additional space on her lot follows and mirrors that of her neighbors, including Mr. and Mrs. O'Heir, at 1807 Sutton Avenue, who built a

large addition, running almost to the rear property line. Any addition or any garage built on any of these properties would require variances. Many people have built garages in the neighborhood without asking permission, getting a permit or requesting variances. The practical difficulty and unreasonable hardship for the Plaintiff derives from the fact that when these lots were platted out, the automobile had not been invented, and the lots, as narrow and long in shape, as platted, would provide inadequate amounts of storage space for automobiles off the road. One of the benefits to the community by the Petitioner's garage, if built, would be that it would provide a location off the street, where she could park her antique vehicles shown in her pictures. Ironically, all of those appearing in opposition had benefitted from petitioning for and obtaining residential administrative variances, to which no objection was raised, when zoning for Petitioner's property was proven to be DR 5.5. As this Board can readily conclude from a review of the improvements, as built in the neighborhood, all of the lots in St. Denis are of similar size to the Petitioner's and many other property owners have tried to place modern necessities and amenities on their properties, including additions and garages larger than the Petitioner's proposed garage. It should be noted that Petitioner has withdrawn her request for a height variance to 20 feet, and asks for a garage no higher than the 15 foot height requirement of Section 400.1 of the BCZR.

As laid out originally in 1866, the lot was presumed to be adequate for a modest home of the owner, and perhaps a cow or a horse. Within the passage of time and the invention of the automobile and two-way vehicular traffic, the community would in fact benefit, if the Petitioner's garage were to be approved, because the Petitioner would then park her motor vehicles off the road and the narrow 17 foot wide Willow Street would be more passable for two-way traffic, which is presently permitted, but difficult to accomplish, due to the narrowness of the street, on a regular basis. Further, irony is presented in the testimony of the two Protestants, Alan DeSa and Richard

O'Heir. Both of them talked about how the Petitioner had been cited for storing property in her open rear yard, which the Petitioner testified would be stored, either in the trailer shown in Petitioner's Exhibit 11A, a Polaroid picture taken August 16, 2004, or within the portion of the garage area, thereby taking it out of the view of her neighbors. Both Mr. DeSa and Mr. O'Heir admitted that other residents in St. Denis had built larger garages than that requested by Petitioner, without bothering to get a permit, or ask for a variance of any kind, including garages more than 15 feet high.

Due to the small narrow shape and lack of a functioning alley between the Petitioner's property and the Centre Street lots, the normal concerns about a garage being too close to a corner, in terms of affecting site distance or vehicular access are inapplicable on the mere facts of this case. There is no dispute and no doubt that the garage, which would face Willow Street will not open up on the non-used, unpaved alley, which is used at present as a means of pedestrian access from Willow Street to the O'Heir property, and will continue to be available for that use, in the event Petitioner's variances are granted.

LEGAL STANDARD OF REVIEW

There is ample substantial evidence to indicate both the Petitioner meets the unique standard, on the following facts. The lot was, per the subdivision platted in 1866, erected in a time of horses and buggies, as the available mode of transportation. It was subdivided into narrow lots, in this case, 40 feet wide by 110 feet deep. Those narrow lots, less than 1/10 of an acre in the Petitioner's case, are insufficient to meet the zoning setbacks created 89 years later. Further, the narrow streets of St. Denis, which border the Petitioner's property, namely Sutton Avenue and Willow Street, are paved to a narrow width of between 17 and 19 feet in width and are typical of the roads throughout the community. Looking at Petitioner's individual lot, the existing improvements were built there in

1900, some 17 feet from Sutton Avenue, leaving a very small backyard from the rear of the structure to the rear property line. The case of Cromwell v. Ward, 102 Md. App. 691, 651 A.2d 424 (1995), in discussing the evolution in the body of variance law said:

“In moving towards an acceptance of variance procedures, the court noted that the ‘increasing need for garages in the cities was one of the main reasons for the rapid spread of zoning in this country.’ Heath v. Mayor and City Council of Baltimore, 187 Md. 296, 300, 49 A.2d 799 (1946). By the time of its decision in Heath, the court had accepted the inevitable need for formal variance and special exception provisions noting that ‘chaos would result if a building engineer were allowed to make exceptions or variances in his own discretion. Heath, supra @ 301.” Cromwell @ 704.

In the instant petition, the Petitioner is requesting a garage for the first time since the original structure was built in 1900 when horses and carriages were the non-pedestrian means of conveyance.

The Cromwell court defined uniqueness as used in Section BCZR 307, as follows:

“Uniqueness of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls...

In some zoning ordinances, the specialness or uniqueness requirement is more explicitly set out. The Court of Appeals, in Ad + Soil, Inc. v. County Commissioners, 307 Md. 307, 339, 513 A.2d 893 (1986), quoted from Queen Anne’s County Ordinance; whereby reason of the exceptional narrowness, shallowness, or unusual shape of a specific...property..., or by reason of exceptional topographic conditions or other extraordinary situation or special conditions of...property...the literal enforcement...would make it exceptionally difficult...to comply...and would cause unwarranted hardship and injustice....Cromwell supra @ 710, 711.

The Petitioner, Carol Green-Boteler’s property meets the test of uniqueness, in consideration

of the factors enumerated above, because it was platted in 1866, nearly 89 years before zoning regulations were in force with the 1955 set in Baltimore County. Further, it was platted as very small lots, 40 feet wide by 110 feet long, which are both narrow and shallow. Further, at the time it was platted, automobiles had not yet been invented and the subdivision plat reflects the narrow streets which would accommodate horses and carriages at the time. Further, the pictures mentioned as evidence in this case reflect that numerous homes in this subdivision have built garages without seeking variances or even permits to reflect the need for garages, with the subsequent invention of the automobile after the subdivision was platted. Further, in considering the Petitioner's property in its relationship to neighboring properties, it is, at once clear that other neighbors, including the two Protestant witnesses present at the hearing, have both availed themselves of the administrative variance process in order to build substantial additions to their homes to provide more living space.

Turning to the aspect of practical difficulty or unreasonable hardship, under BCZR 307, a review of Petitioner's requests, when compared to the size and shape of her lot, illustrate that the difficulty she would have in trying to comply with the 1955 set of zoning regulations calling for setbacks and location of a garage within a certain portion of the backyard. Her lot is extremely small, as well as being shallow and narrow. That causes her not to be able to place the garage in the furthest portion of the backyard, away from the road. Further, the original structure, as was testified to, was built in 1900, some 55 years before the 1955 set of zoning regulations was adopted in Baltimore County. At that time, the rear yard was established with the building of the original home. Pictorial evidence of the paper alley shown on the original subdivision of St. Denis behind the Sutton Avenue homes and north of Willow Street, illustrate that the normal concerns for sight distance or turning radius when locating the garage close to a lot corner would not be significant factors or problems, because the alley exists in name only, and has been appropriated by every property owner

north of Willow Street, to be fenced in and used as personal living space, with the sole exception of pedestrian access from Willow Street, 40 feet to the O'Heir property, through a gate and a fence which blocks off the alley to properties further south. The pictures admitted in evidence further illustrate that all of the interior properties beyond the O'Heir's have similarly fenced off the alleyway, and appropriated it as personal living space, obstructing vehicular access beyond their property, as shown on the paper alley in the original plat of St. Denis.

The Board may recall in Petitioner's testimony that she utilized a zoning plat, as filed by Mr. O'Heir, when he sought his administrative variance, when she sought her variance. That original plat, which was Petitioner's Exhibit 1 before the Board of Appeals, had the same dimensions on it as drawn on by Mr. O'Heir, who corroborated Petitioner's testimony that he had placed the 60 foot dimension on the length of her home.

None of the variances requested by the Petitioner or the hardship is claimed related to actions taken by the land owner since the original improvements were built, long before the Petitioner was born, and long before she first lived in the property in 1973. The testimony of all witnesses that the alley has always been fenced off and utilized in the manner shown in the pictures, both north and south of Willow Street. Further, there was no dispute in the testimony of the Protestants, who acknowledged that the pictures of other garages were accurate, and to the Protestant's knowledge, those garages may have been built without getting permits and variances. In the recent case of Lewis v. Department of Natural Resources, 377 Md. 382, 833 A.2d 563 (2003), the court found that Petitioner's hardship was a result of unique physical features of his property, and not because of actions taken by the land owner, and that the Board of Appeals erred in that case in denying the variance by reviewing the factors constituting uniqueness individually, rather than as part of an entire matrix, in deciding whether the property met the legal standard of uniqueness. In reversing the

Board's denial, the Appellate Court found the Board erred in its review of the Petitioner's claimed unique physical characteristics. Lewis, supra @ 413-414. In further considering the Board's decision, the Court concluded that:

“In respect to variances and buffer areas, the correct standard is not whether the property owner retains a reasonable and significant use for the property outside the buffer, but whether he or she is being denied a reasonable use of property within the buffer.” Lewis supra @ 419.

In this case, Petitioner seeks that which many of her neighbors have already obtained, without benefit of permit or variance, namely a garage to house her antique automobiles and other property, and take them off the street, which can only serve to improve the traffic safety on Willow Street, adjacent to Sutton Avenue.

Further, in the case of Richard Roeser Professional Builder, Inc. v. Anne Arundel County, 368 Md. 294, 793 A.2d 545 (2002), the Court of Special Appeals, reinstating the Circuit Court's decision that the local Board of Appeals had made an error of law and applied an erroneous standard, with respect to the Board's denial of a request for variances made by the Petitioner. Specifically, the Court found that the Petitioner did not self-create a hardship by buying property for which he knew variances would be required in order to build a house of the size it desired. Roeser supra @ 296. The Court of Special Appeals overruled its own decision in Gleason v. Keswick Improvement Association, 97 Md. 46, 78 A.2d 164 (1951). In that case, the Court of Appeals found, as in the Roeser case, that:

“The variance at issue in the case sub judice, is an ‘area’ variance, not a ‘use’ variance.” Gleason, cited by the Court of Special Appeals, never applied to “area” variances, and, as we have indicated in the several cases we have cited, we made that distinction long ago. Roeser supra @ 318.

As the Board of Appeals is well aware, area variances are deemed not to change the

character of an area and to be less significant and subject to a lesser standard of approval required under the zoning statute, including BCZR, Section 307. Anderson v. Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220.

The Board of Appeals may, in its review of the Order on Motion For Reconsideration in the instant case, discern, as did the Deputy Zoning Commissioner, that the number of variances requested and the degree of exception requested from the zoning setback requirements of the O'Heirs and the DeSas were numerous and asked for a bigger variance or exception from the zoning setback regulations than those requested by the Petitioner. Those two Protestant's witnesses, having benefitted from administrative variances which were not opposed in the community now seek to protest, the Petitioner's request for more modest setback variances than they petitioned for and were granted. Finally, the Board, at looking at the pictorial evidence of the numerous additional garages built close to if not within the paper alley south of Willow Street and without benefit of permit or variance, some which clearly are in excess of 15 feet high, present the best picture of the present configuration and character of the community of St. Denis. The Petitioner's variance will meet all the tests of BCZR 307, will not increase residential density, and will not change the existing character of the community, which has been established by the prior postbellum St. Denis construction aforesaid.

CONCLUSION

Petitioner requests that the Board of Appeals grant the variances requested for the reasons stated for a 24 foot by 32 foot garage, as shown on Petitioner's Exhibit 18 before the Board.

Respectfully submitted,



MICHAEL P. TANCZYN, Esquire
606 Baltimore Avenue, Suite 106

Towson, Maryland 21204
(410) 296-8823
Attorney for the Petitioner,
Carol Susan Green-Boteler

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 31st day of August, a copy of the foregoing Memorandum of was mailed to Mr. Alan DeSa, 1816 Sutton Avenue, St. Denis, Maryland 21227, Protestant and to Peter Max Zimmerman, Esquire, Peoples' Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204.



MICHAEL P. TANCZYN, Esquire
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204
(410) 296-8823
Attorney for the Petitioner,
Carol Susan Green-Boteler

LAW OFFICES
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Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

August 31, 2004

VIA HAND-DELIVERY

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

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AUG 31 2004

BALTIMORE COUNTY
BOARD OF APPEALS

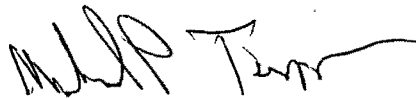
Re: Case#: 03-572-A
Carol Susan Green-Boteler

Dear Ms. Bianco:

At the request of the Panel Chair, enclosed herewith please find an original and three copies of the Memorandum of the Petitioner, submitted to assist the Board in its decision in this case.

Please feel free to contact me should you have any questions.

Very truly yours,



Michael P. Tanczyn, Esquire

MPT/cbl

Enclosure(s)

cc: Ms. Carol Susan Green-Boteler
Mr. Alan DeSa
Peter Max Zimmerman, Esquire

10/31/03

IN RE: PETITION FOR ADMIN. VARIANCE
NE/Corner of Sutton Avenue
and Willow Street
13th Election District
1st Councilmanic District
(1809 Sutton Avenue)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 03-572-A

Carol Susan Green-Boteler
Petitioner

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before the Deputy Zoning Commissioner on two (2) Motions for Reconsideration and responses thereto regarding this Commission's Order dated August 12, 2003 granting in part variances requested by the Petitioners to construct a garage on their property.

The hearing on this matter occurred August 6, 2003. The first Motion for Reconsideration was filed by People's Counsel containing nine (9) issues which motion was received in this office on September 10, 2003 and made a part of the record of this case. People's Counsel entered their appearance in the case on September 10, 2003 but did not participate in or attend the hearing on this matter. The second Motion for Reconsideration was filed by protestant Alan J. DeSa containing nine (9) issues which was received in this office on September 11, 2003 and made a part of the record of this case. Mr. DeSa attended and participated in the hearing of August 6, 2003. Both motions were sent to the Petitioners who responded in writing and with additional photographs that were received in this Office on September 16, 2003 and made part of the record of this case.

In addition, a new set of comments was received from the Office of Planning on September 26, 2003 requesting that some of the variances previously granted be denied and making other recommendations. The Office of Planning had previously offered no comments in their initial review of this matter dated June 17, 2003. The second set of Office of Planning

ORDER RECEIVED FOR FILING

Date 10/31/03

By R. Green

comments was sent to the Petitioners on September 29, 2003. The Petitioners did not file a Reply to those comments. The Zoning Commissioner's Office also received a telephone call from the Zoning Office (John Alexander) on October 16, 2003 indicating that if the Petitioners' representation that Willow Avenue is a private road, is correct, then Section 102.5 of the Baltimore County Zoning Regulations ("B.C.Z.R."), which limits the heights of structures at intersections, would not apply. The Zoning Office indicated that Section 102.5 of the B.C.Z.R. applied only to the intersection of public streets with alleys. The August 12, 2003 Order held that Section 102.5 of the B.C.Z.R. required the Petitioners to comply with that section and established same as a condition in the Order. Finally, as a corollary to the new Zoning Office comment, it also could be argued that if Willow Avenue was a private road, then Section 400.1 would apply only as to the requirement that accessory buildings be located in the rear yard and occupy 40 % of the rear yard. Said another way, the "corner lot" requirements of Section 400.1 would not apply.

Neither the Petitioners nor those requesting reconsideration have asked for another hearing on this matter. As a result, the issues raised will be decided on the record herein.

The following is a summary of the issues raised in the Motions for Reconsideration and the decision of this office as to each issue:

**I. The Zoning Commissioner's Office
Should Consider the Zoning Violation in the Variance Case.**

Several of the issues raised by the protestants and People's Counsel suggest that the Petitioners will not use the garage for the storage of household goods and vehicles but will use it to further their commercial interests in violation of the zoning ordinance. The Petitioners have been cited for such violations by Baltimore County for the storage of building supplies and non-household material in their front and back yards. Photographs submitted by the protestants

ORDER RECEIVED FOR FILING

Date 10/31/03

By [Signature]

showed piles of lumber, equipment and vehicles were stored on the Petitioners' front and rear yards. Inherent in the protestants argument is the idea that Baltimore County should not reward the violation with a variance. The basis for this idea is the belief that the Zoning Enforcement Office will waive fines and penalties, which might otherwise apply, if the Petitioners are successful in persuading this office to grant variances. Realizing that the line between the merits of a zoning case and the allegations of zoning violation are often blurred in the public's mind, this issue be will addressed first and at length.

The Zoning Commissioner's Office, on requests for variance arising from alleged zoning violations, may only consider the merits of the variance case and not the merits of the zoning violation case. In other words, the Petitioners can not use the fact that a structure has already been built (typically without a permit) or, as in this case, allegations of storage of non household material on the property as the source of the unreasonable hardship or practical difficulty required by Section 307.1 of the B.C.Z.R. The cost to raze a structure or remove material can not be considered as the basis of hardship or practical difficulty because these are self-imposed.

On the other hand, the fact that an allegation has been made that the Petitioners are in violation of a zoning ordinance is not held against the Petitioners in the variance case. Code enforcement lies within the purview of the Department of Permits and Development Management ("D.P.D.M.") which has the authority to impose fines and penalties for the violation. The fact that D.P.D.M. may or may not waive fines and penalties if a variance is granted is irrelevant to the merits of the variance case. The variance case must be decided on the evidence required by the statute in Section 307.1, which reads in pertinent part:

.... 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 with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

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Date 10/31/03

By [Signature]

Thus, just as a Petitioner can not use the violation as source of practical difficulty or unreasonable hardship, neither can the protestants forbid consideration of Petitioners' zoning case because violations may or may not have occurred.

Having said that, County laws, regulations and enforcement policies, taken as a whole, encourage voluntary compliance rather than punishment as the means of ending violations. Nevertheless, sanctions are ultimately available to the County to achieve its goal of zoning compliance. Whether the Zoning Enforcement Office determines that punishment rather than persuasion in a particular case is appropriate is their choice.

Accordingly, the Zoning Commissioner's Office can not act as another tool for zoning enforcement. The merits of the zoning case must be decided independently from the violation case. Notwithstanding the foregoing, the August 12, 2003 Order will be amended such that the garage shall not be used for commercial enterprises as suggested by the Planning Office.

II. Accuracy of Plats and Sealed plans.

The Petitioner's request for variance began as a request for administrative variance. This is an informal process whereby the petitioner meets with an intake person in the Zoning Office who, although not giving legal advice, after hearing what the petitioner wants to accomplish, tells the petitioner what is needed in terms of relief from the B.C.Z.R., constructs the wording of the petition itself and often outlines the advantages and disadvantages of requests. This is a public service. Petitioners in these cases are often not represented by attorneys, nor do they hire engineers to construct and seal plans. It is also true that the petitioners alone are responsible for the accuracy of plans submitted. Nevertheless, it was the intention of the County Council in allowing administrative variances (and hearings in contested cases) to allow the typical homeowner to apply and have variance requests considered without the expense of professional

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Date 10/31/03

By [Signature]

advice. Accordingly, I will not dismiss this petition for lack of engineer's seal on the plans or dimensional deficiency in the plats as they can reasonably be understood for their content.

III. The Requested Garage is Not Compatible with the Neighborhood.

The first requirement under Section 307.1 of B.C.Z.R. for a variance to be granted is that "some special circumstance or conditions exist that are peculiar to the land or structure." By definition, this means some comparison is required of the Petitioners' request to that of neighbors who may have requested and received variances. Thus, what was a "special circumstance" in a neighbor's case may be instructive in this case. The following is a list of other variances that have been granted in the immediate area of Sutton Avenue.

Ironically, a variance had been granted to one of the primary protestants at the hearing, Mr. Richard O'Heir, who lives next door to the Petitioners at 1807 Sutton Avenue. Mr. Heir readily admitted at the hearing that he had applied for and was granted a variance for an addition to his home in Case No. 01-232-A. Mr. O'Heir's petition for variance had the following salient features:

1. The O'Heir addition was to be built within 8 ft. of the rear property line in lieu of the required 30 ft. (The Boteler variance is for a garage 6.5 ft. from the rear alley in lieu of the required 15 ft.)
2. The O'Heir addition was to be built with side yard setbacks of 2 ft. and 3.5 ft. in lieu of the required 10 ft. (The Boteler variance requests no side yard setback variance)
3. The O'Heir addition was single story and would be attached to the existing home as shown in the plat to accompany Petition for Zoning Variance in the O'Heir case attached hereto. (The Boteler variance was amended to one story and therefore no variance was requested).
4. The O'Heir plat was not sealed by an engineer but was hand drawn as shown.
5. Although the O'Heir property was posted with a sign nearly identical to the posting in the Petitioners' case, and no opposition to his variance request was noted in the file.

ORDER RECEIVED
Date 10/31/03
By J. R. Johnson

Another interesting variance in the neighborhood was the administrative variance granted to Mr. DeSa (Case No. 96-450-A), who actively participated in the hearing in this case as a protestant and filed one of the Motions for Reconsideration that is the subject of this Order. Mr. DeSa lives at 1816 Sutton Avenue. In 1996, Mr. DeSa (in Case No. 96-450-A) requested and received a variance to build an addition to his home. Mr. DeSa's petition for variance had the following salient features:

1. The DeSa addition was to be built within 2 ft. of the front property line in lieu of the required 25 ft. (The Boteler variance is for a garage 6.5 ft. from the rear alley in lieu of the required 15 ft.)
2. The DeSa addition was to be built with side yard setback of 2 ft. in lieu of the required 10 ft. (The Boteler variance requests no side yard setback variance)
3. The DeSa addition was 1-½ stories and would be attached to the existing home as shown in the plat to accompany Petition for Zoning Variance attached hereto. (The Boteler variance was amended to one story and therefore no variance was requested)
4. The DeSa plat was not sealed by an engineer but was hand drawn as shown.
5. Although the DeSa property was posted with a sign nearly identical to the posting in the Petitioners' case, no opposition to his variance request was noted in the file.

Both the O'Heir and DeSa variances were fully justified and legally granted. In both cases, two different Zoning Commissioners found that there were special conditions on these properties that justified granting variances. In addition, their proposed additions were clearly beneficial to the neighborhood. Apparently, the community saw the O'Heir and DeSa requests differently from the Petitioners' request in this case. Perhaps this difference is attributable to the alleged zoning violations discussed above. Whatever the reason, "special circumstances, hardship or practical difficulty" existed in those cases as they do in this case. It should also be noted that the Boteler file contains many photographs of very large garages in the neighborhood (including the Petitioners' recent submittals marked as Petitioners' Exhibit Nos. 4A through 4D).

Accordingly, variances have been granted in this neighborhood on a fairly regular basis without opposition.

Moreover, in reviewing the DeSa file, there are several useful elevations of the proposed addition which were submitted with the petition filed by Mr. DeSa. These drawings gave the Commissioner an understanding of how the addition would be compatible with the neighborhood. In this case, it would have been helpful to this office if the Planning Office had originally made comments *prior to* the issuance of the August 12, 2003 Order. Nevertheless, as a condition of granting the variances in this case, the August 12, 2003 Order will be amended to incorporate the Planning Office suggestion that the Planning Office approve elevation drawings of the Boteler garage prior to obtaining building permits, to insure the design is compatible with the neighborhood.

IV. Section 102.5 Corner Setback.

The August 12, 2003 Order, imposed a 15 ft. corner setback on the garage pursuant to Section 102.5 of the B.C.Z.R. The property was located at the intersection of a street and alley and, therefore, no structure more than 3 ft. in height could be erected in a triangle 15 ft. on each side coming from the intersection. Thus, the garage could not be a rectangular 24 ft. x 32 ft. garage as proposed by the Petitioners but rather, the garage as granted has its corner nearest at the intersection of the alley and Willow Avenue cut-off. It is also true that the dimension of the garage nearest the house could be 32 ft. if this truncated design is practical. It may, however, be more cost effective to simply square the Willow Avenue side of the garage off at some smaller width.

With regard to the Zoning Office's recent comment that, if Willow Avenue is in fact a private road as indicated on Petitioners' Exhibit No. 1, then Section 102.5 of the B.C.Z.R. does

not apply at all and the August 12, 2003 Order is erroneous as it requires the triangular setback for garage near the street/alley intersection and should have allowed the entire 24 ft. x 32 ft. garage. Notwithstanding the Zoning Office's position, there was no evidence at the hearing that showed Willow Avenue was in fact a private road. Additionally, the O'Heir plat (which Ms. Boteler admits is the basis of her plat) does not make that assertion. A notation on Petitioners' Exhibit No. 1, that Willow Avenue is a private road, is not enough to remove the safety requirement. Therefore, the limitation will continue to be imposed pursuant to the Order. While the County's Bureau of Land Acquisition may be able to shed light on this issue, no further study will be required at this time, as I am satisfied that this is a reasonable condition to impose under the circumstances.

Finally, as a corollary to the new Zoning Office comment, it also could be argued that if Willow Avenue was a private road, then Section 400.1 of the B.C.Z.R. would apply only as to the requirement that accessory buildings be located in the rear yard and occupy 40 % of the rear yard. In other words, the "corner lot" requirements of Section 400.1 would not apply.

If so, the only requirements for the garage are that it be in the rear yard, not cover more than 40% of the rear yard and be set back 2.5 ft. from the side and rear property line. This implies that a 35 ft. wide garage would not need a variance if it met the other requirements.

Again, for the reasons stated above, I do not accept this argument. I find that the Boteler property is a corner lot and subject to the corner provisions of Section 400.1 of the B.C.Z.R.

After considering each and every argument presented by both sides in this matter, I will deny the Motions For Reconsideration in general but will impose additional conditions of the variance as noted above.

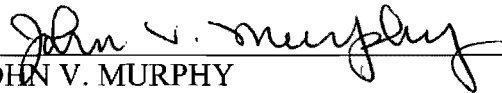
ORDER RECEIVED FOR FILING
Date 10/31/03
By J.P. [signature]

THEREFORE, IT IS ORDERED this 31 day of October 2003, that both Motions to Reconsider are generally **DENIED**; and it is further

ORDERED, that the following conditions shall also be imposed in addition to the conditions listed in the August 12, 2003 Order issued by this office:

1. The Petitioners shall submit elevation drawings to the Planning Office prior to obtaining building permits to insure the design is compatible with the neighborhood;
2. The Petitioners shall not allow or cause the garage to be used for commercial purposes.

IT IS FURTHER ORDERED, that any appeal of this decision shall be made within thirty days of the date of this Order.



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING

Date 10/31/03

By [Signature]

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468



Baltimore County

James T. Smith, Jr., County Executive
Lawrence E. Schmidt, Zoning Commissioner

November 3, 2003

Carol S. Green-Boteler
1809 Sutton Avenue
Baltimore, Maryland 21227

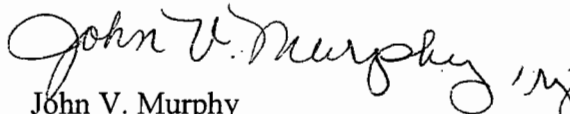
Re: Motions for Reconsideration
Case No. 03-572-A
Property: 1809 Sutton Avenue

Dear Ms. Green-Boteler:

Enclosed please find the decision rendered in the above-captioned case. The Motions for Reconsideration have been denied in accordance with the enclosed 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 from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,


John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Dawn DaCosta
1810 Centre Street
Baltimore, MD 21227

Doreen & Alan J. DeSa
1816 Sutton Avenue
Baltimore, MD 21227

Richard O'Heir
1807 Sutton Avenue
Baltimore, MD 21227

Peter Max Zimmerman
Office of People's Counsel

Visit the County's Website at www.baltimorecountyonline.info



8/12/03

IN RE: PETITION FOR ADMIN. VARIANCE

NE/Corner of Sutton Avenue
and Willow Street
13th Election District
1st Councilmanic District
(1809 Sutton Avenue)

Carol Susan Green-Boteler
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 03-572-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, Carol Susan Green-Boteler. The Petitioner is requesting administrative variance relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley of 6.5 ft. in lieu of the required 15 ft., to permit a rear yard coverage of 43.5% in lieu of the required 40%, and to permit a height of 20 ft. in lieu of the required 15 ft.

The above requested relief was originally filed as an administrative variance with a closing date of June 30, 2003. However, prior to the expiration of the closing, a request for hearing was received from a nearby property owner.

The property was posted with Notice of Hearing on July 21 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on July 17, 2003 to notify any interested persons of the scheduled hearing date.

Notice is taken that the property, which is the subject of these special hearing and variance requests, consists of 4,400 sq. ft., and is zoned D.R.5.5. The property is improved with an

ORDER RECEIVED FOR FILING

Date

By

8/12/03
P. Green

existing dwelling located on lot 29 of the Town of St. Dennis laid out in 1866 as shown on Petitioner's Exhibit 3. The property is a corner lot bounded by Sutton Avenue and Willow Avenue.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

“The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations 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 with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.”

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: NONE

Interested Persons

Appearing at the hearing on behalf of the requested variance relief was Carol Green-Boteler, the property owner, and Dawn DaCosta, owner of a nearby property. Richard O' Heir Doreen DeSa and Alan DeSa appeared and testified as Protestants.

Findings of fact and conclusions of law

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 4,400 sq. ft., zoned D.R.5.5. The salient feature of this request is the

ORDER RECEIVED FOR FILING

Date 8/12/03

By R. J. [Signature]

incredibly small size of the lot, barely one tenth of an acre. The lot was laid out in 1866 and presumably was adequate for the modest home of the owner and perhaps a cow or horse. There were no vehicles much less pickup trucks and recreational vehicles, to contend with. There may have been some construction materials stored on the property in 1866 but nothing like the dog kennel, piles of lumber, metal poles, and general construction equipment and material shown to be on the Petitioner's property at present by the Protestant's photographs admitted into evidence. However, all of the lots in St. Dennis are this tiny and many other property owners have tried to place modern necessities and amenities on their properties including additions and garages as large or larger than the proposed garage. All of this building activity has resulted in a unique town of friendly neighbors and eclectic properties.

At the outset the Petitioner requested four variances. However, after some testimony, she determined to withdraw her request for a variance that the height of the proposed garage be 20 feet so she could store her Recreational Vehicle inside the garage. Having withdrawn her request in this regard she will have to build any garage within the 15 foot height requirement of the Section 400.1 of the BCZR.

Three variance requests remained. The first is the basic request for variance from Section 400.1. Because this is a corner lot, this section requires the garage to be placed within the third of the lot farthest from either street. By ancient custom, the Zoning Office has interpreted this section to mean that an accessory structure can be placed within the cross hatched area shown on the attached (Zoning Commissioner's Policy Manual Section 400.1.d(1)A. Based upon Petitioner's Exhibit 1, the rear yard was found to be approximately 44 feet in depth from the rear of the dwelling to the rear lot line. This means that the garage can be built within an area 44 x 20 feet.

ORDER RECEIVED FOR FILING

Date

8/12/03

By

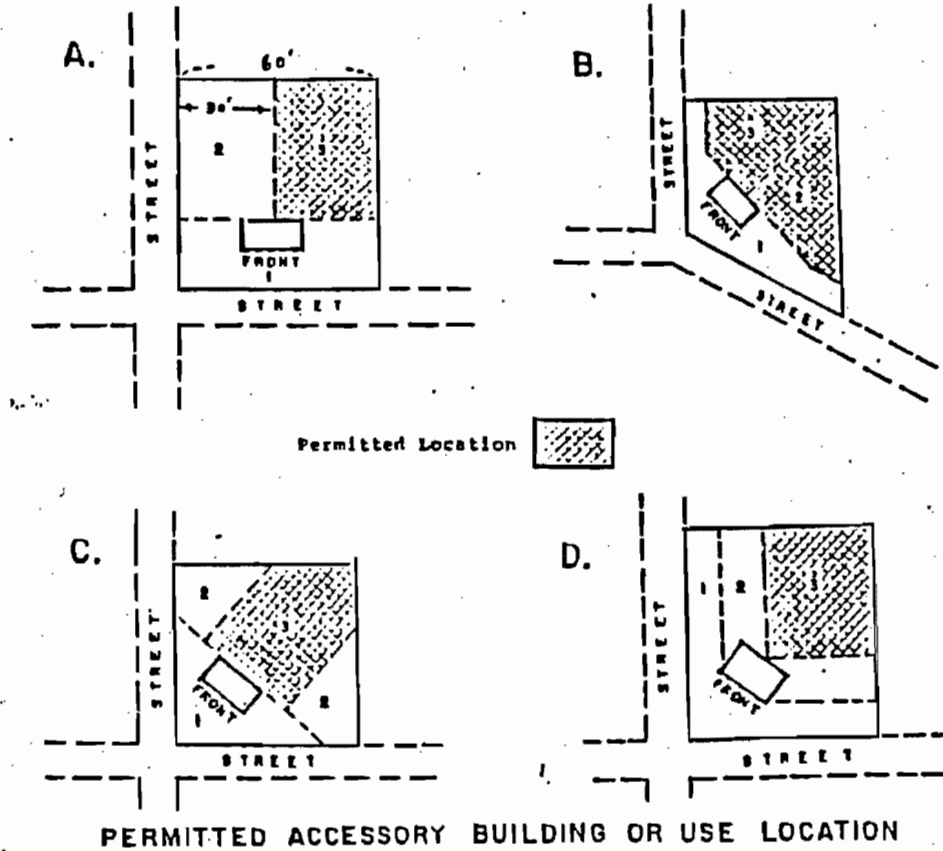
R. J. [Signature]

ZONING COMMISSIONER'S POLICY MANUAL

SECTION

400.1.d ACCESSORY STRUCTURES/USES

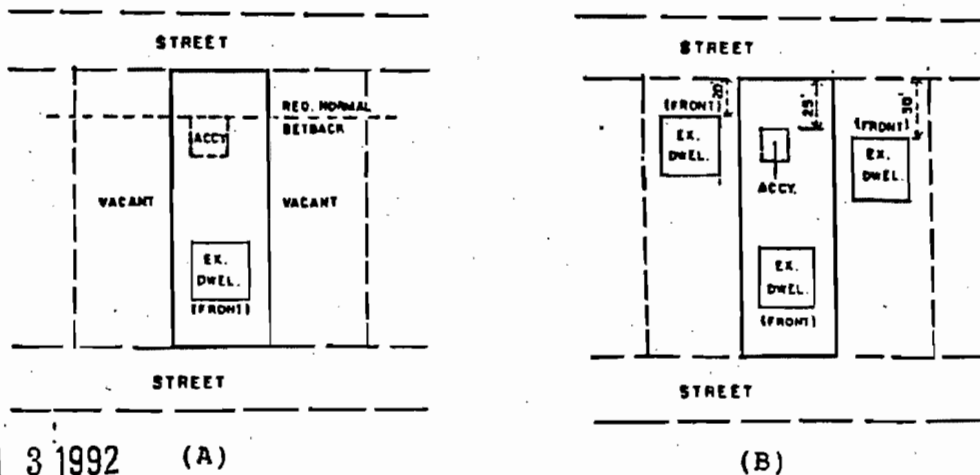
(1) Corner Lots - Location Diagrams:



PERMITTED ACCESSORY BUILDING OR USE LOCATION

(2) Double Frontage Lots

- (A) Accessory structures/uses on double-frontage lots shall not be closer to a street right-of-way line than the setback required for a principal dwelling.
- (B) Where street setbacks have been established by existing dwellings on adjoining properties, Section 303.1 shall be utilized to determine the average setback.



(A)

(B)

ORDER RECEIVED FOR FILING

Date 8/12/03

By R. G. Giverson

APPROVED MAY 13 1992

ZONING DESCRIPTION

Zoning Description For 1809 Sutton Avenue

Beginning at a point on the East side of Sutton Avenue which is 30 feet wide at the distance of 0 feet north of the centerline of the nearest improved intersecting street Willow Street which is 30 feet wide. Being Lot # 29 in the subdivision of Saint Dennis as recorded in Baltimore County Plat Book # 1, Folio 9, containing 4,400 square feet. Also known as 1809 Sutton Avenue and located in the 13th Election District, 1st Councilmanic District.

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: #03-572-A

1809 Sutton Avenue

N/east corner of Sutton Avenue and Willow Street

13th Election District - 1st Councilmanic District

Legal Owner(s): Carol Susan Green-Boteler

Administrative Variance: to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley centerline of 6.5 feet in lieu of the required 15 feet, to permit a rear yard coverage of 43.5% in lieu of the required 40% and to permit a height of 20 feet in lieu of the allowed 15 feet.

Hearing: Friday, August 1, 2003 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

7/16/03 July 17

C615192

CERTIFICATE OF PUBLICATION

7/17, 2003

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/17, 2003.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 03-572-A

Petitioner/Developer: Carol Susan Green-Betolter

Date of Hearing/ Closing: AUGUST 6, 2003

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

Attention: BECKY HART

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 #1809 SUZZONE AVENUE

The sign(s) were posted on JUNE 21, 2003
(Month, Day, Year)

Sincerely,

Garland E. Moore

(Signature of Sign Poster and Date)

GARLAND E. MOORE

(Printed Name)

3225 RYERSON CIRCLE

(Address)

BAUTIMORE, MD. 21227

(City, State, Zip Code)

(410) 242-4263

(Telephone Number)



ZONING NOTICE

CASE # 03-572-A

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

ROOM 407, COUNTY COURTS BUILDING
401 BOSLEY AVENUE

PLACE: TOWSON MARYLAND, 21204

WEDNESDAY, AUGUST 6, 2003

DATE AND TIME: AT 9:00 A.M.

REQUEST: ADMINISTRATIVE VARIANCE -
TO PERMIT AN ACCESSORY STRUC-
TURE (GARAGE) TO BE LOCATED IN THE THIRD PART
OF THE REAR YARD CLOSEST TO THE ROAD IN LIEU
OF THE REQUIRED THIRD PORTION FARTHEST REMOVED
FROM THE ROAD; TO PERMIT A REAR SETBACK TO THE
REAR ALLEY CENTERLINE OF 6.5 FEET IN LIEU OF THE
REQUIRED 15 FEET; TO PERMIT A REAR YARD COVERAGE
OF 43.5% IN LIEU OF THE REQUIRED 40% AND TO PERMIT
A HEIGHT OF 20 FEET IN LIEU OF THE ALLOWED 15 FEET.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 387-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PERALTY OF LAW
HANDICAPPED ACCESSIBLE

41 J 12

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-572-A

CAROL SUSAN GREEN-BOTELER

1809 SUTTON AVENUE, BALTIMORE, MD 21227

13TH ELECTION DISTRICT

APPEALED: 11/19/2003

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*******COMPLETE AND RETURN BELOW INFORMATION*******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 03-572-A

Petitioner/Developer:

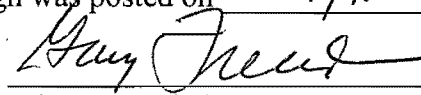
CAROL SUSAN GREEN-BOTELER

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

1809 SUTTON AVENUE, BALTIMORE, MD 21227

The sign was posted on 1/12, 2004

By:


(Signature of Sign Poster)

GARY FREUND
(Printed Name)



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

May 6, 2004

NOTICE OF ASSIGNMENT

CASE #: 03-572-A

IN THE MATTER OF: CAROL SUSAN GREEN-BOTELER -
Legal Owner /Petitioner 1809 Sutton Avenue
13th Election District; 1st Councilmanic District

8/12/03 – D.Z.C.'s Order in which requested variance relief for location of garage and setbacks is GRANTED with conditions. (Variance request as to height of garage was withdrawn by Petitioner and dismissed by D.Z.C.)

10/31/03 – Motions for Reconsideration filed by People's Counsel and by Alan J. DeSa DENIED.

ASSIGNED FOR:

WEDNESDAY, JULY 7, 2004 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Appellant /Protestant : Gina Hrybyk /Relay Improvement Assn.
Petitioner : Carol Susan Green-Boteler
Interested Party : Dawn DaCosta
Protestants: Doreen and Alan DeSa
Richard O'Heir

Office of People's Counsel
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

*pp'd to 8/17/04
reg of A. DeSa -
schedule
inspect - Janely
medical - no
obj.*



1816 Sutton Avenue
St. Denis, Md 21227
July 1st, 2004

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

Case # 03-572-A
In The Matter Of: Carol Susan Green-Boteler
Legal Owner/Petitioner 1809 Sutton Avenue
13th Election District 1st Councilmanic District

Attn: Ms Kathleen C. Bianco
Administrator

As per our conversation this morning I would like to ask for a postponement from the Board of Appeals Hearing in the above captioned case. The Hearing has been scheduled for Wednesday July 7th, 2004. My wife's father-in-law is quite ill and we need to drive to Scranton, PA on Sunday and remain for several days.

The appeal was filed by the Relay Improvement Association and I was planning to represent them at the hearing. I am a private citizen, but have been assisting the Association in this matter. It is quite important to us to see this matter to a legal conclusion and hope that the case can be heard later on in the year.

Thank you for your assistance in this matter

Alan J. DeSa
Alan J. DeSa 410-242-3218, Cell 410-591-2369

Appellant/Protestant

Gina Hrybyk/ Relay Improvement Assn.

Petitioner

Carol Susan Green-Boteler

Protestants

Doreen and Alan DeSa
Richard O'Heir

Office of Peoples Counsel
Lawrence E. Schmidt/Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director/PDM

RECEIVED

JUL 01 2004

BALTIMORE COUNTY
BOARD OF APPEALS



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

July 6, 2004

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 03-572-A

IN THE MATTER OF: CAROL SUSAN GREEN-BOTELER -

Legal Owner /Petitioner 1809 Sutton Avenue
13th Election District; 1st Councilmanic District

8/12/03 – D.Z.C.'s Order in which requested variance relief for location of garage and setbacks is GRANTED with conditions. (Variance request as to height of garage was withdrawn by Petitioner and dismissed by D.Z.C.)

10/31/03 – Motions for Reconsideration filed by People's Counsel and by Alan J. DeSa DENIED.

which had been assigned to be heard on 7/07/04 has been **POSTPONED**, without objection by Petitioner, at the request of Protestant DeSa due to medical reasons (family); and has been

REASSIGNED FOR:

TUESDAY, AUGUST 17, 2004 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Appellant /Protestant : Gina Hrybyk /Relay Improvement Assn.
Protestants: Doreen and Alan DeSa
Richard O'Heir

Counsel for Petitioner : Michael P. Tanczyn, Esquire
Petitioner : Carol Susan Green-Boteler

Interested Party : Dawn DaCosta

Office of People's Counsel
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

August 19, 2004

NOTICE OF DELIBERATION

IN THE MATTER OF:

CAROL SUSAN GREEN-BOTELER – Legal Owner /Petitioner
Case No. 03-572-A

Having heard this matter on 8/17/04, public deliberation has been scheduled for the following date /time:

DATE AND TIME : WEDNESDAY, SEPTEMBER 15, 2004 at 9:30 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: Closing briefs are due on Tuesday, August 31, 2004
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Appellant /Protestant : Gina Hrybyk /Relay Improvement Assn.
Protestants: Doreen and Alan DeSa
Richard O'Heir

Counsel for Petitioner : Michael P. Tanczyn, Esquire
Petitioner : Carol Susan Green-Boteler

Interested Party : Dawn DaCosta

Office of People's Counsel
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

FYI: 4-5-1





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

August 1, 2003

Carol Susan Green-Boteler
1809 Sutton Avenue
Baltimore, MD 21227

Dear Ms. Green-Boteler:

RE: Case Number: 03-572-A, 1809 Sutton Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 15, 2003.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:klm

Enclosures

c: People's Counsel

Come visit the County's Website at www.co.ba.md.us

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Maryland Department of Planning

Andrey E. Scott
Secretary

Florence E. Barian
Deputy Secretary

June 17, 2003

Ms. Rebecca Hart
Baltimore County Department of Permits and Development Management
County Office Building
111 West Chesapeake Avenue
Room 111, Mail Stop # 1105
Towson MD 21204

Re: Zoning Advisory Committee Agenda, 06/23/03 re: case numbers 03-570-A, 03-571-A, 03-572-A, 03-573-SPHA, 03-574-A, 03-575-SPH, 03-576-SPHA

Dear Ms. Hart:

The Maryland Department of Planning has received the above-referenced information on 06/16/03. The information has been submitted to Mr. Mike Nortrup.

Thank you for your cooperation in this review process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,

A handwritten signature in black ink, reading "James R. Gatto". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

James R. Gatto
Manager
Metropolitan Planning
Planning Services

cc: Mike Nortrup

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 17, 2003

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

SUBJECT: Zoning Advisory Petition(s): **Case 03-572 – Administrative Variance**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:

Mark A. Cunningham

Section Chief:

Arnold F. Keller, III

AFK/LL:MAC



**Baltimore County
Fire Department**

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

June 17, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: June 17, 2003

Item No.: 570 - 576

572

Dear Ms..Hart:

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.

7. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK
Fire Marshal's Office
PHONE 887-4881
MS-1102F

cc: File

Robert L. Ehrlich, Jr., Governor
Michael S. Steele, Lt. Governor



Robert L. Flanagan, Secretary
Neil J. Pedersen, Acting Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6.13.03

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

RE: Baltimore County
Item No. 572 BR

Dear Ms. Hart:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

 Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.marylandroads.com

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: June 23, 2003

FROM:  Robert W. Bowling, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For June 23, 2003
Item Nos. 570, 572, 573, 574, and 576

The Bureau of Development Plans Review has reviewed the subject-zoning item.

RWB:CEN:jrb

cc: File

IN RE: PETITION FOR ADMIN VARIANCE *

N/E Corner of Sutton Avenue &

Willow Street

13th Election District

1st Councilmanic District

(1809 Sutton Avenue)

BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 03-572-A

Carol Susan Green-Boteler- Legal Owner

Petitioner(s)

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.



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

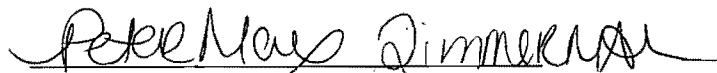
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of September, 2003, a copy of the foregoing Entry of Appearance was mailed to, CAROLE S. GREEN-BOTELER, 1809 SUTTON AVENUE, BALTIMORE, MARYLAND 21227, Petitioner.

RECEIVED

SEP 10 2003

Per.....



PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

**Department of Permits and
Development Management**

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708



Baltimore County

*James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director*

December 30, 2003

Carol Susan Green-Boteler
1809 Sutton Avenue
Baltimore, MD 21227

Dear Ms. Green-Boteler:

RE: Case: 03-572-A, 1809 Sutton Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on November 21, 2003 by Gina Hrybyk for Relay Improvement Association. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Richard O'Heir, 1807 Sutton Avenue, St. Denis 21227
Doreen & Alan DeSa, 1816 Sutton Avenue, St. Denis 21227
Gina Hrybyk, Relay Improvement Assoc., P. O. Box 24046, Baltimore 21227

November 19, 2003

Timothy M. Kotroco, Director
Department of Permits and
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Variance
1809 Sutton Avenue, St. Denis, Md. 21227
13th Election District, 1st Councilmanic Dist.
Case No. 03-572-A
Carol Green-Boteler, Legal owner

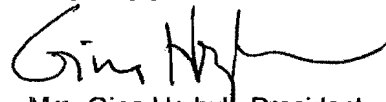
Dear Mr. Kotroco:

Please enter an appeal in the above captioned case, on behalf of the Relay Improvement Association, to the County Board of Appeals from the Findings of Fact and Conclusions of Law of John V. Murphy, Deputy Zoning Commissioner of Baltimore County dated the 12th day of August, 2003.

Enclosed is a check from the Relay Improvement Association in the amount of \$300.00 to include the \$225.00 filing fee and the \$75.00 fee for posting the appeal notice.

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

Very truly yours,



Mrs. Gina Hrybyk, President
Relay Improvement Association
P. O. Box 24046
Baltimore, Maryland 21227
410-247-4462
Fax 410-796-4465

cc. Carol S. Green-Boteler
1809 Sutton Avenue
St. Denis, Md. 21227

Peter Max Zimmerman
Office of Peoples Counsel,
Rm 47, Old Court House
400 Washington Ave.
Towson, Maryland 21204

Richard O'Heir
1807 Sutton Avenue
St. Denis, Md. 21227

Doreen & Alan J. DeSa
1816 Sutton Avenue
St. Denis, Md. 21227

RECEIVED

NOV 20 2003

Per. 

November 21, 2003

Timothy M. Kotroco, Director
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Variance
1809 Sutton Avenue, St. Denis, Md. 21227
13th Election District, 1st Councilmanic Dist.
Case No. 03-572-A
Carol Green-Boteler, Legal owner

Dear Mr. Kotroco:

This letter is sent to you to clarify our initial letter dated November 19th, 2003, in which the Relay Improvement Association indicated that it will Appeal the findings in this case. Although the initial Findings of Fact and Conclusions of Law in the above captioned case were dated August 12th, 2003 by Deputy Zoning Commissioner, John V. Murphy, we wish to indicate that two Motions to Reconsider were filed. On September 11th, 2003 a Motion to Reconsider was filed by Alan J. DeSa and on September 10th, 2003 a Motion to Reconsider was filed by Peter Max Zimmerman, Peoples Counsel for Baltimore County.

The two Motions for Reconsideration under Rule 2(K) from the decision dated August 12, 2003 were denied by Deputy Zoning Commissioner, John V. Murphy. The Denial of the two Motions for Reconsideration were dated the 31st of October 2003. The Notice of Appeal by the Relay Improvement Association is within the 30 day window specified in Mr. Murphy's cover letter issued with the Denial of the two Motions for Reconsideration.

Please also note that Alan J. De Sa, wishes to be a party to this appeal.

Very truly yours


Mrs. Gina Hrybyk, President
Relay Improvement Association
P.O. Box 24046
Baltimore, Maryland 21227
410-247-4462
Fax 410-796-4465

cc. Carol S. Green-Boteler
1809 Sutton Ave, St. Denis, Md 21227

Richard O'Heir
1807 Sutton Avenue, St. Denis 21227

Peter Max Zimmerman
Office of Peoples Counsel
400 Washington Ave.
Towson, Maryland 21204

Doreen and Alan J. DeSa
1816 Sutton Avenue, St. Denis 21227

RECEIVED

NOV 21 2003

Per........

November 21, 2003

Timothy M. Kotroco, Director
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

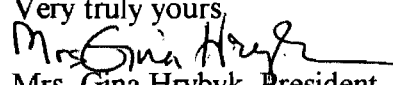
Re: Petition for Variance
1809 Sutton Avenue, St. Denis, Md. 21227
13th Election District, 1st Councilmanic Dist.
Case No. 03-572-A
Carol Green-Boteler, Legal owner

Dear Mr. Kotroco:

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Please also note that Alan J. De Sa, wishes to be a party to this appeal.

Very truly yours,

Mrs. Gina Hrybyk, President
Relay Improvement Association
P.O. Box 24046
Baltimore, Maryland 21227
410-247-4462
Fax 410-796-4465

RECEIVED

NOV 21 2003

Per... 

cc. Carol S. Green-Boteler
1809 Sutton Ave, St. Denis, Md 21227

Peter Max Zimmerman
Office of Peoples Counsel
400 Washington Ave.
Towson, Maryland 21204

Richard O'Heir
1807 Sutton Avenue, St. Denis 21227

Doreen and Alan J. DeSa
1816 Sutton Avenue, St. Denis 21227

APPEAL

Petition for Administrative Variance
1809 Sutton Avenue
NE/corner of Sutton Avenue and Willow Street
13th Election District – 1st Councilmanic District
Carol Susan Green-Boteler – Legal Owner

Case No.: 03-572-A

- ✓ Petition for Administrative Variance (June 5, 2003)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (June 24, 2003)
- ✓ Certification of Publication (July 17, 2003)
- ✓ Certificate of Posting (July 21, 2003) by Garland Moore
- ✓ Entry of Appearance by People's Counsel ()
- ✓ Petitioner(s) Sign-In Sheet
One Sheet
- ✓ Protestant(s) Sign-In Sheet
One Sheet
- ✓ Citizen(s) Sign-In Sheet
None
- ✓ Zoning Advisory Committee Comments (*August 1, 2003*)

RECEIVED

DEC 31 2003

BALTIMORE COUNTY
BOARD OF APPEALS

Petitioners' Exhibit

- ✓1. Plat to accompany petition for Zoning Variance
- ✓2A. Photo
- ✓2B. Photo
- ✓3. Plat of Property
- ✓4A-C. Photos (2 sets – different photos)

Protestants' Exhibits:

- ✓1. Letter from Protestant (accompanied by Exhibits, dated August 5, 2003)
- *2. Not located
- ✓3. Petition from Opposing Neighbors
- ✓4. Memo to Hearing Officer from Relay Improvement Association

- ✓ Miscellaneous (Not Marked as Exhibit)
✓10 Photos

- ✓ Deputy Zoning Commissioner's Order (GRANTED – August 12, 2003)

- ✓ Deputy Zoning Commissioner's Order on Motion for Reconsideration (DENIED – Oct. 31, 2003)

- *✓ Notice of Appeal received on November 21, 2003 from Relay Improvement Assoc. (Gina H)

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Carol Susan Green-Boteler, 1809 Sutton Avenue, Baltimore 21227
*Gina Hrybyk, P.O. Box 24046, Baltimore 21227
Doreen & Alan DeSa, 1816 Sutton Avenue, St. Denis 21227
Richard O'Heir, 1807 Sutton Avenue, St. Denis 21227

date sent December 31, 2003, klm

DAWN DaCOSTA
1810 CENTRE STREET
BALTIMORE MD 21227

VAR – To permit accessory structure (garage) to be located in the third part of the rear yard closest to the road ilo required third portion farthest removed from the road; to permit rear setback to rear alley of 6.5' ilo required 15'; to permit rear yard coverage of 43.5% ilo permitted 40%; and to permit height of 20' ilo required 15'.

8/12/04 - D.Z.C.'s Order in which height variance was DISMISSED as withdrawn by Petitioner; variance relief as to location of garage and setbacks, etc. GRANTED subject to conditions.

10/31/03 – Denial of Motions for Reconsideration filed by People's Counsel and also by Alan DeSa, Protestant.

5/06/04 -Notice of Assignment sent to following; assigned for hearing on Wednesday, July 7, 2004 at 10 a.m.:

Gina Hrybyk /Relay Improvement Assn.
Carol Susan Green-Boteler
Dawn DaCosta
Doreen and Alan DeSa
Richard O'Heir
Office of People's Counsel
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

7/01/04 – Letter received from Alan DeSa via FAX (confirming telephone conversation); requesting postponement of 7/07/04 hearing; he will be in PA; father-in-law is ill. Advised Mr. DeSa earlier that attempts would be made to reach Petitioner (one week before hearing); then he will be contacted with decision on his request for PP.

- T/C to Ms. Green-Boteler 410-247-4955; left voice mail message regarding postponement request.

7/02/04 – Second attempted call to Ms. Green-Boteler; voice mail box full; unable to leave message. Reviewed with Chairman Wescott – postpone only if Petitioner is reached. T/C to Mr. DeSa; left message.

- T/C from Mr. DeSa – advised him that I will attempt to contact Petitioner during holiday weekend; will get back to him once I've spoken with her. He will also attempt to get a copy of his letter to her today.

7/06/04 – T/C to Ms. Green-Boteler; left voice mail message (also attempted call on 7/05/04 from home).

Conversation this date with Michael P. Tanczyn, Esquire – he will be entering appearance on behalf of Petitioner; advised of pending postponement request. He will contact his client (works outside home) regarding this request and any objections she may have to same.

-- T/C from Mr. Tanczyn; his client has no objection to the postponement; inquired as to possible reassignment date however.

-- T/C to Mr. DeSa's cell phone (410-591-2369); left voice mail message; his postponement request has been granted; 7/07/04 hearing has been postponed; Notice of Reassignment will be sent to all parties with new; requested that he call this office to confirm receipt of voice mail message.

- Notice of PP and Reassignment sent to parties; case reassigned to Tuesday, August 17, 2004 at 10:00 a.m. Copy to Mr. Tanczyn and to Appellant Relay Improvement Assn. via FAX this date.

8/17/04 – Board convened for hearing (Wescott, Brassil, Mohler); concluded case this date. Memos to be filed on 8/31/04. Deliberation assigned for 9/15/04 at 9:30 a.m. and notice to be sent upon confirmation that entire panel can be here on that date.

8/26/04 – Closing Memo filed by Protestant, Alan J. DeSa. (Closing Briefs due on 8/31/04; will hold until receipt of Mr. Tanczyn's brief on behalf of Petitioner.)

8/31/04 – Memorandum of Petitioner filed by Michael P. Tanczyn, Esquire.

9/01/04 – Copies of Briefs to Wescott and Brassil this date.

9/02/04 – Copy of Briefs to Mohler. Public deliberation assigned for 9/15/04 at 9:30 a.m.

9/15/04 – Board convened for deliberation; denied variance request by majority (Wescott and Brassil); Mohler to write Dissenting Opinion. Appellate period to run from date of written Order. (5)

10/08/04 – Letter from M. Tanczyn to C. Peatt regarding transcript (appeal to be filed once the Board's decision is issued; wants her to start on that transcript in anticipation of that appeal). Letter place on Carolyn's cubicle this date.

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Carol Susan Green-Boteler
Case No.: 03-572-A

DATE: September 15, 2004

BOARD/PANEL:	Margaret Brassil	MB
	Lawrence S. Wescott	LSW
	Donald L. Mohler III	DLM

RECORDED BY: Theresa R. Shelton / Legal Secretary

PURPOSE: To deliberate the Petition for Variance filed by Carool S. Green-Boteler requesting an accessory structure (garage) to be located on the third part of the yard closest to the road ilo the req'd third portion farthest removed from the road, to permit a rear setback to the rear alley 6.5 ft. ilo req'd 15 ft. to permit a rear yard coverage of 43.5% ilo re'q 40% and to permit a height of 20 ft ilo req'd 15 ft. (the height request was withdrawn).

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- ✓ The property is in an old area of the County and all of the lots are small.
- ✓ A garage could be build on this area, but would be smaller than what the Petitioner wants; in other words, the garage can be built within the confines of the zoning regulations
- ✓ Petitioner wants to put 2 cars in garage
- ✓ No evidence presented that the garage will be used for the purposes of a flea market business

UNIQUENESS

- ✓ Take a broader look at the uniqueness issue – the lots are extremely narrow and the lots were designed before automobiles
- ✓ Would the lot prevent any garage from being built; then would consider hardship; however, a garage can be built
- ✓ If a garage could not be built at all that would create a hardship
- ✓ 40 X 110 foot deign lots are in Pasadena; Bowleys Quarters – sometimes the lots are combined
- ✓ St. Dennis itself may be unique but the lots within St. Dennis are not unique
- ✓ Many communities pre-date the 1955 regulations
- ✓ Page 7 of Petitioners Memo discussed with regards to case law referenced
- ✓ She can comply with the la3w, just wants a bigger garage

- ✓ No evidence presented that she could not get a car into a garage
- ✓ The Board can't react to other garages that have subsequently been built in the area
- ✓ Page 11 of Petitioners Memo discussed with regards to a 'lesser standard being applied for area'
- ✓ Gleason case mentioned
- ✓ Anderson case mentioned
- ✓ Cromwell vs. Ward – sets standard of uniqueness
- ✓ Petitioners property is identical to size and shape of properties in the area; except hers is a corner lot
- ✓ Area is a subjective term
- ✓ Area is surrounding 'area'
- ✓ Variances are granted for things that can't be done at all without a variance
- ✓ No hardship proven that she could not build a garage

DECISIONS BY BOARD MEMBERS:

PANEL:

Margaret Brassil - No hardship proven that she could not build a garage – DENY

Lawrence S. Wescott – Property not unique - DENY

Donald L. Mohler III – Property is unique - GRANT

FINAL DECISION: Majority Opinion that the Petitioner's request for Variance is DENIED.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,



Theresa R. Shelton

County Board of Appeals

LAW OFFICES
MICHAEL P. TANCZYN, P.A.

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

December 17, 2004

RECEIVED
DEC 17 2004

**BALTIMORE COUNTY
BOARD OF APPEALS**

Circuit Court For Baltimore County
Attn: Clerk
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: In the Matter of Carol Susan Green-Boteler

Dear Clerk:

Enclosed herewith for filing, please find a Petition For Judicial Review.

Thank you very much for your assistance in this matter. Please feel free to contact me should you have any questions.

Very truly yours,



Michael P. Tanczyn, Esquire

MPT/cbl

Enclosure(s)

cc: Carol Susan Green-Boteler
Peter Max Zimmerman, Esquire
Kathy Bianco, Board of Appeals

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-04-013124

RECEIVED

DEC 22 2004

**BALTIMORE COUNTY
BOARD OF APPEALS**

TO: BOARD OF APPEALS FOR BALTIMORE COUNTY
400 Washington Ave
Room 49
Baltimore, MD 21204

IN THE MATTER OF:

IN THE

1809 Sutton Avenue
13th Election District
1st Councilmanic District

CIRCUIT COURT FOR
BALTIMORE COUNTY

Legal Owner/Petitioner
Carol Susan Green-Boteler

BALTIMORE COUNTY
BOARD OF APPEALS

CASE NO.:

Case No.: 03-572-A

004-13124

RECEIVED AND FILED

2004 DEC 17 P 2:58

MC

PETITION FOR JUDICIAL REVIEW

NOW COMES Carol Susan Green-Boteler, Petitioner, by her attorney, Michael P. Tanczyn, and in accordance with Rule 7-202 of the Maryland Rules of Procedure, who state they were a party to the agency proceedings below and seek Judicial review of the decisions contained in the Majority Opinion and Order of the Board of Appeals, with a Dissent, for Baltimore County issued November 24, 2004.

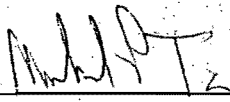
Michael P. Tanczyn

MICHAEL P. TANCZYN, Esquire
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823
Attorney for the Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 17th day of December, 2004, a copy of the foregoing Petition for Judicial Review was mailed by first class mail, postage prepaid, to Board of Appeals

for Baltimore County, Attention: Ms. Kathy Bianco, Administrative Secretary, Room 49, 400 Washington Avenue, Towson, Maryland 21204, Mr. Alan DeSa, 1816 Sutton Avenue, St. Denis, Maryland 21227, Protestant and to Peter Max Zimmerman, Esquire, Peoples' Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204.



MICHAEL P. TANCZYN, Esquire

1816 Sutton Avenue
St. Denis, Maryland 21227
December 22, 2004

Circuit Court For Baltimore County
Attn: Clerk
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: In the Matter of Carol Susan Green-Boteler

Dear Clerk:

Enclosed herewith for proper filing, please find a RESPONSE TO PETITION FOR JUDICIAL REVIEW.

Thank you for your assistance in this matter. Feel free to contact me if you need any additional information.

Very truly yours



Alan J. De Sa, Protestant

cc: Michael P. Tanczyn, Esq.
Kathleen Bianco, Board of Appeals
Peter Max Zimmerman, Office of Peoples' Counsel

RECEIVED

DEC 22 2004

BALTIMORE COUNTY
BOARD OF APPEALS

RE: PETITION OF CAROL SUSAN GREEN-BOTELER *
*
FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD *
OF APPEALS OF BALTIMORE COUNTY *

IN THE

CIRCUIT COURT

IN THE MATTER OF THE APPLICATION *
OF CAROL SUSAN GREEN-BOTELER FOR A *
ZONING VARIANCE on property located at 1809 Sutton *
Avenue, St. Denis, Md. 21227, 13th Election District *
1st Councilmanic District *

FOR

BALTIMORE COUNTY

Case No. 03-572-A before the *
County Board of Appeals of Baltimore County *

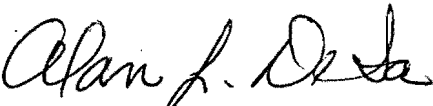
CASE NO.

* * * * *
* *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

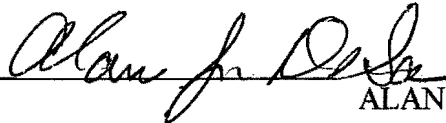
Now comes ALAN J. DE SA, Individually, and as Zoning Committee Chairman of the RELAY IMPROVEMENT ASSOCIATION, INC., in accordance with Maryland Rule 7-204, to submit this Response to the Petition for Judicial Review filed by CAROL SUSAN GREEN-BOTELER, by her attorney, Michael P Tanczyn, and state that he intends to participate in this action for Judicial Review. The undersigned participated in the proceeding before the County Board of Appeals.

ALAN J. DE SA
1816 Sutton Avenue
St. Denis, MD 21227
(410) 242 3218

By: 
ALAN J. DE SA
Zoning Committee Chairman
Relay Improvement Association
P.O. Box 24046
Relay, Maryland 21227

CERTIFICATE OF SERVICE

I hereby certify that on this 22 day of December, 2004, a copy of the foregoing Response to Petition for Judicial Review was mailed by first class mail, postage prepaid, to Michael P. Tanczyn, P.A., attorney for the petitioner Ms. Carol Susan Green-Boteler, The Board of Appeals for Baltimore County, Attention: Ms. Kathleen C. Bianco, Administrator, Room 49 400 Washington Avenue, Towson, Maryland 21204. and to Mr. Peter Max Zimmerman, ESq. Peoples' Counsel for Baltimore County, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

A handwritten signature in cursive script, appearing to read "Alan J. De Sa", is written over a horizontal line.

ALAN J. DE SA

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
CAROL SUSAN GREEN-BOTELER
1809 Sutton Avenue
Baltimore, MD 21227

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF
CAROL SUSAN GREEN-BOTELER
1809 Sutton Avenue
Baltimore, MD 21227

13th ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

CASE NO.: 03-572-A

* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

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

Carol Susan Green-Boteler
1809 Sutton Ave., Baltimore, Md 21227

CIVIL ACTION
No. **3-C-04-13124**

RECEIVED AND FILED

2004 DEC 27 A 11:06

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Gina Hrybyk, President
Relay Improvement Association, PO Box 24046, Baltimore, Md 21227

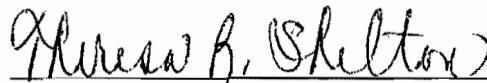
Richard O'Heir
1807 Sutton Avenue, Baltimore, Md 21227

Doreen and Alan Desa
1816 Sutton Avenue, Baltimore, Md 21227

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

Carole S. Demilio
Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47,
400 Washington Avenue, Towson, Maryland 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.



Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael P Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson Md 21204; Carol Susan Green-Boteler, 1809 Sutton Ave., Baltimore, Md 21227; Gina Hrybyk, President, Relay Improvement Association, PO Box 24046, Baltimore, Md 21227; Richard O'Heir, 1807 Sutton Avenue, Baltimore, Md 21227; Doreen and Alan Desa, 1816 Sutton Avenue, Baltimore, Md 21227; ; Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; Carole S. Demilio, Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 23rd day of December, 2004.



Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

December 23, 2004

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

RE: Circuit Court Civil Action No. 3-C-04-13124
Petition for Judicial Review
Carol Susan Green-Boteler
Board of Appeals Case No.: 03-572-A

Dear Mr. Zimmerman:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on March 30, 2004, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-04-13124.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,


Theresa R. Shelton
Legal Secretary

/trs
Enclosure

c: Michael P Tanczyn, Esquire
Relay Improvement Association
Richard O'Heir
Doreen and Alan Desa
Pat Keller, Director/Planning
Zoning Commissioner
Timothy Kotroco, Director/PDM





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

December 23, 2004

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

RE: Circuit Court Civil Action No. 3-C-04-13124
Petition for Judicial Review
Carol Susan Green-Boteler
Board of Appeals Case No.: 03-572-A

Dear Mr. Tanczyn:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit the same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

The Court Reporter that you need to contact to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410- 486-8209
HEARING DATE: 8-17-2004

This office has also notified Ms. Peatt that a transcript on the above captioned matter is due by February 17, 2005, for filing in the Circuit Court. A copy of your Petition, which includes your telephone number, has been provided to the Court Reporter, which enables her to contact you for payment provisions.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton
Theresa R. Shelton
Legal Secretary

/trs

Enclosure

c: Carolyn Peatt, Court Reporter
Alan Desa
People's Counsel for Baltimore County



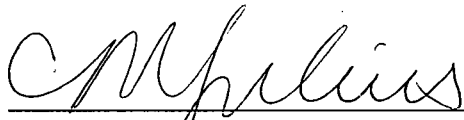
PETITION OF:

CAROL SUSAN GREEN-BOTELER

CIVIL ACTION NO.: 3-C-04-13124

MATTER OF: CAROL SUSAN GREEN-BOTELER

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS
AND THE BOARD'S RECORD EXTRACT AND TRANSCRIPT
FILED IN THE ABOVE-ENTITLED CASE, AND ZONING
COMMISSIONER'S FILE AND EXHIBITS.



CLERK'S OFFICE

DATE: February 1, 2005

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
CAROL SUSAN GREEN-BOTELER
1809 Sutton Avenue
Baltimore, MD 21227

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF
CAROL SUSAN GREEN-BOTELER
1809 Sutton Avenue
Baltimore, MD 21227

13th ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

CASE NO.: 03-572-A

* * * * *

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY**

No. 03-572-A

June 5, 2003	Petition for Variance filed by Carol S. Green-Boteler requesting an accessory structure (garage) to be located on the third part of the yard closest to the road into the req'd third portion farthest removed from the road, to permit a rear setback to the rear alley 6.5 ft. into req'd 15 ft. to permit a rear yard coverage of 43.5% into req'd 40% and to permit a height of 20 ft. into req'd 15 ft.
July 17	Publication in newspaper
July 21	Certificate of Posting

RECEIVED AND FILED

05 FEB -1 AM 10: 25

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

August 1	ZAC Comments.
August 6	Hearing held before the Deputy Zoning Commissioner
August 12	Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner. Petition for Variance is Granted with restrictions.
September 10	Entry of Appearance filed by People's Counsel for Baltimore County And Motion for Reconsideration filed.
September 11	Motion for Reconsideration filed by protestant Alan J. DeSa
October 31	Order on both Motions for Reconsideration -- DENIED In addition, conditions were imposed to the conditions listed in the August 12, 2003 Order.
November 21	Notice of Appeal filed by Mrs. Gina Hrybyk on behalf of Relay Improvement Association.
August 17, 2004	Hearing held before the Board of Appeals.

Petitioner's Exhibits

1	Plat of subject property
2A - 2B	Photographs
3	Plat of St. Denis drawn in 1861
4A - 4C	Photographs
5A - 5D	Photographs
6	Deed dated April 17, 1989 by and between Edward David Green, Jr. and Carol Susan Green and recorded at Liber 8169, page 768 -- 4 pages
7	Photographs dated 6/16/04
8A - 8D	Photographs
9	Photographs dated 6/16/04
10	Photographs dated 6/16/04

- | | |
|-----------|---|
| 11A – 11B | Photographs |
| 12 | Photographs dated 6/16/04 |
| 13A – 13B | Photographs |
| 14 | Photographs dated 6/16/04 |
| 15A | GIS Aerial photograph – April 2000 |
| 15B | Topographic Map |
| 16 | Photographs dated 6/16/04 |
| 17 | Maryland Department of Assessments and Taxation Baltimore County Real Property Data Search Account Number 1302850240 – 1 page |
| 18 | Amendment to original plat - not dated |
| 19A – 19C | Photographs |
| 20 | Photographs dated 6/16/04 |

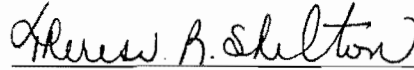
Protestant's Exhibit

- | | |
|------------------|---|
| 1 | Inter-office Correspondence from Arnold F. "Pat" Keller III, Director, Office of Planning to Timothy M. Kotroco, Director / PDM, dated September 26, 2003 - 3 pages |
| September 15 | Public Deliberation concluded by the Board. |
| November 24 | Majority Opinion and Order issued by the Board of Appeals; Petition for Variance is DENIED. |
| December 17 | Petition for Judicial Review filed in the Circuit Court for Baltimore County by Michael P. Tanczyn, Esquire, on behalf of Carol Susan Green-Boteler, Petitioner |
| December 22 | Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals. |
| December 23 | Certificate of Notice sent to interested parties. |
| January 27, 2005 | Transcript of testimony filed. |

February 1

Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.



Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

c: Michael P. Tanczyn, Esquire
Gina Hrybyk, President
Relay Improvement Association
Alan Desa
Office of People's Counsel

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

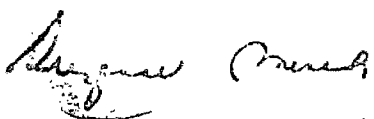
N O T I C E O F R E C O R D

Case Number: 03-C-04-013124 AE
Administrative Agency : 03-572-A
C I V I L

In The Matter of: Carol Susan Green Boteler

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 5th day of February, 2005.



Suzanne Mensh
Clerk of the Circuit Court, per MS

Date issued: 02/08/05

TO: BOARD OF APPEALS FOR BALTIMORE COUNTY
400 Washington Ave
Room 49
Baltimore, MD 21204

RECEIVED

FEB 09 2005

BALTIMORE COUNTY
BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

07/23/08

Case Number: 03-C-04-013124 AE
Date Filed: 12/17/2004
Status: Closed/Active
Judge Assigned: To Be Assigned,
Location :
CTS Start : Target :

In The Matter of: Carol Susan Green Boteler

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	03-572-A
Case Folder ID	C04013124V01

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET	001 Green Boteler, Carol Susan	Party ID: 0723246	CT GR 05/26/05	12/21/04
	Attorney: 0012544 Tanczyn, Michael P Michael P. Tanczyn, P.A. 606 Baltimore Avenue Suite 106 Baltimore, MD 21204 (410)296-8823	Appear: 12/21/2004		12/21/04
ITP	001 Board Of Appeals For Baltimore County	Party ID: 0723251	CT GR 05/26/05	12/21/04
	Mail: 400 Washington Ave Room 49	12/21/04	12/21/04 CMS	12/21/04 CMS

Baltimore, MD 21204

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
ITP 002	De Sa, Alan J		CT GR 05/26/05	12/28/04
		Party ID: 0724652		
	Mail: 1816 Sutton Ave Baltimore, MD 21227	02/08/05	02/08/05 MDJ	02/08/05 MDJ
ITP 003	Relay Improvement Association, INC		CT GR 05/26/05	12/28/04
		Party ID: 0724653		
	Mail: P O Box 24046 Baltimore, MD 21227	02/08/05	02/08/05 MDJ	02/08/05 MDJ

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec			
05/05/05	09:30A	CR04	Civil Non-Jury Trial	Y	PC	01 /01	04/06/05 KLS
Held/Concluded			05/05/05 E P.Cavanaugh	N			

DISPOSITION HISTORY

Disp Date	Disp Code	Description	Stage Code	Description	Activity User Date
05/24/05	DO	Decree or Order	CT	AFTER TRIAL/HEARING	CKC 05/24/05
05/26/05	GR	Granted	CT	AFTER TRIAL/HEARING	LLM 05/26/05

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned.	J	12/21/04	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0001000	Petition for Judicial Review	12/17/04	12/21/04	PET001	TBA	05/24/05	CMS CKC

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0001001	Response To Petition For Judicial Review Filed by ITP002-De Sa, ITP003-Relay Improvement Association, INC	12/22/04	12/28/04	ITP002	TBA	05/24/05	NF CKC
0002000	*Certificate of Notice	12/23/04	12/29/04	000	TBA	05/24/05	MRS CKC
0003000	*Transcript of Record from Adm Agency	02/05/05	02/08/05	000	TBA	05/24/05	MDJ CKC
0004000	Notice of Transcript of Record Sent	02/08/05	02/08/05	ITP001	TBA	02/08/05	MDJ MDJ
0005000	Notice of Transcript of Record Sent	02/08/05	02/08/05	ITP002	TBA	02/08/05	MDJ MDJ
0006000	Notice of Transcript of Record Sent	02/08/05	02/08/05	ITP003	TBA	02/08/05	MDJ MDJ
0007000	Notice of Transcript of Record Sent	02/08/05	02/08/05	PET001	TBA	02/08/05	MDJ MDJ
0008000	Scheduling Order	02/15/05	02/15/05	000	TBA	02/15/05	KLS KLS
0009000	Appellants Memorandum	03/07/05	03/09/05	PET001	TBA	03/09/05	PKE PKE
0009001	Answer with exhibit	04/06/05	04/08/05	ITP002	TBA	05/24/05	EMH CKC
0010000	Hearing Notice	04/06/05	04/06/05	PET001	TBA	04/06/05	ED ED
0011000	Open Court Proceeding May 5,2005 Hon.Patrick Cavanaugh.Hearing had in re:Administrative Appeal:Decision hel's sub-curia.Opinion and Order to be filed.	05/05/05	05/05/05	000	PC	05/24/05	BH CKC
0012000	Opinion of the Court that the original ruling is to be reinstated.	05/24/05	05/24/05	000	PC	05/24/05	CKC CKC
0013000	Reopen Case	05/26/05	05/26/05	000	TBA	05/26/05	LLM LLM

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	12/22/04	0	no	no	DANS	D	001	001
1ANS	1st Answer Tickle	CLOSED	04/06/05	0	no	no	DANS	D	009	001
1YRT	One Year Tickle (Jud	CLOSED	12/17/05	365	no	no	DAAA	D	001	000
EXPU	Exhibit Pickup Notic	CLOSED	07/23/05	30	no	no			000	000
EXPU	Exhibit Pickup Notic	CLOSED	07/25/05	30	no	no			000	000
SLTR	Set List For Trial	Done	12/22/04	0	yes	yes	1ANS	T	001	001
SLTR	Set List For Trial	CANCEL	04/06/05	0	yes	no	1ANS	T	009	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
--------	--------	------	-------------	-----	------	----------	---------	--------

Offered By:	ITP 001	Board Of Appeals For Baltimore						
000	I	BOX 444/EXHIBITS	B					

DIFFERENTIATED CASE MANAGEMENT**TRACKS AND MILESTONES**

Track	: R1	Description: EXPEDITED APPEAL TRACK	Custom: Yes
Assign Date:	02/15/05	Order Date :	02/15/05
Start Date :	02/15/05	Remove Date:	

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(	03/02/05	05/24/05	CLOSED	
All Motions (excluding Motions in Limine	03/26/05	05/24/05	CLOSED	
TRIAL DATE is	05/05/05	05/16/05	05/24/05	CLOSED

ACCOUNTING SUMMARY**NON-INVOICED OBLIGATIONS AND PAYMENTS**

Date	Rcpt/Initials	Acct	Desc	Debit	Credit	Method	Balance
12/20/04	200400024311/LMC	1102	CF-Civil Fil	.00	80.00	CK	-80.00
12/20/04	200400024311/LMC	1265	MLSC	.00	25.00	CK	-105.00
12/20/04	200400024311/LMC	1500	Appearance F	.00	10.00	CK	-115.00

Circuit Court of Maryland

[Go Back](#)**Case Information**

Court System: **Circuit Court for Baltimore County - Civil System**
Case Number: **03C04013124**
Title: **In The Matter of: Carol Susan Green Boteler**
Case Type: **Admin. Agency Appeal Ex Parte** Filing Date: **12/17/2004**
Case Status: **Closed/Active**
Case Disposition: **Granted** Disposition Date: **05/26/2005**

Plaintiff/Petitioner Information

(Each Plaintiff/Petitioner is displayed below)

Party Type: **Petitioner** Party No.: **1**

Name: **Green Boteler, Carol Susan**

Attorney(s) for the Plaintiff/Petitioner

Name: **Tanczyn, Esq, Michael P**

Practice Name: **Michael P. Tanczyn, P.A.**

Address: **606 Baltimore Avenue
Suite 106**

City: **Baltimore** State: **MD** Zip Code: **21204**

Court Scheduling Information

Event Type: **Civil Non-Jury Trial** Notice Date: **04/06/2005**

Event Date: **05/05/2005** Event Time: **09:30 AM**

Result: **Held/Concluded** Result Date: **05/05/2005**

Related Persons Information

(Each Related person is displayed below)

Party Type: **Interested Party** Party No.: **1**

Business or
Organization Name: **Board Of Appeals For Baltimore County**

Address: **400 Washington Ave**

City: **Baltimore** State: **MD** Zip Code: **21204**

Party Type: **Interested Party** Party No.: **2**

Name: **De Sa, Alan J**

Address: **1816 Sutton Ave**

City: **Baltimore** State: **MD** Zip Code: **21227**

Party Type: **Interested Party** Party No.: **3**

Business or
Organization Name: **Relay Improvement Association, INC**

Address: **P O Box 24046**

City: **Baltimore** State: **MD** Zip Code: **21227**

Document Tracking

(Each Document listed. Documents are listed in Document No./Sequence No. order)

Doc No./Seq No.: **1/0**

File Date: **12/17/2004** Close Date: **05/24/2005** Decision:

Party Type: **Petitioner** Party No.: **1**

Document Name: **Petition for Judicial Review**

Doc No./Seq No.: **1/1**

File Date: **12/22/2004** Close Date: **05/24/2005** Decision:

Party Type: **Interested Party** Party No.: **2**

Document Name: **Response To Petition For Judicial Review**

Filed by ITP002-De Sa, ITP003-Relay Improvement Association, INC

Doc No./Seq No.: **2/0**

File Date: **12/23/2004** Close Date: **05/24/2005** Decision:

Document Name: ***Certificate of Notice**

Doc No./Seq No.: **3/0**

File Date: **02/05/2005** Close Date: **05/24/2005** Decision:

Document Name: ***Transcript of Record from Adm Agency**

Doc No./Seq No.: **4/0**

File Date: **02/08/2005** Close Date: **02/08/2005** Decision:

Party Type: **Interested Party** Party No.: **1**

Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **5/0**

File Date: **02/08/2005** Close Date: **02/08/2005** Decision:

Party Type: **Interested Party** Party No.: **2**

Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **6/0**

File Date: **02/08/2005** Close Date: **02/08/2005** Decision:

Party Type: **Interested Party** Party No.: **3**

Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **7/0**

File Date: **02/08/2005** Close Date: **02/08/2005** Decision:

Party Type: **Petitioner** Party No.: **1**

Document Name: **Notice of Transcript of Record Sent**

Doc No./Seq No.: **8/0**

File Date: **02/15/2005** Close Date: **02/15/2005** Decision:

Document Name: **Scheduling Order**

Doc No./Seq No.: **9/0**

File Date: **03/07/2005** Close Date: **03/09/2005** Decision:

Party Type: **Petitioner** Party No.: **1**

Document Name: **Appellants Memorandum**

Doc No./Seq No.: **9/1**

File Date: **04/06/2005** Close Date: **05/24/2005** Decision:

Party Type: **Interested Party** Party No.: **2**

Document Name: **Answer with exhibit**

Doc No./Seq No.: **10/0**

File Date: **04/06/2005** Close Date: **04/06/2005** Decision:

Party Type: **Petitioner** Party No.: **1**

Document Name: **Hearing Notice**

Doc No./Seq No.: **11/0**

File Date: **05/05/2005** Close Date: **05/24/2005** Decision:

Document Name: **Open Court Proceeding**

May 5, 2005 Hon. Patrick Cavanaugh. Hearing had in re: Administrative Appeal: Decision held sub-curia. Opinion and Order to be filed.

Doc No./Seq No.: **12/0**

File Date: **05/24/2005** Close Date: **05/24/2005** Decision:

Document Name: **Opinion of the Court**

that the original ruling is to be reinstated.

Doc No./Seq No.: **13/0**

File Date: **05/26/2005** Close Date: **05/26/2005** Decision:

Document Name: **Reopen Case**

The complete case file can be obtained from the Circuit Courthouse.

RECEIVED

AUG 26 2004

**BALTIMORE COUNTY
BOARD OF APPEALS**

1816 Sutton Avenue
St. Denis, Maryland 21227
August 25th, 2004

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

Case #03-572-A
In the Matter of: Carol Susan Green-Boteler
Legal Owner Petitioner 1809 Sutton Avenue
13th Election District 1st Council manic Dist.

Dear Sirs:

The following is my brief to the Court of Appeals as requested during the hearing held on August 17th, 2004. As the "Findings of Fact And Conclusions of Law" as well as the "Order On Motion For Reconsideration" were entered as exhibits by Michael P. Tanczyn, Attorney for the Petitioner I will comment about the decisions rendered by Deputy Zoning Commissioner John V. Murphy as well as additional comments concerning exhibits entered by the Petitioner, as well as my comments concerning this request for variances to the BCZR

In both cases, namely the Findings of Fact and Conclusions of Law on August 12th, 2003 and the Order On Motion For Reconsideration dated the 31st day of October, 2003 Mr. Murphy, we feel, erred in his findings and failed to carefully consider the merits of the case for the zoning variances requested for the property in question.

We feel that Mr. Murphy did not fully understand the enormity of the requested accessory structure in relation to the lot size. We feel he did not truly consider the type of community St. Denis has become and the impact that a structure of the size requested would be against the principles outlined in BZCR #307.

If the structure would be built as shown on the site plan submitted by Ms. Green-Boteler the footprint of the building would not meet the requirements of BCZR #400.1 Especially in regards to a corner lot. None of the lot examples cited by Mr. Murphy from the Zoning Commissioner's Policy Manual Section 400.1.d(1)A were appropriate to the actual lot in this case.

The calculations used by the Petitioner to determine the area of the lot covered by the structure was flawed and the percentage is not 43% of the rear of the lot but nearly 62%. Regardless of

who made the calculations they need to be reexamined by the Board. In Petitioners Exhibit #? (number unknown by me at this moment) the Plat to Accompany Petition for Zoning Variance no distance or measurement is shown anywhere that the rear of the dwelling to the rear lot line is 44 feet. I suggest that the actual distance is much less. Determining the correct rear yard area is critical to this case and the fulfilling of BCZR #400.1 and the guidelines in BCZR #307. If one considers Ms Green-Boteler's backyard the area just to the rear of the present home as indicated in the plat accompanying the petition, then the back yard only measures 40ft by 31ft or 1240 square feet. As indicated on the plat the distance from the house front to Sutton Avenue is 19ft. The house measures 60ft. long as shown on the plat, for a total of 79ft, to the rear of the present improvements. The total length of the lot is 110ft. 110ft. minus 79ft. Would leave 31ft. remaining to be considered her "backyard". (See BCZR 102.2, 102.3). 31 ft times 40ft indicates a "backyard" totaling 1240 sq. feet. The proposed "garage" measures 24ft. times 32ft. Or 768 square feet. This would indicate that the proposed "garage" covers 61.9% of the backyard rather than the 43.5% specified in the petition and far more than the 40% maximum required under BCZR #400.1

If the Petitioner is allowed to place this accessory structure on the third part of the property closest to the road, instead of on the third part of the property farthest from the road, we feel the structure will be too close to Willow Street. Willow street is a very narrow side street, we question whether the positioning of this "garage" on the rear lot will allow enough distance for cars to enter or leave the structure, especially the types of vehicles which will be housed in this proposed building. (I.e. a long bed truck and a large RV). (Reference BCZR #400.1 Accessory buildings in residential zones, other than farm buildings shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 21/2 feet from any side or rear lot lines...) In this petition we feel that the structure is so large (24ft by 32ft.) that no matter where it is situated in regards to the 1/3 part of the lot (on corner lots the code specifies the rear 1/3rd of the lot), it cannot meet the requirement that only 50% of that third of the lot be utilized. It also appears that nearly all of the 1/3rd of the lot that is not used to fulfill the above mentioned requirement (the 1/3rd of the lot nearest to the road) must be utilized to enable such a large structure to be constructed on such a small area. Furthermore the code specifies that the structure may not be closer than 21/2ft from the lot side bordering 1807 Sutton Avenue and the alleyway to the East of the proposed structure.

The setback asked for in the petition (6.5ft) to the rear alley centerline is only around 43% of the required distance of 15ft from the alley's centerline. As specified in the deed of the property dated April 17th 1989 to Carol Susan Green from Edward David Green, Jr. And Carol Susan Green the alley behind the lot and the proposed accessory structure is 10ft. wide, not the 8ft width indicated on the plat submitted into evidence by the Petitioner. This spacing would put the structure only 1.5ft from Ms. Green's property line. This is less than the 21/2ft specified in Ms. Green's petition. This is too close to the side alley to meet the requirements of BCZR 400.2 (BCZR #400.2 Accessory buildings, including parking pads, shall be set back not less than 15 feet from the centerline of any alley on which the lot abuts. (Bill #2-1992))

We do not believe that the positioning of this structure on this lot meets the requirements of

Although Ms. Green-Boteler has applied and was granted a permit to construct an accessory structure on May 25th, 2004 (Permit # B527480) we feel that the present matter before the Board should be heard and a final decision rendered so that the Department of Permits and Development Management can make a final determination as to the violations cited above and in the two "Findings of Fact and Conclusions of Law, Final Order of the Code Enforcement Hearing Officer. One having been signed by Stanley J. Schapiro and the other by Raymond S. Wisnom, Jr.

The Relay Improvement Association has studied the recent building permit application by Ms. Green-Boteler for the construction of an accessory structure on her property. Although a stop work order was issued by Glenn Berry, Baltimore County Building Inspector on May 21st, 2004 in this case, because "it appears that the garage being built under Permit #B527480 does not comply with the plot plan", work has continued and footings and a concrete slab were completed during the past few months.

We find a continuing pattern of disregard to the findings of the Baltimore County official's involved in this case and feel that if the Board grants the requested variances to the Petitioners this pattern will continue to the detriment of the community of St. Denis.

Respectfully


Alan J. DeSa

CASE NAME 1809 Sutton Ave.
CASE NUMBER 03-572-A
DATE 8/6/03

CASE NAME 1809 Sutton Ave.
CASE NUMBER 03-572-A
DATE 8/6/03

[illegible]

Case Number

PLEASE PRINT LEGIBLY.

PROTESTANT'S SIGN-IN SHEET

[illegible]

**Relay Improvement Association
P.O. Box 24046
Baltimore, Maryland 21227**

To: Zoning Hearing Officer
Zoning Commission of Baltimore County

Re: 1809 Sutton Avenue/Presently Zoned D.R.5/Property No. 1319710480

It has come to the attention of the Executive Board of the Relay Improvement Association (the "Executive Board") that the owner of the above-referenced property has requested variances to the required setbacks and rear yard coverage in order to build a garage on such property. It has also come to the attention of the Executive Board that an objection has been filed to the request for such variances and that a hearing will be held on the request and the objections on August 6, 2003.

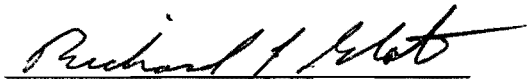
The Executive Board is also aware that information is to be presented at the hearing to the effect that (1) the owner of 1809 Sutton Avenue has been cited for zoning violations in 1999, 2000 and most recently July 1, 2003 and that repeat enforcement efforts have been necessary to obtain compliance, (2) that the rear yard coverage will be substantially greater than the 43.5% stated in the request for variance, and (3) the requested variance of the setbacks would place the structure virtually on the property lines of the property that abut a public street and a rear alley. It is also the understanding of the Executive Committee that a petition signed by a substantial number of neighboring residents in opposition to the requested variances will be presented at the hearing.

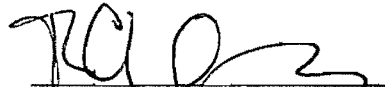
For the foregoing reasons, the Executive Board, on behalf of the Relay Improvement Association hereby states its opposition of the requested variances.

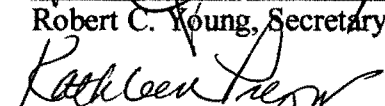
Respectfully,


Doreen DeSa, President


Gina Hrybyk, Vice President


Richard Gloth, Treasurer


Robert C. Young, Secretary


Kathleen Pryor, Past President

August 5, 2003

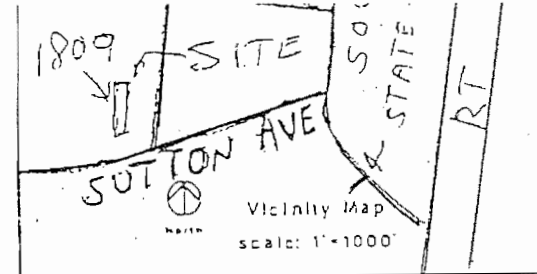
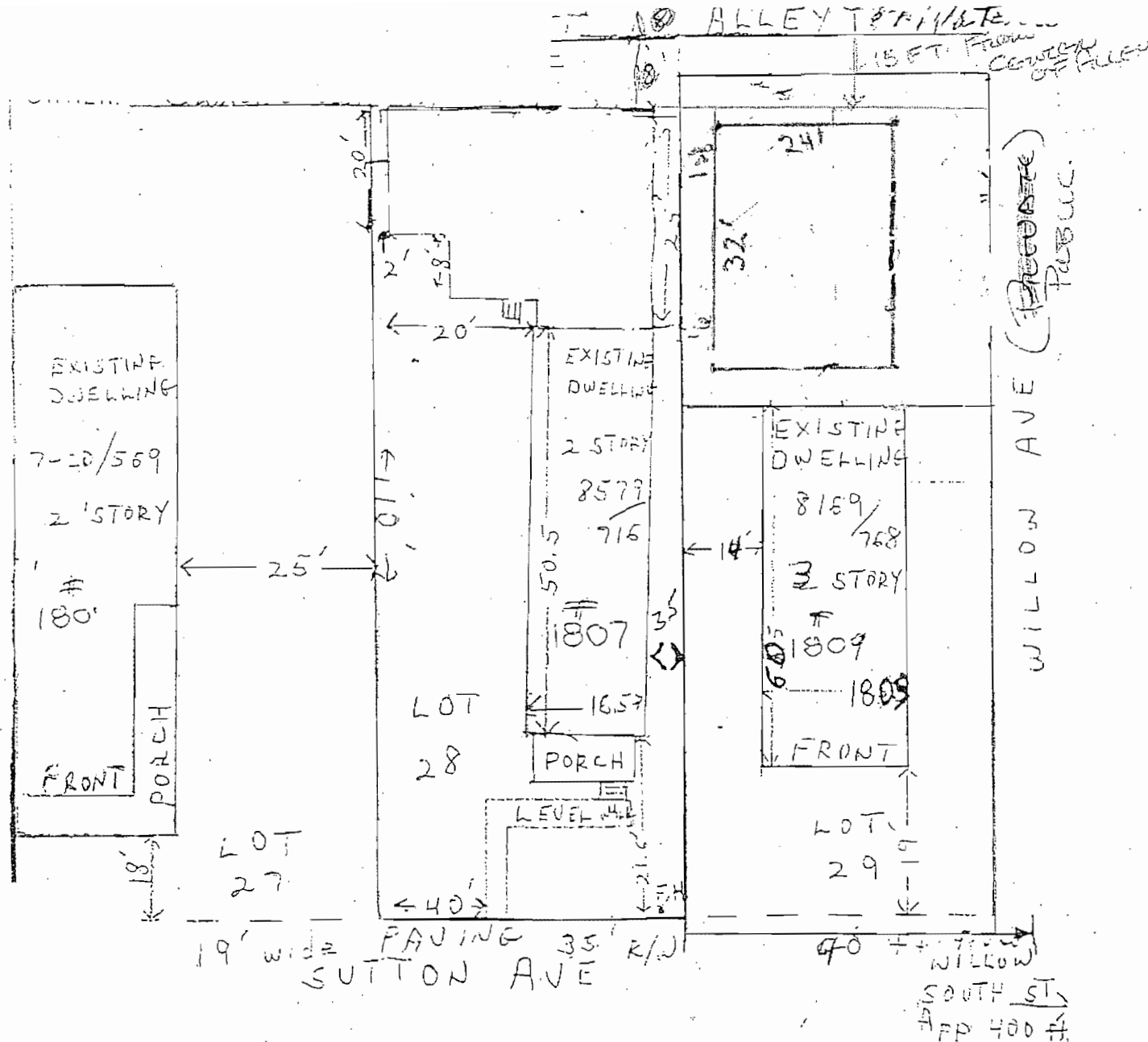
Pro
#4



NORTH

PREPARED BY Caryl Green

SCALE OF DRAWING: 1" = 20'



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 13th
COUNCILMANIC DISTRICT 1st
1" = 200' SCALE MAP # S.W. 7-E
ZONING D.R.-5.5

LOT SIZE
ACREAGE 4.400
SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/BUILDING	☐	☒
PRIOR ZONING HEARING	None	

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

PA 18

EXHIBITS

PHOTOS

(20030572) "S"
Supplemental

(2)

IN THE MATTER OF: * BEFORE THE

THE APPLICATION OF * COUNTY BOARD OF APPEALS

CAROL SUSAN GREEN-BOTELER - * OF

Legal Owner/Petitioner * BALTIMORE COUNTY

 * Case No.: 03-572-A

 * August 17, 2004

* * * * *

The above-entitled matter came on for hearing

before the County Board of Appeals at the Old Courthouse,

Towson, Maryland 21204, at 10 a.m., August 17, 2004.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

Verified 9-15-04
Board Petitioner
Case# 03-572-A

(P.1)
-Tanczyn Verified
8-18-04

- ~~Ex 1~~ ✓ ~~Plat~~ Plat & Petition for Zoning Hearing
Prepared by Petitioner
- ~~Ex 2A~~ ✓ Picture with chain link fence on Pet.
property.
- ~~Ex 2B~~ ✓ Picture shows shed across alley
and fence
- ~~Ex 3~~ ✓ Plat of town St. Denis
drawn in 1861 showing house in pink
- ~~Ex 4A~~ ✓ Photos by Petitioner
- 2 Shows 1813 Sutton Ave Garage
- ✓ B 1815 Sutton Ave Garage
- ✓ C 1817 Sutton Ave Garage
- 5 A ✓ 510 South Street
- B ✓
- C ✓ Record 1833 ~~Plat~~ Sutton Ave
Storage Garage lot
- D ✓ Same structure different
- Ex 6 ✓ Deed of house of Petitioner
- Ex 7 ✓ Photos taken showing Zoning Appeal
Sign on Petitioner's property and
neighbo
- Photos taken 8/16/04 (last night)
- 8A ✓ Petitioner's Property - Front of house
- ✓ B " " Improvements
- ✓ C " " " "
- ✓ D " " " "

6/16/04

Ex. 9 ✓ Photos taken by Petitioner
of House and Willow Ave. and
Neighbor across Willow Ave

10 ✓ June 8, 2004 - Photo of Side Yard
and original structure of O'Hare House
and addition - from Willow

11 A ✓ Photo Taken 8/16/04 - Trailer in backyard
B ✓ parked in rear yard
C ✓ Barbecue area.

12 ✓ Photos - Alley behind ~~Atter~~ houses
on Sutton St. across Willow
D taken 8/16/04

13 A ✓ 8/16/04 - Photo shows new fence
B ✓ 8/16/04 Photo behind house facing
houses across alley

14 ✓ Taken 6/16/04 - Photos
show houses next door on Sutton
Middle - From Center St showing garages
and duplex from different angle
Photo

15 A ✓ GIS Aerial photographed in April 2000

15 B ✓ Topographic map.

16 ✓ Date 6/16/04 Photos - Series -
1st Bottom Left: shows alley behind house
and O'Hare addition and concrete
pad for garage

2nd Top left: O'Hare's shed behind
garage pad.

3rd Top middle - Shows shed in alley on O'Hare's property

Petitioner's Exhibits

P.2

Case #03-572-A

16(cont.) 4th top right - Fence of house behind
Petitioner's.

Ex 17 Assessment and Taxation Printout
for 1807 Sutton Ave

Ex 18 Amendment to original Plat showing
~~changes in size~~ changes in size
~~changes in size~~

19A
B
C } Photos taken 8/17/04

20 June 16 photos of DeSa home

Unfiled
8-18-04

Appellant

Case# 03-572-A - In matter of Carol Susan
Green - Boteler

✓ Planning Board Inter-Office
Correspondence - 8/26/03

Protestant
Exh. B. + 1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: September 26, 2003

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

RECEIVED

SEP 26 2003

ZONING COMMISSIONER

SUBJECT: 1809 Sutton Avenue

INFORMATION:

Item Number: 03-572

Petitioner: Carol Susan Green-Boteler

Zoning: DR. 5.5

Requested Action: Administrative Variance/Motion for Reconsideration

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the above referenced matter in response to the two Motions for Reconsideration.

It appears that a smaller garage could be erected on this property without the need for variances. It also appears that the subject property is not unusual compared with other properties in the neighborhood. Therefore, we question whether the authorized variances are appropriate. In any event, we offer the following comments and recommendations. These comments and recommendations are based on a review of the case file, the petitioner's site plan, a site visit, and our efforts to achieve quality development.

COMMENTS:

In general, this office strongly opposes the size, and the street setback of the proposed garage, and questions whether the authorized variances represent the minimum variances that will afford relief. Also, the functional compatibility and visual compatibility of the garage with the surrounding neighborhood are concerns.

F.Y.I. – Mailed to C. Boteler & A. DeSa on 9/29/03

LIBER 8169 PAGE 768

NO CONSIDERATION
NO TITLE SEARCH

DEED

28
THIS DEED, made this 17th day of April, 1988, by and between Edward David Green, Jr. and Carol Susan Green of Baltimore County, State of Maryland, parties of the first part; and Carol Susan Green, Individually party of the second part.

WITNESSETH, that for and in consideration of the sum of None (\$0.00) Dollars, and other good and valuable considerations, receipt of which is hereby acknowledged, the said Edward David Green, Jr. and Carol Susan Green do grant and convey unto the said Carol Susan Green, Individually, her heirs, personal representatives and assigns, in fee simple all that piece or parcel of land situate, lying and being in Baltimore County, State of Maryland, described as follows, that is to say:

BEGINNING for the same at the corner formed by the intersection of the northeast side of Sutton Avenue and the northwest side of Willow Street and running thence northwesterly binding on the northeast side of Sutton Avenue 40 feet to the division line between lots Nos. 28 and 29 as shown on the Plat hereinafter referred to thence northeasterly binding on said division line 110 feet to the southwest side of an alley 10 feet wide there situate thence southeasterly binding on the southwest side of an alley 10 feet wide there situate thence southeasterly binding on the southwest side of said 10 foot alley 40 feet to the northwest side of Willow Street and thence southwesterly binding on the northwest side of Willow Street 110 feet to the place of beginning.

BEING known and designated as Lot 29 as shown on the Plat of the town of St. Denis recorded among the Land Records of Baltimore County in Plat Book J.W.S. 1, folio 9. The

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
1
APR 22 1988

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE AT DATES 2/88

THOMAS H. BURGESS
Notary Public
for Baltimore County
No. 219-87

Pat 6

LIBER 8169 PAGE 769

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE | SPECIAL HEARING

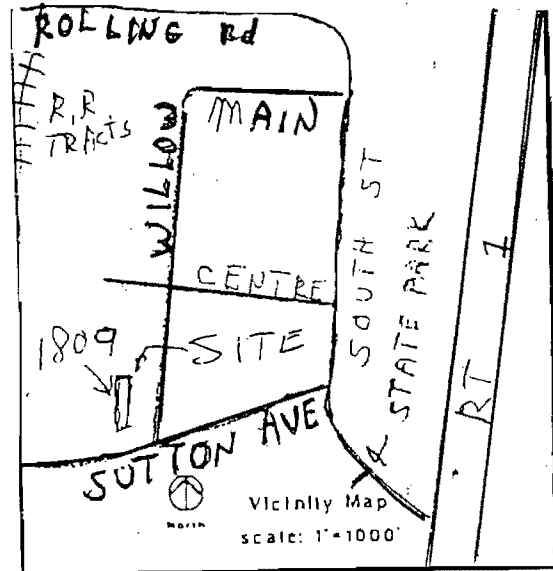
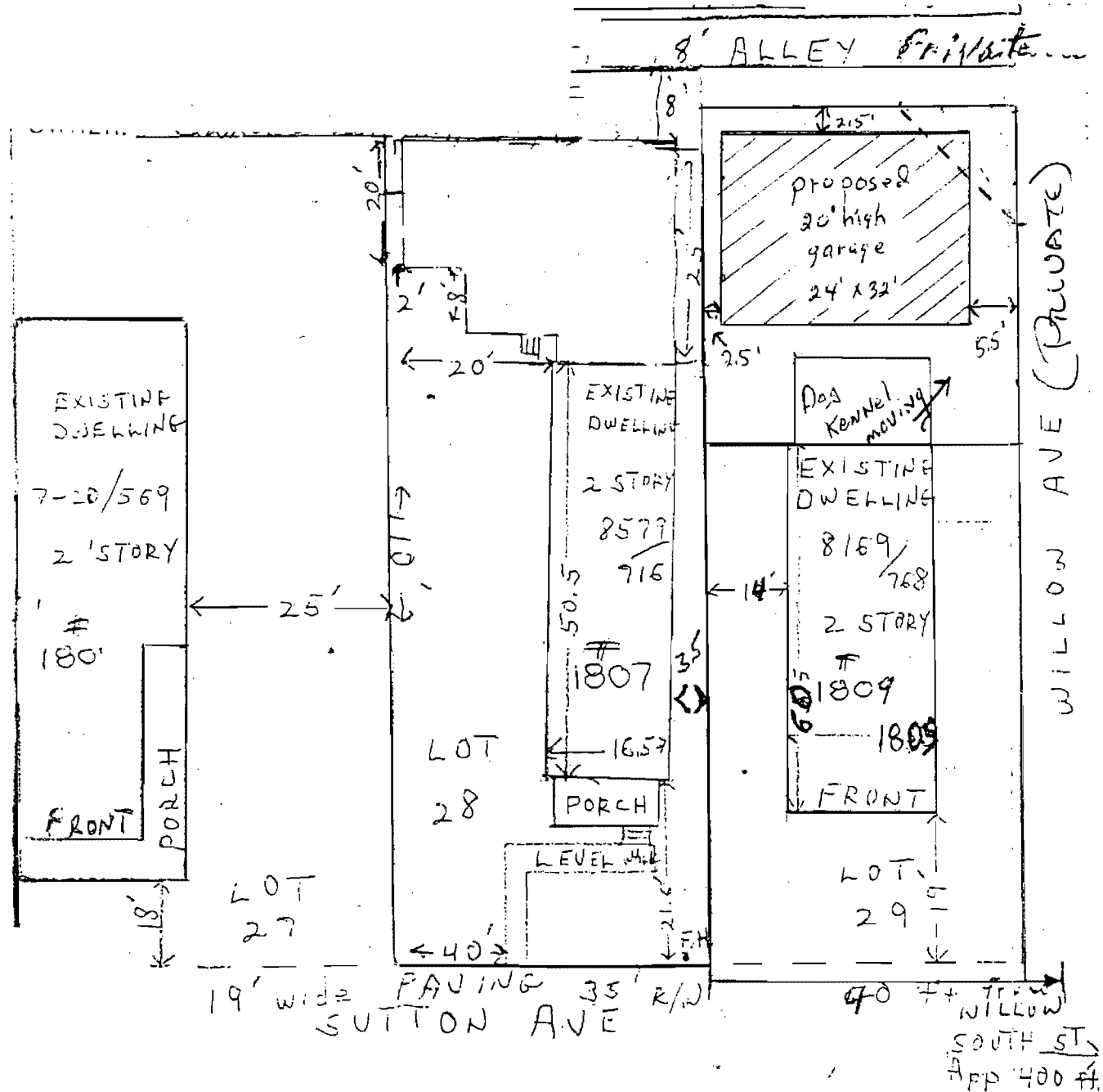
PROPERTY ADDRESS 1809 Sutton Avenue

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Saint Dennis

PLAT BOOK # 1 FOLIO # 9 LOT # 29 SECTION #

OWNER Carol Green



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 13th

COUNCILMANIC DISTRICT 1st

1" = 200' SCALE MAP # S.W. 7-E

ZONING D.R. - 5.5

LOT SIZE _____
ACREAGE _____

4,400
SQUARE FEET

SEWER PUBLIC PRIVATE
☒ ☐

WATER ☒ ☐

CHESAPEAKE BAY

YES	NO
☐	☒

100 YEAR FLOOD PLAIN ☐ ☒

HISTORIC PROPERTY/
BUILDING ☐ ☒

PRIOR ZONING HEARING *None*

ZONING OFFICE USE ONLY

REVIEWED BY ITEM # CASE #

PREPARED BY Carol Green

SCALE OF DRAWING: 1" = 20'

BK	572	03-572-A
----	-----	----------

Post #1

Pet
17

[Click here for a plain text ADA compliant screen.](#)



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)
[Ground Rent](#)

Account Identifier: District - 13 Account Number - 1302850240

Owner Information

Owner Name: OHEIR ELAINE V
OHEIR RICHARD J Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 1807 SUTTON AV
BALTIMORE MD 21227 Deed Reference: 1) /11390/ 329
2)

Location & Structure Information

Premises Address
1807 SUTTON AVE

Legal Description
PRT LT 28
1807 SUTTON AVE
SAINT DENNIS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:	Plat Ref:
108	22	41					28	80		1/ 9

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1870	2,547 SF	4,320.00 SF	04

Stories	Basement	Type	Exterior
2	NO	STANDARD UNIT	ASBESTOS SHINGLE

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2003	Phase-in Assessments As Of 07/01/2004
Land:	25,920	35,500		
Improvements:	128,980	131,860		
Total:	154,900	167,360	154,900	159,053
Preferential Land:	0	0	0	0

Transfer Information

Seller: VOLKMAN ELAINE O	Date: 01/19/1996	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: /11390/ 329	Deed2:
Seller: BURNS AILEEN E	Date: 08/28/1990	Price: \$1
Type: IMPROVED ARMS-LENGTH	Deed1: / 8579/ 716	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

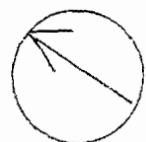
Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

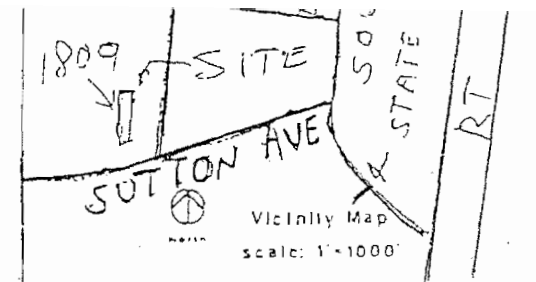
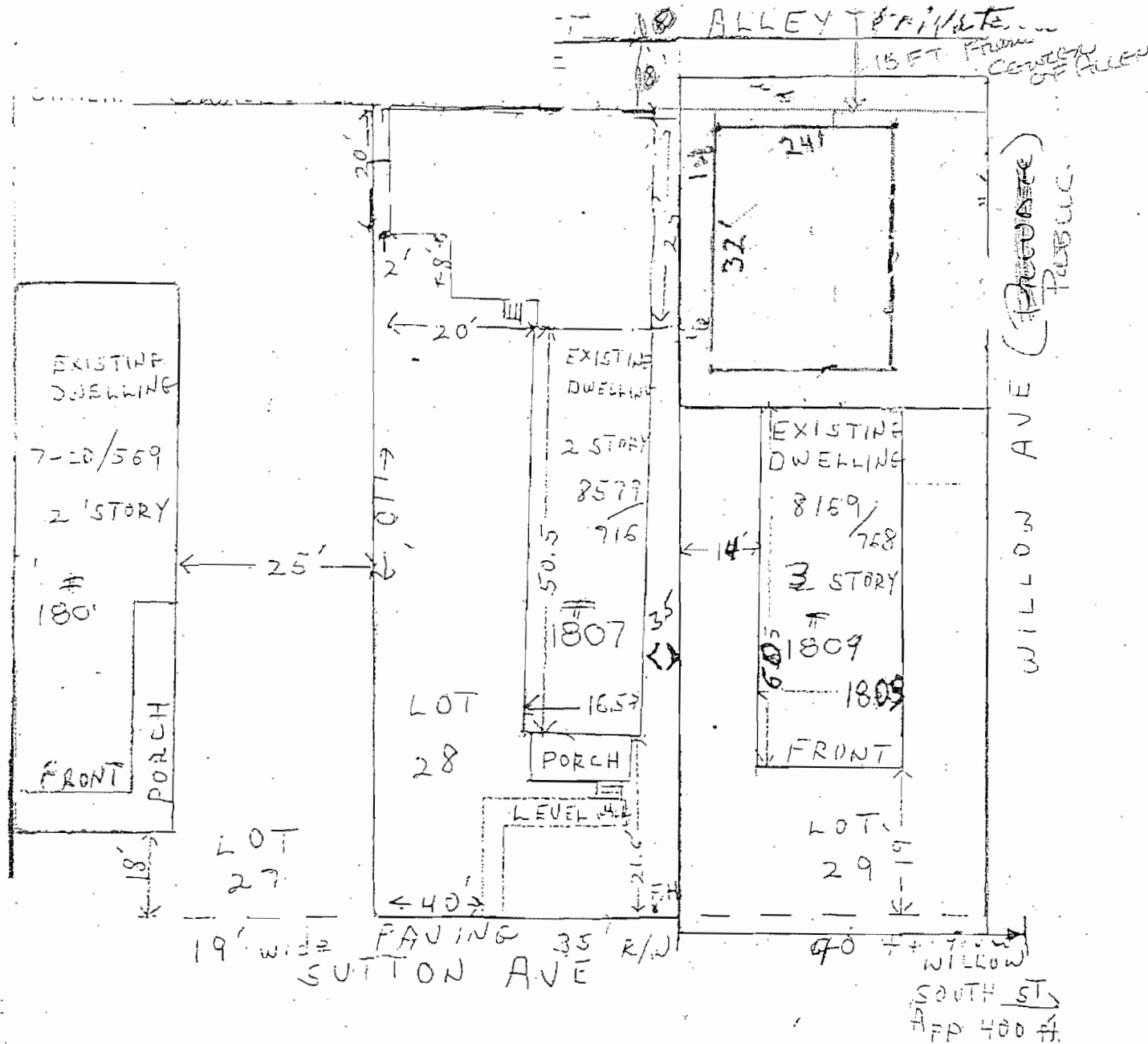
Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *



NORTH



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 13th
COUNCILMANIC DISTRICT 1st
1" = 200' SCALE MAP # S.W. 7-E
ZONING D.R.-5.5

LOT SIZE
ACREAGE 4.400
SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/BUILDING	☐	☒
PRIOR ZONING HEARING	None	

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

PJE-18

PREPARED BY Carol Green

SCALE OF DRAWING: 1" = 20'

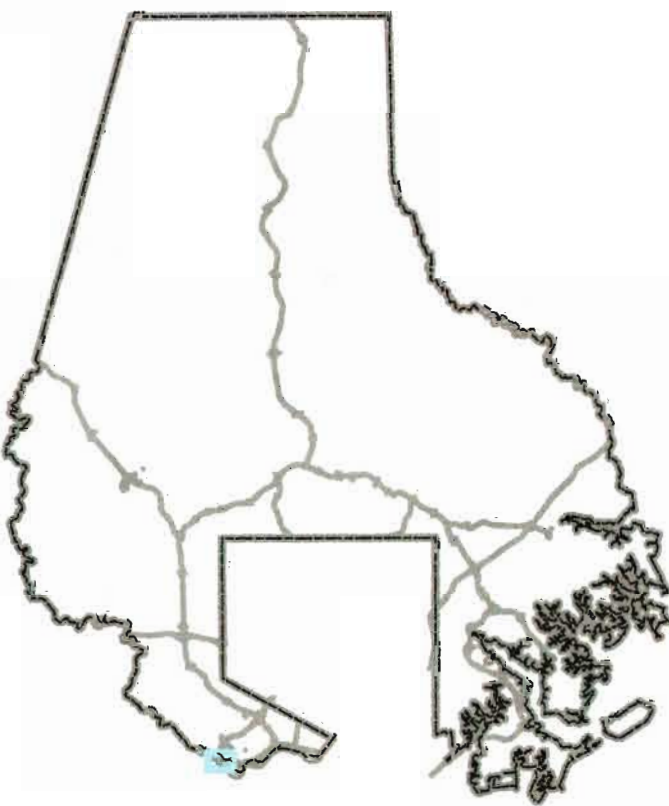
Baltimore County
Maryland

Tile ID 108B3



0 100 200 400 600 800 Feet

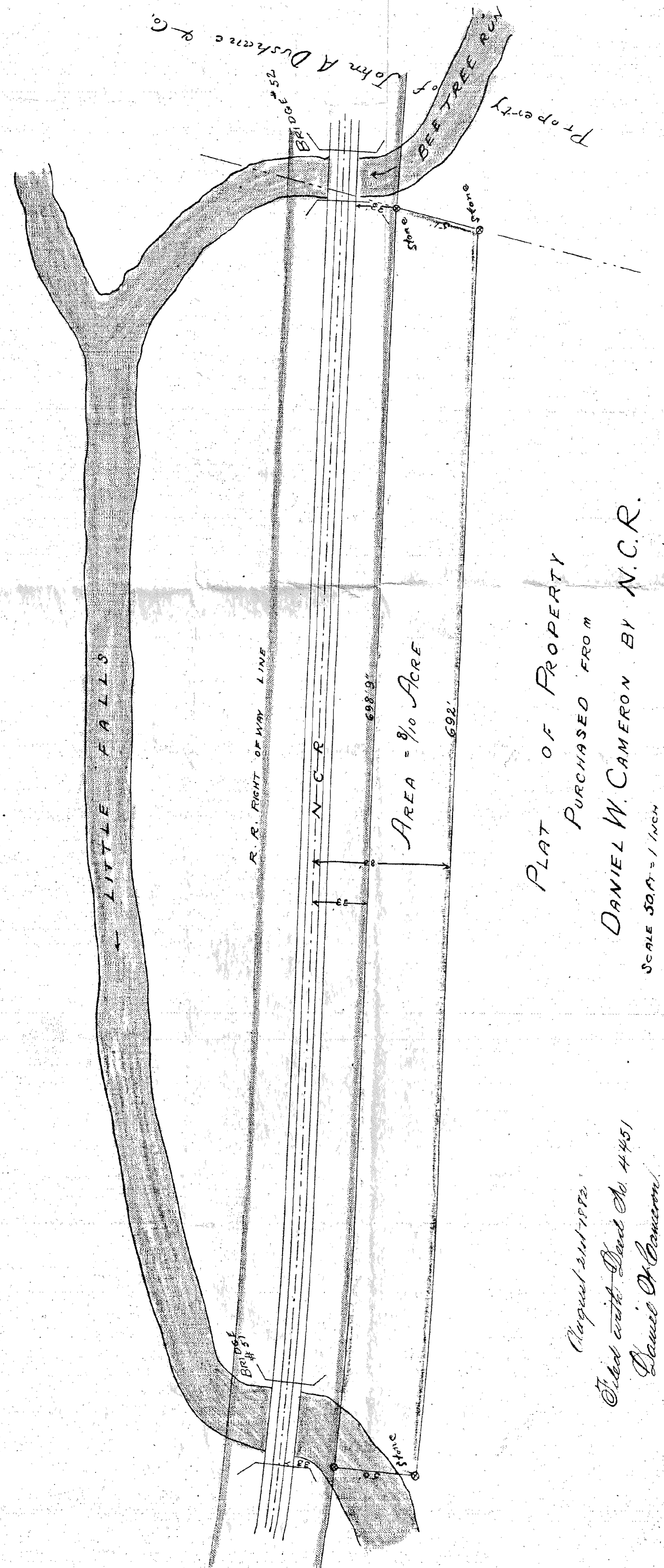
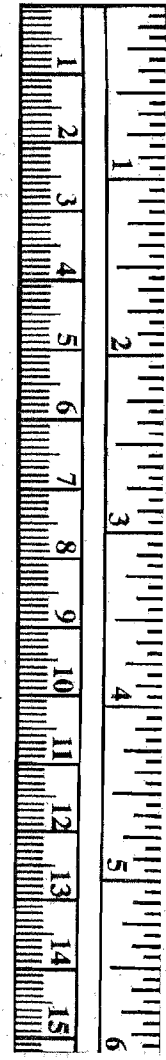
1 inch equals 200 feet
Contour Interval: 2'



Map Notes:
Map Production date: Jul 07, 2004
Map compiled using photogrammetric methods
from 1" = 200' aerial photography dated 4/2000

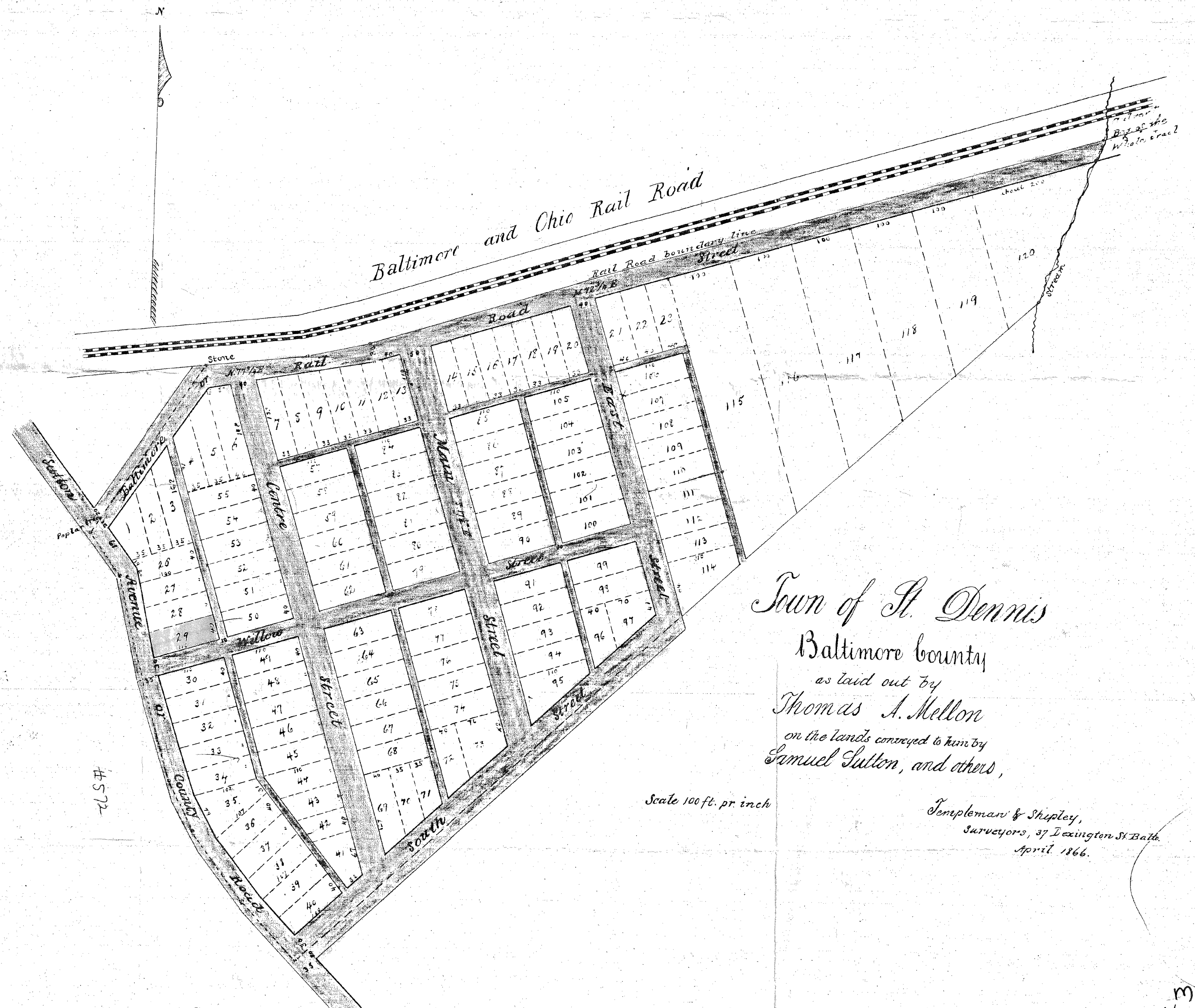
Projection:
Maryland State Plane
Zone ID 1900
NAD 83 US SURVEY FEET

Ref
13-B



PLAT OF PROPERTY
PURCHASED FROM
DANIEL W. CAMERON BY N.C.R.
JULY 1892
SCALE 500' = 1" INCH

Original 2nd 1892
Class with 2nd Ch. 1891
Davis & Cameron
Northern Railway Co.
126/217



Town of St. Dennis
Baltimore County
as laid out by
Thomas A. Mellon
on the lands conveyed to him by
Samuel Sutton, and others,

Templeman & Shipley,
Surveyors, 37 Lexington St. Balt.
April 1866.

Part # 3



PT
15A

Petitioner's

- # 2 A-B
- # 4 A-B-C
- # 5 A-B-C-D
- # 8 A-B-C-D
- # 11 A-B
- # 13 A-B
- # 19 A-B-C



2A

#572



P. 100

#1572



8/17/2004

19A



8/17/2004

19B



196



1813 Sutton Ave.
16' 2" L Approx 40' wide

Get
stuff



1815 Sutton Ave

43



1817 Sutton Ave.

40



5110 South St. ~~pet~~
A



South St.

5 ♡



#9 1833 Sutton Ave

52



1833 Sutton Ave.

5D



8/12/2004

PJSA



8/16/2004

8B



8/16/2004

8C



8/12/2004

8D



8126704 ~~42~~ 19A



8/12/04 Pats



8/16/2004

PDA 3A



8/17/2004

Pet 13B



1719 SUTHERLAND AVE 8-5-03



1724 Sutton Ave
Blue Home 8-5-03



1816 & 1808 Sutton Ave 8-5-03
1724 Far Beckgrove



1805 & 1807 Sutton Ave
8-5-03



1805 SUTTON AVE 8-5-03



1805 SUTTON AVE 8-5-03



Side view 1809 Sutton Ave
Aug 5-03



Sideview 1809 Sutton Ave 8-5
03



Side view 1809 Sutton Ave
Aug 5, 2003



1807 Sutton Ave 8-5-03



Side Street View 1809
SUTTON AVE 8-5-03

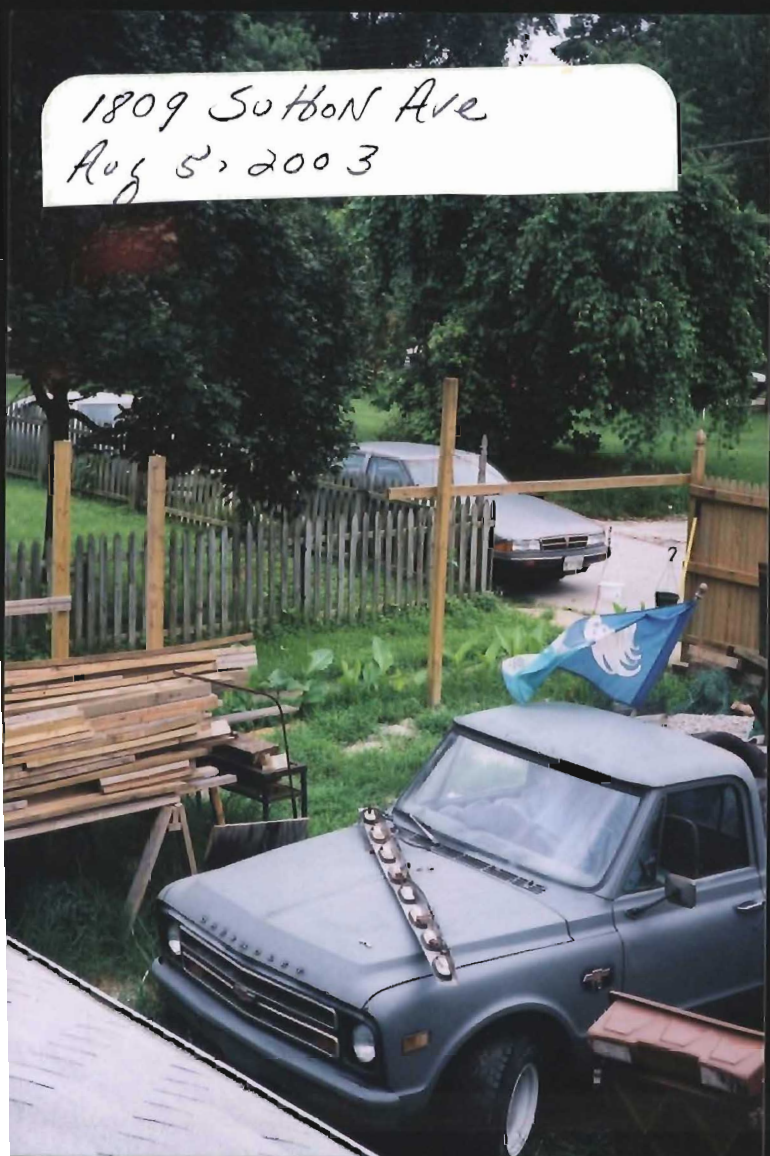


Side Street View 1809
Sutton Ave 8-5-03

1809 Sutton Ave Aug 5, 03



1809 Sutton Ave
Aug 5, 2003



1809 Sutton Ave 8-5-03



1809 Sutton Ave
August 5, 2003





1809 Sutton Ave 6-03



Sutton Ave Historic ⁸⁻⁸⁻⁰³ St. Denis



1809 Sutton Ave 6-03

PETITIONER'S Exhibit 7
Photos Taken 6/16/04



PETITIONER'S Exhibit 9
Photos Taken 6/16/04



PETITIONER'S EXHIBIT
Photos Taken 6/16/04 10



PETITIONER'S EXHIBIT 19
Photos Taken 6/16/04



PETITIONER'S EXHIBIT 127
Photos Taken 6/16/04





Petitioner's Exhibit 12
Photos Taken 6/16/04





PETITIONER'S EXHIBIT
20 ~~19~~
Photos Taken 6/16/04



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1809 Sutton Ave
which is presently zoned D.R.-5.5

This Petition shall be filed with the Department of Permits and 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)

400.1 and 400.3 to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley of 6.5 ft. in lieu of the required 15 ft., to permit a rear yard coverage of 43.5% in lieu of the required 40%, and to permit a height of 20 ft. in lieu of the required 15 ft.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, It is ordered by the Zoning Commissioner of Baltimore County, this day of that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Legal Owner(s):

Carol Susan Green-Botele

Name - Type or Print

Carol Susan Green-Botele

Signature

Carol Susan Green-Botele

Name - Type or Print

Signature

1809 Sutton Ave

Address

Balt

City

Md

State

Telephone No.

410-241-4955

Zip Code

Representative to be Contacted:

Name

Address

City

State

Zip Code

Telephone No.

Zoning Commissioner of Baltimore County

CASE NO. 03-572-A

REV 10/25/01

Reviewed By BH Date 6/5/03

Estimated Posting Date 6/15/03

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at

1809 Sutton Ave
Address
St Denis Md 21227
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

Requesting Boundary as Height Variance so structure may better
suit purpose of existence for Bldg to be used
For storage of #1 oversized vehicle as well as other goods
such as yard tools and equipment

Height 20'
Boundary 2.5'

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Carol Susan Green - Boteler
Signature

Signature

Carol Susan Green - Boteler
Name - Type or Print

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 15th day of June, 2003, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

CAROL SUSAN GREEN - Boteler
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Sandra Howell
Notary Public

My Commission Expires

6/1/06

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at

1809 Sutton Ave
Address
St Denis Md 21227
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (Indicate hardship or practical difficulty):

Requesting Boundary as Height Variance so structure may better
suit purpose of existence for Bldg to be used
For storage of #1 oversized vehicle as well as other goods
such as yard tools and equipment

Height 20'
Boundary 2.5'

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Carol Susan Green - Boteler
Signature

Signature

Carol Susan Green - Boteler
Name - Type or Print

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 5th day of June 2003 before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

CAROL SUSAN GREEN - Boteler
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Notary Public

My Commission Expires



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1809 Sutton Ave
which is presently zoned D.R.-5.5

This Petition shall be filed with the Department of Permits and 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)

400.1 and 400.3 to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley of 6.5 ft. in lieu of the required 15 ft., to permit a rear yard coverage of 43.5% in lieu of the required 40%, and to permit a height of 20 ft. in lieu of the required 15 ft.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this 03 day of May that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Legal Owner(s):

Carol Susan Green-Boteler
Name - Type or Print

Carol Susan Green-Boteler
Signature

Carol Susan Green-Boteler
Name - Type or Print

Signature

1809 Sutton Ave
Address

Telephone No.

Balt
City

Md
State

21221
Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

Zoning Commissioner of Baltimore County

CASE NO. 03-572-A

REV 10/25/01

Reviewed By PK

Date

6/5/03

Estimated Posting Date

6/15/03

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 25006

DATE 6/5/03 ACCOUNT 1001-006-6150

AMOUNT \$ 65.00

RECEIVED FROM: Carl C. ...

FOR: ... 1001-006-6150

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Item 572

PAID RECEIPT

RECEIVED ACTUAL THE

6/06/2003 6/05/2003 14:44:28

REC'D BY: BALTIMORE COUNTY

RECEIPT # 161272 6/05/2003

REC'D BY: 5 523 200306051041104

DR. NO. 025006

Rec'd Tot \$65.00

.00 OF 65.00

Baltimore County, Maryland

CASHIER'S VALIDATION



FORMAL DEMAND FOR HEARING

CASE NUMBER: 03-572-A

Address: 1805 SUTTON Ave

Petitioner(s): SUTTON ST RESIDENTS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I/We RELA Y IMPROVEMENT ASS
Name - Type or Print 21227

() Legal Owner OR (☒) Resident s of

RELA Y, ST. DENIS
Address

BALT, MD 21227
City State Zip Code

410-536-0115
Telephone Number

which is located approximately 5 feet from the
property, which is the subject of the above petition, do hereby
formally demand that a public hearing be set in this matter.

ATTACHED IS THE REQUIRED PROCESSING FEE FOR THIS
DEMAND.

R O'Hair 6/23/03
Signature Date

Signature
Revised 9/18/98 - wcr/scj

Date

ZONING NOTICE

ADMINISTRATIVE VARIANCE

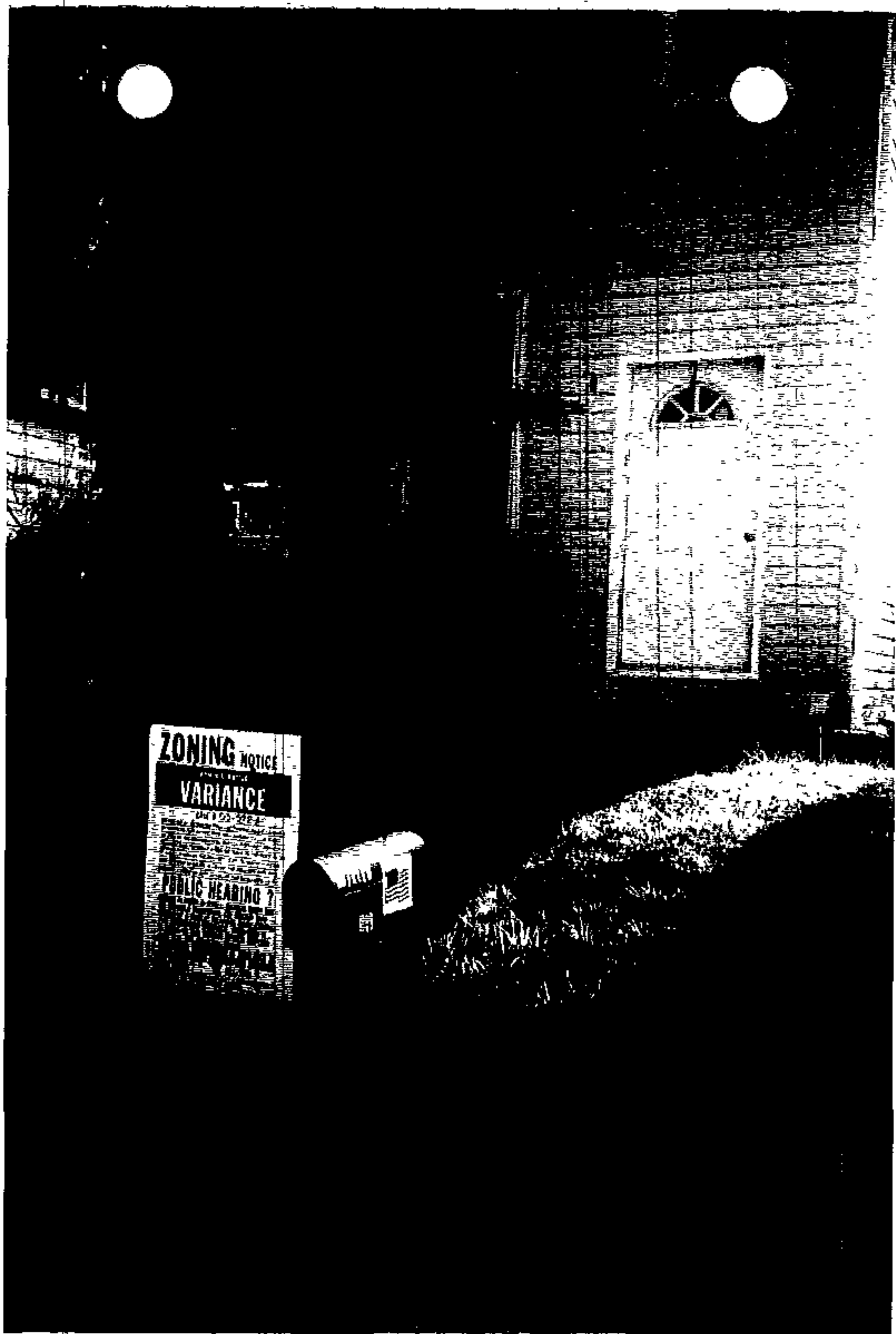
CASE # 03-572-A

TO PERMIT AN ACCESSORY STRUCTURE (GARAGE) TO BE LOCATED
IN THE THIRD PART OF THE REAR YARD CLOSEST TO THE ROAD
IN LIEU OF THE REQUIRED THIRD PORTION FARTHEST REMOVED
FROM THE ROAD, TO PERMIT A REAR SETBACK TO THE REAR ALLEY
OF 6.5 FT. IN LIEU OF THE REQUIRED 15 FT., TO PERMIT A REAR
YARD COVERAGE OF 43.5% IN LIEU OF THE REQUIRED 40% AND
TO PERMIT A HEIGHT OF 20 FT. IN LIEU OF THE REQUIRED 15 FT.

PUBLIC HEARING ?

PURSUANT TO SECTION 26-127(b)(1), BALTIMORE COUNTY CODE
AN ELIGIBLE INDIVIDUAL OR GROUP MAY
REQUEST A PUBLIC HEARING CONCERNING
THE PROPOSED VARIANCE, PROVIDED IT
IS FORWARDED TO THE ZONING OFFICE BEFORE

NOVEMBER 10, 2003
ADDITIONAL INFORMATION IS AVAILABLE AT
DEVELOPMENT MANAGEMENT
367-3301



CERTIFICATE OF POSTING

RE: Case No.: 03-572-A

Petitioner/Developer: CAROL GREEN

Date of Hearing/ Closing: JUNE 30, 2003

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

Attention: BECKY HART

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 # 1809 SUTTON AVE.

The sign(s) were posted on

JUNE 14, 2003
(Month, Day, Year)

Sincerely,

Garland E. Moore

(Signature of Sign Poster and Date)

GARLAND E. MOORE

(Printed Name)

3225 RYERSON CIRCLE

(Address)

BAUTIMORE, MD. 21227

(City, State, Zip Code)

(410) 242-4263

(Telephone Number)

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/neighborhood 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: 03-572-A
Petitioner: Carol Green
Address or Location: 1809 Sutton Ave Balto Md 21227

PLEASE FORWARD ADVERTISING BILL TO

Name: Carol Green
Address: 1809 Sutton Ave Balto Md 21227

Telephone Number: 410 247 4955- 443-610-3834

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATESCase Number 03- 572 -A Address 1809 Sutton AveContact Person: Bruno Rudaitis Phone Number: 410-887-3391
Planner, Please Print Your NameFiling Date: 6/5/03 Posting Date: 6/15/03 Closing Date: 6/30/03

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

- POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
- DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
- ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
- POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMATCase Number 03- 572 -A Address 1809 Sutton AvePetitioner's Name Carol Green Telephone 410-247-4955Posting Date: 6/15/03 Closing Date: 6/30/03

Wording for Sign: To Permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley of 6.5 ft. in lieu of the required 15 ft., to permit a rear yard coverage of 43.5% in lieu of the required 40%, and to permit a height of 20 ft. in lieu of the required 15 ft.

WCR - Revised 6/28/00

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 17, 2003 Issue - Jeffersonian

Please forward billing to:
Carol Green
1809 Sutton Place
Baltimore, MD 21227

410-247-4955

NOTICE OF ZONING HEARING

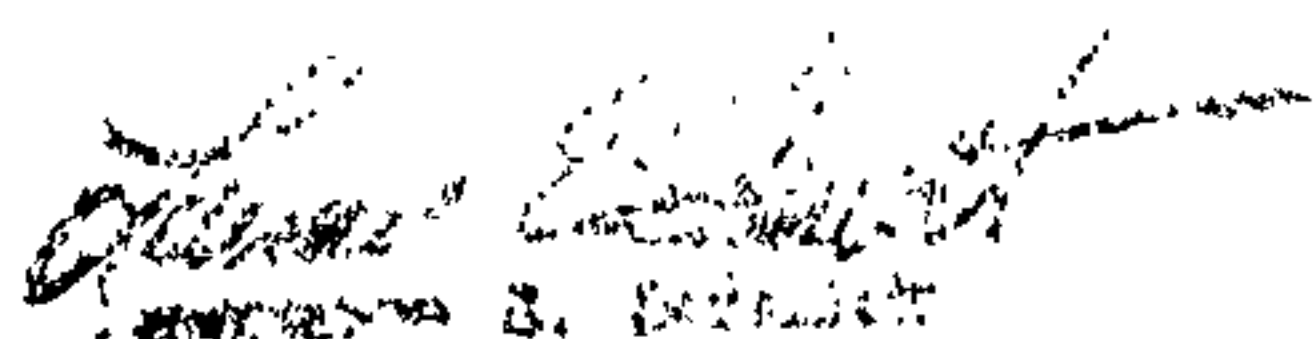
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 03-572-A

1809 Sutton Avenue
N/east corner of Sutton Avenue and Willow Street
13th Election District – 1st Councilmanic District
Legal Owner: Carol Susan Green-Boteler

Administrative Variance to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley centerline of 6.5 feet in lieu of the required 15 feet, to permit a rear yard coverage of 43.5% in lieu of the required 40% and to permit a height of 20 feet in lieu of the allowed 15 feet.

Hearings: Friday, August 1, 2003 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue



LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

June 24, 2003

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: 03-572-A

1809 Sutton Avenue
N/east corner of Sutton Avenue and Willow Street
13th Election District – 1st Councilmanic District
Legal Owner: Carol Susan Green-Boteler

Administrative Variance to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley centerline of 6.5 feet in lieu of the required 15 feet, to permit a rear yard coverage of 43.5% in lieu of the required 40% and to permit a height of 20 feet in lieu of the allowed 15 feet.

Hearings: Friday, August 1, 2003 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

KT:rlh

C: Carol Susan Green-Boteler, 1809 Sutton Avenue, Baltimore 21227
R. O'Heir, 1805 Sutton Avenue, Baltimore 21227

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JULY 17, 2003**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Issue - Jeffersonian

Please forward billing to:
Carol Green
1809 Sutton Place
Baltimore, MD 21227

410-247-4955

CORRECTED NOTICE OF ZONING HEARING

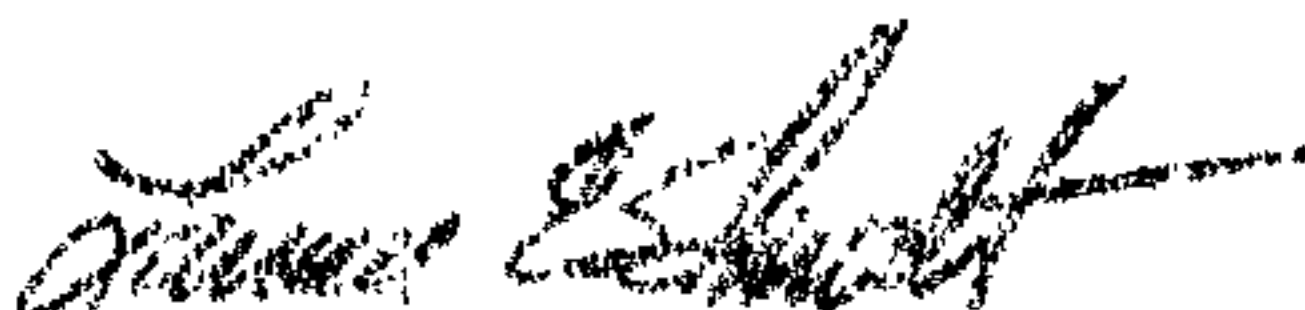
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 03-572-A

1809 Sutton Avenue
N/east corner of Sutton Avenue and Willow Street
13th Election District – 1st Councilmanic District
Legal Owner: Carol Susan Green-Boteler

Administrative Variance to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road, to permit a rear setback to the rear alley centerline of 6.5 feet in lieu of the required 15 feet, to permit a rear yard coverage of 43.5% in lieu of the required 40% and to permit a height of 20 feet in lieu of the allowed 15 feet.

Hearings: Wednesday, August 6, 2003 at 9:00 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 ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: September 26, 2003

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

SUBJECT: 1809 Sutton Avenue

INFORMATION:

Item Number: 03-572

Petitioner: Carol Susan Green-Boteler

Zoning: DR. 5.5

Requested Action: Administrative Variance/Motion for Reconsideration

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the above referenced matter in response to the two Motions for Reconsideration.

It appears that a smaller garage could be erected on this property without the need for variances. It also appears that the subject property is not unusual compared with other properties in the neighborhood. Therefore, we question whether the authorized variances are appropriate. In any event, we offer the following comments and recommendations. These comments and recommendations are based on a review of the case file, the petitioner's site plan, a site visit, and our efforts to achieve quality development.

COMMENTS:

In general, this office strongly opposes the size, and the street setback of the proposed garage, and questions whether the authorized variances represent the minimum variances that will afford relief. Also, the functional compatibility and visual compatibility of the garage with the surrounding neighborhood are concerns.

F.Y.I. – Mailed to C. Boteler & A. DeSa on 9/29/03

RECEIVED
SEP 26 2003
ZONING COMMISSIONER

The size of the proposed garage is excessive. An oversized two-car garage or a three-car garage is not appropriate on a lot that is as small as the petitioner's lot. A residential garage doesn't need to be 24'x32' in size. For example, 24'x24' or 22'x22' are reasonable sizes for a two-car garage and a large, one-car garage could be much smaller in size.

As shown on the site plan, the proposed garage will be located closer to Willow Avenue than the existing dwelling. It is not clear exactly how far the dwelling is set back from Willow Avenue but based on the petitioner's site plan, it appears that the setback is only about 11 feet. This office is of the opinion that it is totally inappropriate to allow the proposed garage to be located closer to Willow Avenue than the existing dwelling. In this particular case, the garage should be setback further from the right-of-way than the dwelling.

This office does not oppose a variance relief to permit a reduced setback from the rear alley in lieu of the required 15 feet. The rear alley does not function as an alley for motor vehicles. It has not been improved to provide for vehicular access. As such, this office has determined that a 2.5-foot setback from the rear lot line is sufficient for the proposed garage.

The Office of Planning is concerned with whether the proposed garage will be used exclusively for a permitted purpose. Section 101 of the BCZR contains definitions for "Accessory Use or Structure" and for "Garage, Residential." An accessory use or structure is to serve a principal use or structure, which in this case is a single-family dwelling. A residential garage is an accessory building used for storage of private motor vehicles. Based on the record, it is unclear whether the petitioner intends to use the garage for a lawfully permitted purpose. The record implies that the garage will be used for the storage of materials and equipment that are not customarily associated with a single-family dwelling.

The proposed garage will be located in a residential neighborhood that has many attractive and distinctive houses. The garage will be visible from Willow Avenue and neighboring properties, but it is not known what the garage will look like. If variances are needed to construct the garage and those variances will make the garage more visible to the community, then it is appropriate and desirable to require that the appearance of the garage be compatible with the existing dwelling and the neighborhood.

This office has concerns relevant to the size of a garage that can be erected on this property without variances. The first two sentences in Section 400.1 of the BCZR read as follows:

"Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third."

If the rear yard of the subject property is 44 feet deep and 40 feet wide, this means that the garage can be built within an area 44'x20' (i.e., 880 square feet). Fifty percent of 880 is 440. Therefore, the regulations limit a garage on this property to occupy a maximum area of 440 square feet. A garage of this size would not need a variance from the 40% limitation.

It was found that much of the sidewalk along Willow Avenue is in poor condition. The only part of the sidewalk in good condition is the segment that extends along the front yard.

The petitioner's site plan shows a rear alley that is 8 feet wide. The 1866 plat for the Town of St. Dennis shows a rear alley that is 10 feet wide. The site plan may be inaccurate in other respects. The Department of Permits and Development Management should determine whether the site plan is reasonably accurate before a final decision is made on the requested variances.

RECOMMENDATIONS:

Based on the above comments, the Office of Planning recommends the following:

1. A garage having a maximum size of 440 square feet should be permitted.
2. The minimum setbacks should be as follows:
 - a) 2.5 feet from the rear lot line;
 - b) 2.5 feet from the side lot line on the north side of the property; and,
 - c) 15 feet from the side lot line along Willow Avenue.

(Note: These setbacks will permit the garage to have a depth of 22.5 feet and also permit the front of the garage to extend 5 feet into the half of the rear yard that is adjacent to Willow Avenue)

3. The Office of Planning should approve elevation drawings prior to the issuance of any building permit.
4. The garage should only be used for residential purposes. The storage of material or equipment related to a business or commercial activity should be expressly prohibited.
5. The portion of the sidewalk along Willow Avenue that extends along the side yard of the property to the centerline of the rear alley should be reconstructed. As an alternative, the Department of Public Works could inspect the sidewalk and determine what repairs or reconstruction should be required.

Prepared by:

Marta A. Gumbel

Section Chief:

Lynn L. Lander

AFK/LL:MAC:



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

June 24, 2003

Ms Carol Susan Green-Boteler
1809 Sutton Avenue
Baltimore, MD 21227

Dear Ms. Green-Boteler:

RE: Demand for Public Hearing, Administrative Variance, Case Number: 03-572-A

The purpose of this letter is to officially notify you that your administrative posting procedure has been superceded by a timely public hearing demand or the zoning commissioner is requiring a public hearing concerning the above proposed administrative procedure.

As soon as the hearing has been scheduled, you will receive a notice of public hearing indicating the date, time and location of the hearing. This notice will also contain the date that the sign must be reposted with the hearing information.

The property must be reposted with the hearing date, time and location. This notification will be published in the Jeffersonian and you will be billed directly by Patuxent Publishing for this.

If you need any further explanation or additional information, please feel free to contact Bruno Rudaitis at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor
Zoning Review

WCR:

C: R. O' Heir, 1805 Sutton Avenue, Baltimore 21227





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

September 10, 2003

HAND DELIVERED

John V. Murphy, Deputy Zoning Commissioner
County Courts Building
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Re: Carol Susan Green-Boteler – Legal Owner
Case No.: 03-572-A

Dear Mr. Murphy:

Please accept this letter as a Motion for Reconsideration under Rule 2(K) from the decision dated August 12, 2003.

Upon review of the record, we are concerned about the following problems:

1. The proposed accessory structure does not appear realistically to be incidental and subordinate to a residential use. Its purpose is not for vehicles, but rather for materials with which may be equipment or tools of a commercial or industrial nature.
2. The history of the site includes citations for work equipment and junk. The photographs show materials which do not appear to be residential in nature: piles of lumber, metal poles, and general construction equipment.
3. The size and scale of the structure appears to overwhelm the small lot.
4. There is a kennel shown on the site plan, which is impermissible without a special exception.
5. The site plan is not sealed by a surveyor, and there are questions about the accuracy of the 43.5% calculation on the area occupied in the rear yard. It may be as much as 61.9%, as pointed out in correspondence from neighbors.
6. It is undisputed that the proposed structure does not comply with BCZR 102.5.

RECEIVED

SEP 10 2003

ZONING COMMISSIONER

7. The property itself is not unique. The only thing unique appears to be the use of the land which has so offended the community and led to several citations for zoning violations.
8. There does not appear to be any true practical difficulty to warrant a variance. The apparent justification is that it would be less offensive to have the described piles of wood, etc. stored inside rather than outside. But that is a kind of reward for an offensive use and is not grounds for a variance.
9. The record does not show that other properties in the area have structures of this size and scale. The deck next door covers a large area, but is not similar in size, height, mass, or scale.

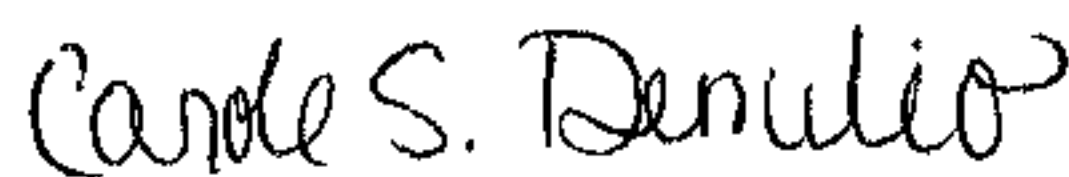
We would also be interested in further review of this matter by the Office of Planning and Zoning. This should include a comment on the character of the proposed use, including consideration of its purpose, size, scale and compatibility with the historic St. Denis neighborhood. A copy of this motion is being sent to Dennis Wertz, Area Planner.

Under all the circumstances, it is this office's position that the Deputy Zoning Commissioner should reconsider his decision dated August 12, 2003 and deny the variance. If the Commissioner determines that it would be helpful to have a hearing, our office will attend the hearing.

Yours very sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

cc: Carol S Green-Boteler, Legal Owner
Richard O'Heir
Alan & Doreen DeSa
Dennis Wertz, Planning Office
Timothy Kotroco, PDM

Baltimore County
Department of Permits and Development Management
Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
Attn: Timothy Kotroco

Re: Case Number: 03-572-A

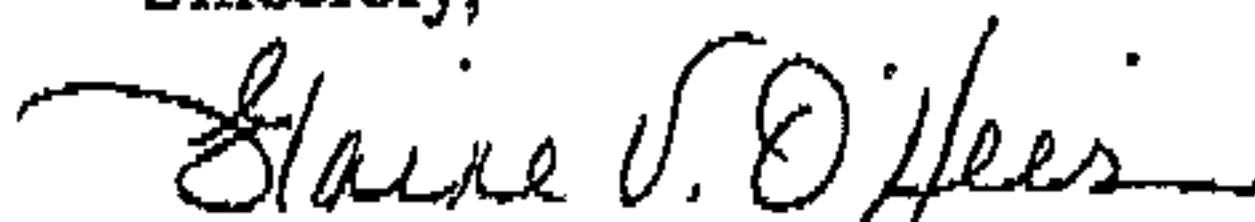
July 15, 2003

Director Kotroco,

My husband, Richard J. O'Heir and I petitioned for a hearing re: Case Number 03-572-A: the administrative variance posted by our neighbor, Ms. Carol Green-Boteler, who resides at 1809 Sutton Avenue. We were granted the hearing and given notice that the hearing will be held on Friday, August 1, 2003.

I am requesting that the hearing be postponed based on the fact that we will be out of town from July 25th till August 2nd. While I have made efforts to re-arrange our trip and reschedule our return flight so that we would be able to attend the hearing, my efforts have not been successful. We want to be present at the hearing as we are very concerned about the structure Ms. Boteler wants to build in her backyard and want to be heard by the board. I ask that you please consider my request for a postponement. Thank you very much.

Sincerely,



Elaine V. O'Heir
1807 Sutton Avenue
Baltimore, MD 21227
410-536-0115 (home)
410-455-2488 (work)

UNIVERSITY OF MARYLAND, BALTIMORE COUNTY
DEPARTMENT OF PSYCHOLOGY

FACSIMILE TRANSMITTAL SHEET

TO: Kristen Matthews

FROM: Elaine O'Heir

COMPANY: Balto Co. Zoning

DATE: 7.15.03

FAX NUMBER: 410-887-5708

TOTAL NO. OF PAGES INCLUDING COVER:

2

PHONE NUMBER:

SENDER'S REFERENCE NUMBER:

RE:

YOUR REFERENCE NUMBER:

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

1000 HILLTOP CIRCLE
BALTIMORE, MARYLAND 21250
PHONE: 410-455-2567
FAX: 410-455-1055

1816 Sutton Avenue
St. Denis, Md. 21227
September 10, 2003

Mr. John V. Murphy
Deputy Zoning Commissioner for Baltimore County
Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Motion for Reconsideration
Case No. 03-572-A
Property: 1809 Sutton Avenue

Dear Mr. Murphy:

After carefully reviewing the Findings of Fact and Conclusions of Law in the above captioned case decided by you and so ordered on August 12th, 2003 I wish to ask for a "motion for reconsideration" by you in this case. As you may recall I was one of three Protestants appearing before you in this matter. I have briefly noted for you some of my objections to your decision;

- 1.) Although many lots in St. Denis are small, many are not, and few if any "garages" are the size requested in this petition for variance.
- 2.) I feel that your suggestions and "coaching" during the hearing, in regards to the height requirements in BCZR prejudiced my comments and reduced the enormity of Mrs. Boteler's petition as well as lessening the impact of my statements.
- 3.) None of the examples in the Zoning Commissioners Policy Manual Section 400.1.d(1)A concerning the placement of accessory structures really applied to the location of the home and accessory structure proposal in this case. I ask that BCZR 400.1 and 400.3 regarding the location of the "garage" be reexamined and you be more specific in your "findings of fact".
- 4.) Looking at Petitioners Exhibit #1, nowhere can I find an indication or measurement showing that the rear of the dwelling to the rear lot line is 44 feet. I suggest that the actual distance is much less. Determining the correct rear yard area is critical to this case and the fulfilling of BCZR #400.1
- 5.) Furthermore we are unable to follow the reasoning in the commissioner's decision found at the bottom of page 3. "This means that the garage can be built within an area 44 x 20." 44 x 20 is far more then the 40% of the rear lot mentioned under BCZR Rule 400.1 even if one might consider the rear part of the lot to be an actual 44 x 40.
- 6.) I seriously question the statement that "many other property owners have garages on these narrow lots that essentially extend from property line to property line with the long dimension along the rear lot line rather than along adjoining neighbor's as she has requested". If the decision is based on this statement, surely it must be in the evidence presented at the hearing. I only remember Mrs. Boteler presenting pictures of three garages and all were much smaller than the proposed "garage" at issue in this case.

RECEIVED

SEP 11 2003

Per.....*bl*.....

The reference to Mr. O Heir's recent addition I feel is not germane as this was not an accessory structure, but an addition to their home and usually that type of construction is handled differently under the BCZR.

- 7.) The community, as evidenced in several other exhibits in this case, is very concerned that this proposed "garage" will not be utilized as a garage in the usual sense, but as a storage facility for Mrs. Boteler's flea market business. The community is also concerned that the much cluttered side and rear yards mentioned in the decision will not be corrected by the addition of this accessory structure. Mrs. Boteler testified at the hearing this over sized structure would be used to park an RV, presently located in West Virginia.
- 8.) I find it hard to see why the home on lot 50 and the position of the home on that lot has any bearing on the position of the "garage" in relation to the alley. Although the alley may not be used often, the rule regarding setbacks from it are quite specific and should not be so lightly disregarded. I imagine the county could decide to pave this alley and use it, if there was an overriding reason, at any time in the future?
- 9.) On page 5 the following is written, "The third variance involves the amount of area the garage must cover. By definition, the area covered by the garage must be subject to variance relief if the underlying size of the garage is larger than allowed". This statement says nothing. How was the area determined? Are not the Protestants entitled to see these calculations and the reasoning that allows such a large structure to be built on such a small lot in violation of BCZR 400.1 The regulations are quite specific. The granting of a variance to the rules must have some basis.

Sincerely,


Alan J. De Sa

1816 Sutton Avenue
St. Denis, Md. 21227

Cc. Mrs. Carol Green Boteler

September 16, 2003

John V. Murphy
Deputy Zoning Commissioner
County Courts Building
401 Bosley Av, 4th Floor
Towson, Maryland 21204

Re: Carol Susan Green-Boteler-Legal Owner

Case Number:03-572-A

RECEIVED
SEP 16 2003
ZONING COMMISSIONER

Dear Mr. Murphy,

As a motion for Reconsideration has been filed, please accept this letter in my own defense.

After viewing my copy of the Motion for Reconsideration I offer the following response.

1. There are 2 antique vehicles parked on the property almost all of the time. Most antique vehicles are garage kept. A 1968 Chevrolet Pick-Up Truck VIN# CCE142B127040, also a 1972 Chevrolet Step-Side Pick-Up Truck VIN#CS1488128435. One belongs to me and one to my friend. We also have a Recreational Vehicle that we have not brought home because it would have to sit on the street.
2. Previous citation on 12/17/99 was issued for a 1976 Chevrolet Chevelle with 45,000 miles on it that my late husband did not want to part with. The fine was reduced to \$200.00. The fine was paid and the car was disposed of. Until June this year there have been no other citations.
3. After looking next door at an addition that engulfs the neighbors entire back yard and most of the alley, my garage upon completion will take approximately one-third of the space as Mr.O'Heir's .
4. There was a portable kennel in my yard. It has been removed. We have tried to appease the neighbors in many ways. My perfect pair of Jack Russell Terriers were turned in to Animal Control by Mrs.Elaine O'Heir. (I personally went there to see who complained) for barking. One of the hardest things I had to do was to part with those dogs. They were part of my life. Not long after that my friend gave up his beautiful Chow. The monetary value of these dogs, approximately \$1800.00.
5. The calculation of occupied space was given to us by the zoning office when we applied for this variance. My back yard begins at my back door and ends at the alley. Since property lines are not at question, it serves little purpose to hire a surveyor.

6. We plan to build the proposed structure according to code even if it means that one corner of the building is cut short. We planned to discuss this when we applied for a permit. In the end I am sure that this will decrease the square footage slightly .
7. The property is not unique. Perhaps to others it is not but I have lived here for almost 30 years. The copy of the deed given to you pertained to 1989 when I bought my first husband out. I actually came here in November 1973. I have taken care of 8 children here. The bus stops on my corner because I had it moved there for the safety of the children. I feel I have done my part for the community including taking in children that were not mine and getting them to finish school.
8. When we started to apply for permits, we started buying wood. My friend, Mr. Allen took money from each pay and started purchasing wood, 2 x 4's, 4 x4's, sheets of plywood, etc. It was in our hopes that all of this lumber would be utilized by now. We have placed a privacy fence to try and keep from offending our neighbors. They actually complained it was too high.
9. My house is one of the tallest 3 story old houses in St Denis. A garage this size would not overwhelm or out proportion the house. Enclosed are some pictures. Two are of a garage located on the rear property of 1833 Sutton Av. You can see clearly in the pictures that the garage is larger than many houses. I want no more or less than anyone else.
10. In conclusion: On August 6, 2003 I purchased a permit for a garage that did not need a variance. (Permit # B527480) The proportions are smaller 32 X 16 x 15. A larger garage will permit us to store our vehicles, tools, lawn mowers in a dry environment. I was delighted when the variance was granted and we could have the larger garage. We started planning this in April and it seems it will be winter and everything is being held up in court. A ruling in my favor would still require a 30 day wait. I currently have a violation notice for the lumber in our yard. It is off of the ground and piled as neatly as possible. Still I am getting grief for operating an open dump.
11. I really feel that the DeSa's and O'Heirs could better utilize their time and efforts organizing activities for the youth in our community. I do not appreciate them lurking and peering, especially after midnight. This indicates to me that they have nothing better to do.

Thank You for your consideration in this matter.

Sincerely,

Carol S. Green-Boteler

August 5, 2003

Case No. 03-572-A

We the undersigned are appearing before the zoning hearing officer today to oppose the Petition for Administrative Variance(see exhibit #1) filed before the Zoning Commissioner of Baltimore County, Office of Planning and Zoning by Carol Susan Green-Boteler on June 5th, 2003. The case file number is 03-572-A. The subject property is located at 1809 Sutton Avenue at the corner of Willow Street in the 13th Election District- 1st Councilmanic District (see exhibit #2).

The Petition indicates that the petitioners would like to obtain a variance under county rules "400.1 and 400.3 to permit an accessory structure (garage) to be located in the third part of the rear yard closest to the road in lieu of the required portion furthest removed from the road, to permit a rear setback to the rear alley of 6.5ft in lieu of the required 15ft. from the centerline of such alley, to permit a rear yard coverage of 43.5 % in lieu of the required 40% and to permit a height of 20ft. in lieu of the required 15ft."(See exhibits #1 and #3).

We are opposed to the granting of this variance because the subject property (ID # 13-19-710480) is too small for such a large structure. The petition for the variance asks for at least four exceptions to the county code.(see exhibit #4 identifying the property and exhibit #3, a plat of the lot.)

1.) If the petitioners are allowed to place the structure on the third part of the property closest to the road, instead of on the third part of the property farthest from the road, we feel the structure will be too close to Willow Street. Willow Street is a very narrow side street, we question whether the positioning of this "garage" on the lot will allow enough distance for cars to enter or leave the structure. (Reference BCZR #400.1 Assessory buildings in residential zones, other than farm buildings shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 21/2 feet from any side or rear lot lines. In this petition we feel that the structure is so large (24 ft. by 32 ft.) that no matter where it is situated in regards to the 1/3 part of the lot (on corner lots the code specifies the rear 1/3rd of the lot), it cannot meet the requirement that only 50% of that third of the lot be utilized. It also appears that nearly all of the 1/3rd of the lot that is not used to fulfill the above mentioned requirement (the 1/3rd of the lot nearest to the road) must be utilized to enable such a large structure to be constructed on such a small area. Furthermore the code specifies that the structure may not be closer than 21/2 ft from the lot side bordering 1807 Sutton and on the alleyway to the East of the proposed structure. (BCZR 400.1)

2.) The setback asked for (6.5ft) to the rear alley centerline is only around 43% of the required distance of 15ft from the alley's centerline. As specified in the deed of the property dated April 17th 1989 to Carol Susan Green from Edward David Green, Jr. and

Pro #1

Carol Susan Green the alley behind the lot and proposed structure is 10ft wide, not the 8 ft. width indicated on the petition. This spacing would put the structure only 1.5ft from Ms. Green's property line. This is less than the 21/2 feet specified in Ms. Green's petition. This is too close to the side alley to meet the requirements of BCZR 400.2. (BCZR #400.2 Assessory buildings, including parking pads, shall be set back not less than 15 feet from the centerline of any alley on which the lot abuts. (Bill #2-1992).

Note: A copy of the first page of the aforementioned deed is enclosed indicating the property boundaries of Ms. Greens' property and the correct width of the side alley.(exhibit #5).

3.) The structure is so large for the lot that it will cover more than the required 40% specified in the zoning code. (See the reference to BCZR #400.1 above). If one considers Ms. Greens' backyard the area just to the rear of the present home as indicated in the plat accompanying the petition for the zoning variance (a copy of the plat is enclosed, as exhibit #3). The lot width is 40 ft by 31 ft. The home is 19 ft. from Sutton Avenue, the house measures 60 ft. long as shown on the plat, for a total of 79 ft. to the rear of the present improvements. The total length of the lot is 110 ft. 110 ft. minus 79 ft. would leave 31 ft. remaining to be considered a "backyard". (See BCZR 102.2, 102.3) 31 ft. times 40 ft. indicates a "backyard" totaling 1240 square feet. The proposed garage measures 24 ft. times 32ft. or 768 square feet. This would indicate that the proposed "garage" covers 61.9% of the "backyard" rather than the 43.5% specified in the petition and far more than the 40 % maximum required under BCZR # 400.1.

withdrawn
4.) The height of the building (20ft) considering the small lot size and its positioning on the lot, is totally out of proportion to the house and the surrounding homes on Sutton Avenue and Willow Street.. The plat accompanying the petition indicates that this structure will cover 768 square feet and the setback from 1807 Sutton will be only 2.5 ft. This will seriously impact on the southerly view from our home and property. The 20ft. height of the structure will impact on the amount of sunlight falling on our property during most of the day. This property (1809 Sutton Avenue) and all the surrounding properties are presently zoned residential. We believe that the enormous size of this building may indicate that it will be used as a storage facility for Ms.Green-Boteler and her partners' flea market business, rather than as a legitimate garage.

*Willow
alley
not
Willow
Sutton*
5.) We do not believe that the positioning of this structure on this lot meets the requirements of BCZR # 102.5. (BCZR # 102.5 reads as follows. "On a corner lot in any residential zone, no planting, fence, wall, building or other obstruction to vision more than 3 ft. in height shall be placed or maintained within the triangular area bounded on the two sides by the front and side street property lines, or by projections of said lines to their point of intersection, and on the third side by a straight line connecting points on said lot lines (or their projections), each of which points is 25 ft. distant from the point of intersection. At the intersection of a street and alley, the dimension corresponding to the 25 ft. noted above shall be 15 ft. and 10 ft. at the intersection of two alleys. Poles, posts

Research

and guys for streetlights and for other utility services shall not be considered obstructions to vision within the meaning of this section.") (Resolution, 11/21/56)

As indicated on the plat accompanying this petition a line drawn 15 ft. from the intersection of the alley and Willow street, along Willow and along the alley and then the ends being connected to form the triangular area mentioned above, the 3 ft height requirement would be violated by the proposed structure.(see exhibit #6)

Ms. Carol Green-Boteler has had a very checkered past concerning trash and debris located all over this property for many years. As residents of Sutton Avenue immediately next store to the subject property we are concerned that if the zoning variance be granted the subject building may never be completed properly, and if completed it will be used as a storage facility for the flea market business conducted by her and her partner.

On 12/17/99 and 04/07/00 A Code Enforcement Citation (#99-8399) was issued. The Baltimore County Zoning regulations numbers 101, and 102.1 (open dump) and Baltimore County Zoning regulations 101 and 102.1 (junk yard). Baltimore County regulation 1B01(DR) was also cited. A \$400.00 dollar fine was assessed. The property was never properly cleaned up after this citation and penalty.(exhibit #7)

On July 1st, 2003 another Baltimore County Uniform code enforcement correction notice was issued to Ms. Carol Susan Green. The following Baltimore County Laws were cited in the notice. Baltimore County Zoning Regulation # 101 and 102.1 and 1B01(DR). The citation read "remove all junk, trash, debris, indoor items, boxes, tarps from rear yard"(exhibit #8)

An additional item on the citation referred to a large wooden fence surrounding the back yard which was erected this past spring and was oversize. The citation reads "reduce all fencing to maximum height of 6 ft." The citation indicates that these violations are to be corrected by August 8th, 2003. As of this date no action whatsoever has been observed by any residents of the community as to any reduction or removal of the "junk, trash, debris, indoor items, boxes, tarps" from the rear yard and/or street. The fence remains as before the violation for excess height. As a point of interest every weekend after the flea markets close, Ms. Green and her partner deliver pick-up truck size loads of "flea market items" to be stored in the house and around the yard or street.

A complaint was received by code enforcement officials on June 20th, 2003. The complaint reads " Open dump, work equipment in street, fence over 6ft. high and running along side of house, not what permit allowed". We have assumed that "not what permit allowed" referred to the permit the Green's may have obtained for a fence of much smaller dimensions. (Exhibit #9)

We strongly feel that if this variance is granted, "business as usual" will continue at the Green residence and that the conditions will worsen with the addition of a poorly positioned, designed and constructed "garage" on their property. Residents of St. Denis working through the Relay Improvement Association, and many other concerned citizens

of this area are working very hard to upgrade this quiet little "village" and are strongly opposed to this request for a variance to the Baltimore County Zoning regulations.

Copies of these citations and the complaint are enclosed for the Zoning Commissioner's use. (Exhibits #7, #8 and #9)

Respectfully submitted

EXHIBIT #1



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 1809 S. Han Ave
which is presently zoned D.R. 4.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property, situate in Baltimore County and which is described in the description and attached hereto and make application hereby petition for a Variance from Section(s)

400.1 and 400.2 to permit an accessory structure (garage) to be located in the rear part of the rear yard closest to the road in lieu of the required third portion farthest removed from the road to permit a rear setback to the rear alley of 6.5 ft. in lieu of the required 15 ft. to permit a rear yard coverage of 43.5% in lieu of the required 40% and to permit a rear yard of 10 ft. in lieu of the required 15 ft.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____
Signature _____
Company _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Legal Owner(s):

Name - Type or Print Carol Susan Green Botcher
Signature Carol Susan Green Botcher
Name - Type or Print Carol Susan Green Botcher
Signature Carol Susan Green Botcher
Name - Type or Print _____
Signature _____
1809 S. Han Ave 410-241-7493
Address _____ Telephone No. _____
Balt MD 21221
City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County that the subject matter of this petition be set for a public hearing, advertised as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 03-572-A

Reviewed By B.R. Date 4/15/03

REV 10/25/01

Estimated Posting Date 6/15/03

20/70

PERMITS DEV MGMT

410-887-2824

06/19/2003 12:32

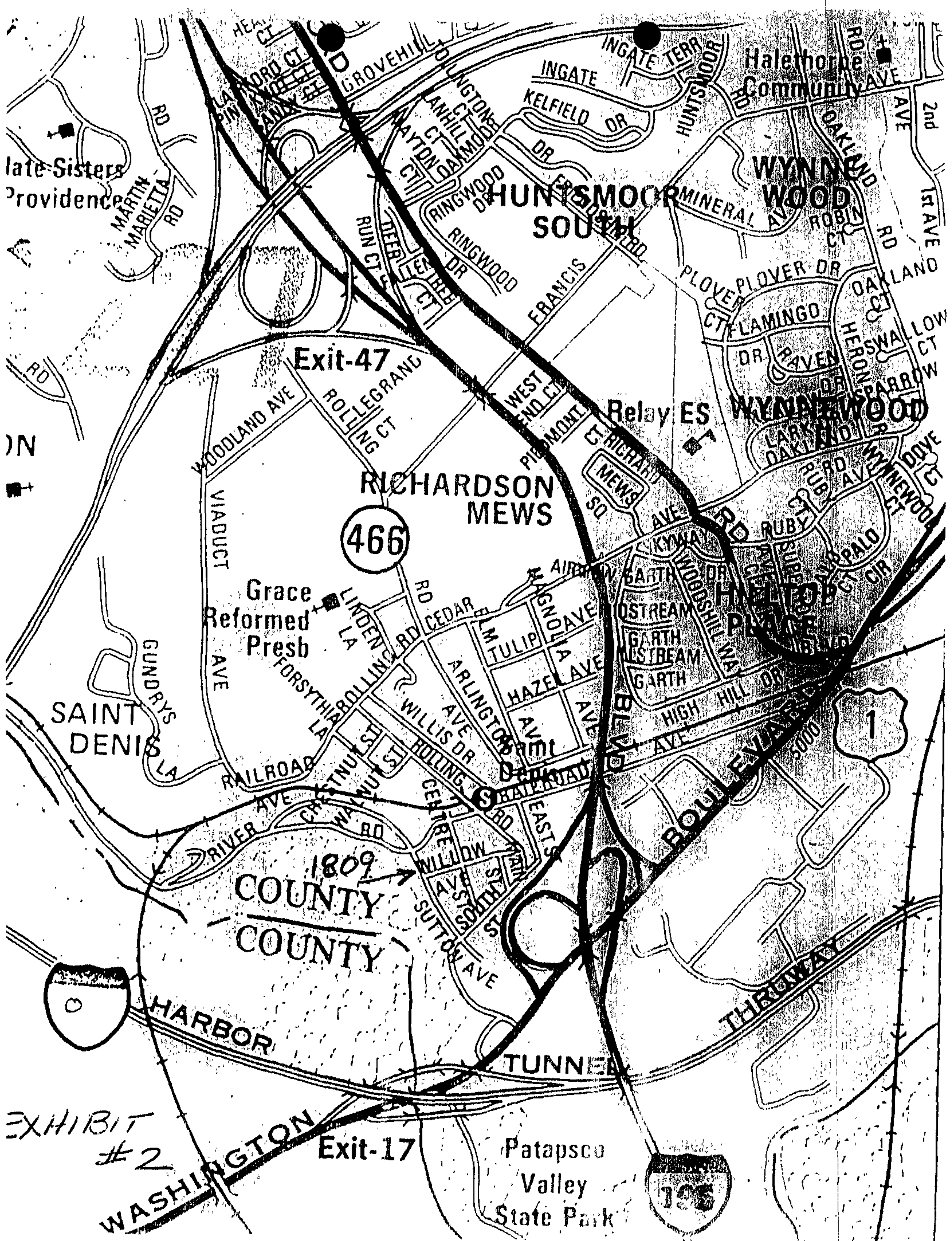


EXHIBIT #4

Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 13 Account Number - 1319710480

Owner Information

Owner Name: GREEN CAROL SUSAN

Use: RESIDENTIAL

Principal Residence: YES

Mailing Address: 1809 SUTTON AV
BALTIMORE MD 21227

Deed Reference: 1) / 8169/ 768
2)

Location & Structure Information

Premises Address
1809 SUTTON AVE

Zoning

Legal Description

NE COR WILLOW AVE
SAINT DENNIS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:	Plat Ref:
108	22	41					29	80		1/9

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built
1900

Enclosed Area
1,688 SF

Property Land Area
4,400.00 SF

County Use
04

Stories
2

Basement
NO

Type
STANDARD UNIT

Exterior
SIDING

Value Information

	Base Value	Value As Of 01/01/2001	Phase-in Assessments As Of 07/01/2002	As Of 07/01/2003
Land:	26,400	26,400		
Improvements:	59,760	61,680		
Total:	86,160	88,080	87,440	88,080
Preferential Land:	0	0	0	0

Transfer Information

Seller: GREEN EDWARD DAVID JR
Type: NOT ARMS-LENGTH

Date: 05/10/1989
Deed1: / 8169/ 768

Price: \$0
Deed2:

Seller:
Type:

Date:
Deed1:

Price:
Deed2:

Seller:
Type:

Date:
Deed1:

Price:
Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2002	07/01/2003
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

*. NONE *

NO CONSIDERATION
NO TITLE SEARCH

EXHIBIT #5

DEED

THIS DEED, made this 17th day of April, 1988 by and between Edward David Green, Jr. and Carol Susan Green of Baltimore County, State of Maryland, parties of the first part; and Carol Susan Green, Individually party of the second part.

WITNESSETH, that for and in consideration of the sum of None (\$0.00) Dollars, and other good and valuable considerations, receipt of which is hereby acknowledged, the said Edward David Green, Jr. and Carol Susan Green do grant and convey unto the said Carol Susan Green, Individually, her heirs, personal representatives and assigns, in fee simple all that piece or parcel of land situate, lying and being in Baltimore County, State of Maryland, described as follows, that is to say:

BEGINNING for the same at the corner formed by the intersection of the northeast side of Sutton Avenue and the northwest side of Willow Street and running thence northwesterly binding on the northeast side of Sutton Avenue 40 feet to the division line between lots Nos. 28 and 29 as shown on the Plat hereinafter referred to thence northeasterly binding on said division line 110 feet to the southwest side of an alley 10 feet wide there situate thence southeasterly binding on the southwest side of an alley 10 feet wide there situate thence southeasterly binding on the southwest side of said 10 foot alley 40 feet to the northwest side of Willow Street and thence southwesterly binding on the northwest side of Willow Street 110 feet to the place of beginning.

BEING known and designated as Lot 29 as shown on the Plat of the town of St. Denis recorded among the Land Records of Baltimore County in Plat Book J.W.S. 1, folio 9. The

RECEIVED FOR TRANSFER

State Department of
Assessments & Taxation
for Baltimore County

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE AT DATES 5-9-89

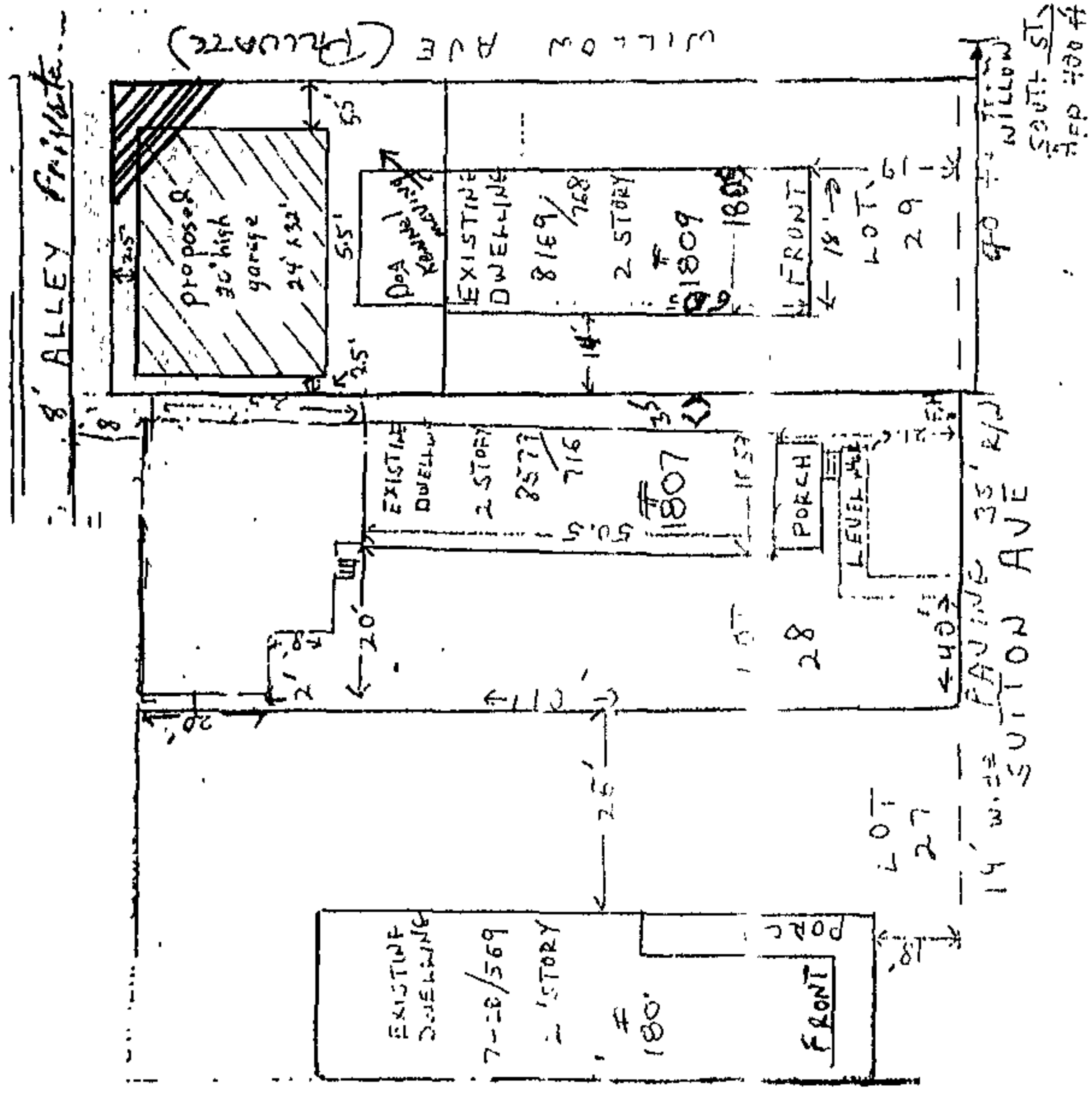
RECORDED
Per Carol Susan Green
5-9-89

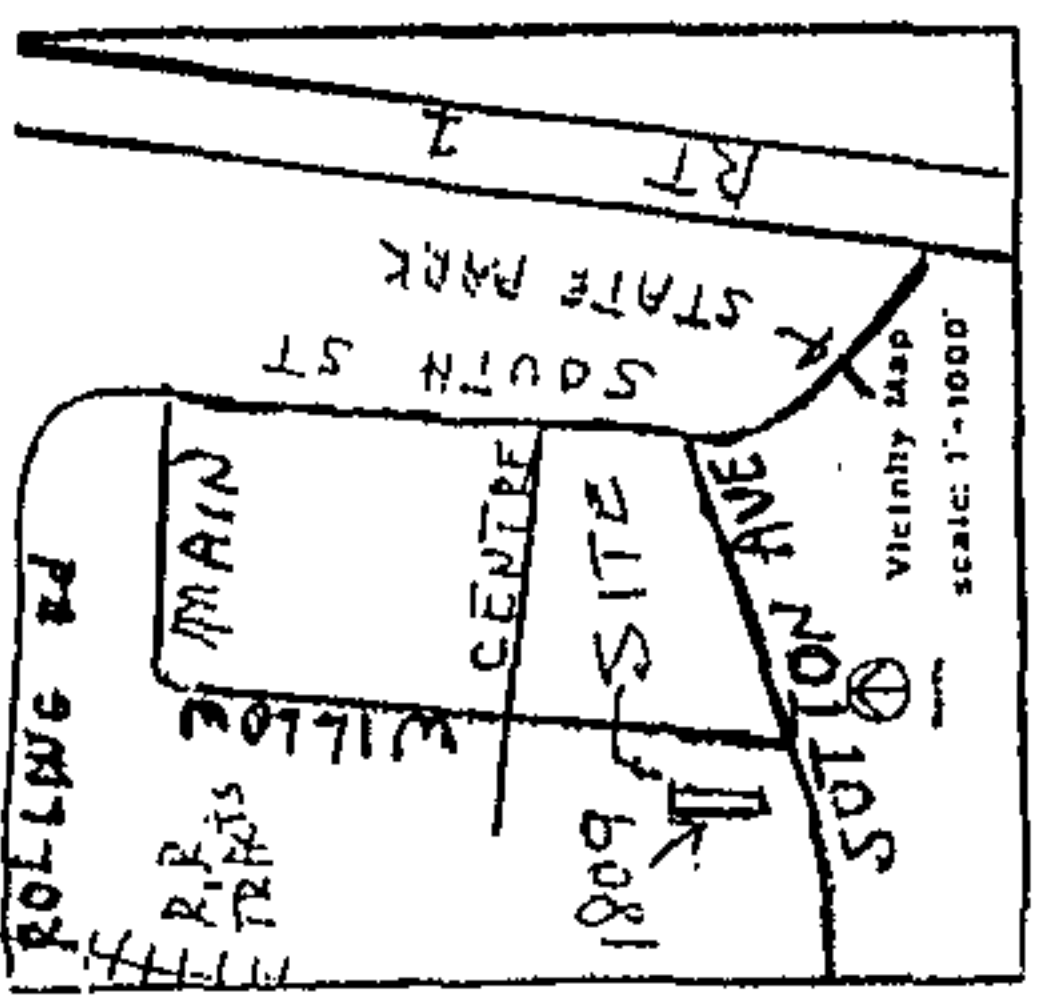
PROPERTY ADDRESS 1809 Sutton Avenue SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Saint Dennis

PLAT BOOK # 1 FOLIO # 9 LOT # 29 SECTION # 1

OWNER Carol Green



 Vicinity Map Scale: 1" = 1000'	
LOCATION INFORMATION	
ELECTION DISTRICT	13th
COUNCILMANIC DISTRICT	1st
1"=200' SCALE MAP #	S.W. 7-E
ZONING	D.R.-S.5
LOT SIZE	4,400 SQUARE FEET
SEWER	☒ YES ☐ NO
WATER	☒ YES ☐ NO
CHESAPEAKE BAY CRITICAL AREA	☐ YES ☒ NO
100 YEAR FLOOD PLAIN	☐ YES ☒ NO
HISTORIC PROPERTY / BUILDING	☐ YES ☒ NO
PRIOR ZONING HEARING	None
ZONING OFFICE USE ONLY	
REVIEWED BY	ITEM #
CASE #	



PREPARED BY Carol Green SCALE OF DRAWING: 1" = 20'

EXHIBIT # 7



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Code Enforcement: 410-887-3351, Extension 1295

Building Inspection: 410-887-3953

E-Mail: Pdmnforce@co.ba.md.us

Plumbing Inspection: 410-887-3620

Electrical Inspection: 410-887-3960

Pdminspect@co.ba.md.us

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT/CORPORATE OFFICER (IF APPLICABLE)

Citation/Case No.

99-8399

Name (s) MS. CAROL SUSAN GREEN

Address 1809 SUTTON AVE, BALTO MD 21227

Owner ☒ Occupant ☐ Other ☐

Related Citations

Location and Date (s) of Violation: 1809 SUTTON AVE, BALTO MD 21227

12/17/99, 04/07/00

Vehicle License No.:

Vehicle ID:

IT IS FORMALLY CHARGED BY BALTIMORE COUNTY THAT THE ABOVE NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS (CIRCLE RELEVANT ZONE BELOW, IF APPLICABLE):

1B01(DR)

1A01(RC2)

1A02(RC3)

1A03(RC4)

1A04(RC5)

200(RAE)

202(ROA)

204(RO)

205(OR1)

206(OR2)

207(O3)

210(SE)

216(BMM)

221(BMB)

229(CB)(BLR)

230(BL)

233(BM)

236(BR)

240(MR)

247(MLR)

253(ML)

256(MH)

B.C.Z.R.

1) 101, 102.1 OPEN DUMP

B.C.Z.R.

2) 101, 102.1 JUNK YARD

3) PP-R-OP

4)

5)

6)

7)

8)

(Unless otherwise noted, all references are to zoning regulations.)

IMPORTANT TO READ REVERSE FOR IMPORTANT INFORMATION AND DIRECTIONS AGENCY

NOTICE TO DEFENDANT

1) Pursuant to Section 1-8, Baltimore County Code, a penalty has been assessed as a result of the violation cited herein in the amount indicated:

Penalty \$400.00

If you do not contest this citation, you must pay this penalty by check or money order, payable to the director of finance, Baltimore County, Maryland, and return a copy of this citation with payment to:

Director of Permits and Development Management

County Office Building, Room 111

111 West Chesapeake Avenue

Towson, Maryland 21204

2) If you contest this citation or proposed assessment of penalty, you must file a written request for a quasi-judicial hearing before the code official or designee within fifteen (15) days from the date of service of this citation. A quasi-judicial hearing has been pre-scheduled in Room 106 of the County Office Building for:

DATE: 6/27/00

TIME: 9:00 AM

At this hearing, you are entitled to be represented by an attorney, present witnesses and evidence, and cross-examine any witnesses against you. An attorney can be helpful to you by: (a) explaining the charges in this citation, (b) helping you at trial, and (c) helping you to get a fair penalty if found in violation.

3) This pre-scheduled hearing will be canceled if you choose to pay the assessed penalty or if you fail to request the hearing in writing within the time required. Failure to contest the citation or proposed assessment of penalty, if any, by either not paying the penalty or by not requesting the quasi-judicial hearing, shall result in the citation and its penalty becoming a non-appealable, final order of the code official. Failure to appear at the requested hearing will also result in the citation and civil penalty becoming a non-appealable, final order of the code official.

4) If you are the owner of the property, failure to pay the assessed penalty shall constitute a lien on the property and shall be collectible in the same manner and to the same extent as real estate taxes. In addition, failure to correct the violation(s) shall result in appropriate judicial action for enforcement, including civil contempt, which could result in imprisonment.

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

Date

4/13/00

(Inspector's Signature)

Anna Thompson

Citation must be served by:

4/28/00

Detach and send the completed form below to:

Director of Permits and Development Management

County Office Building, Room 111

111 West Chesapeake Avenue

Towson, MD 21204

Citation Number:

99-8399

NOTICE OF INTENTION TO DEFEND

I hereby elect to stand trial before the code official or designee for the violation(s) charged in this citation.

Date

Defendant (Please Print Your Name and Sign)

Address



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement:
Building Inspection:

410-887-3351
410-887-3953

Plumbing Inspection:
Electrical Inspection:

410-887-3620
410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No: 03-4729	Property No: 1319710480	Zone: DR
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Name(s): **Carol Susan Green**

Address: **1809 Sutton Ave 21227**

Violation Location: **Same as above**

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BCCR: 101, 102, 1301.10.

**Remove all junk, trash, debris,
indoor items, boxes, tarps from
rear yard.**

BOCA SD9 IRC

**Reduce all fencing to maximum
height to 6 ft.**

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: **8/8/3** Date Issued: **7/1/3**

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$300, OR \$1000 PER DAY PER VIOLATION, DEPENDING ON VIOLATION, OR 10 DAYS IN JAIL, OR BOTH.

Print Name: **Chen**

INSPECTOR:

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than: _____ Date Issued: _____

INSPECTOR:

AGENCY

EXHIBIT
#8



EXHIBIT #9

COUNTY COUNCIL OF BALTIMORE COUNTY
COURT HOUSE, TOWSON, MARYLAND 21204

S.G. SAMUEL MOXLEY
COUNCILMAN, FIRST DISTRICT

DISTRICT OFFICE:
754 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
410-387-0111
FAX: 410-387-1012
COUNCIL OFFICE: 410-387-3186

Code Enforcement Complaints

Address 1809 Sutton Avenue Zipcode 21227

Complaint Open dump, work equipment in street, fence
over 6 foot high and running along side of house,
not what permit allowed.

Date Received 6-20-03

Complainant ANON

Staff Handling Carol

Code Enforcement Action

PETITION

We the residents of St. Denis, Maryland 21227 by our signatures below, indicate strong opposition to the Petition for Administrative Variance to the Zoning Commissioner of Baltimore County for the property located at 1809 Sutton Avenue, St. Denis Md. 21227. The petition is for an Administrative Variance in Case Number 03-572-A. The property is owned by Ms. Carol Susan Green.

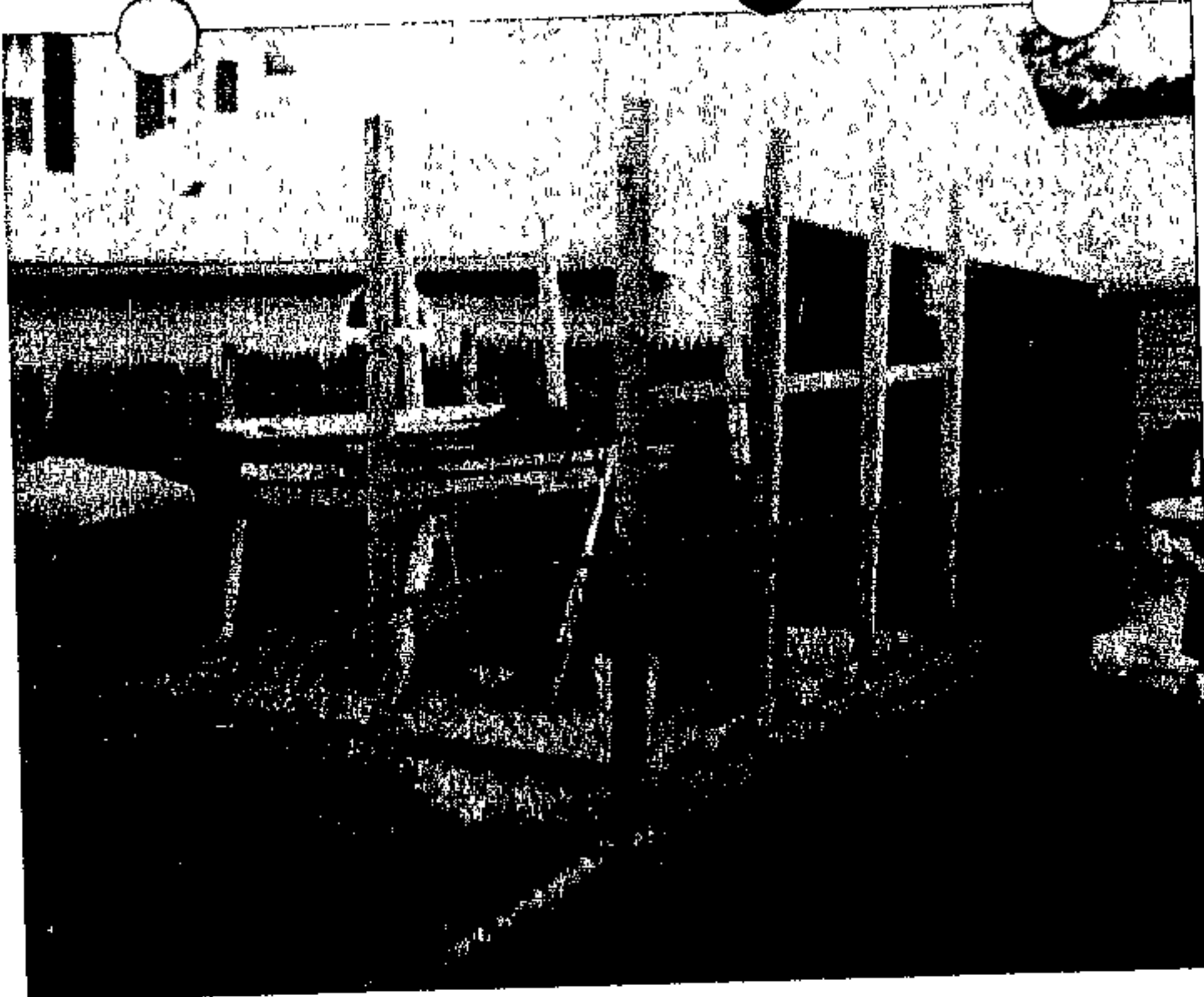
NAME	SIGNATURE	ADDRESS
ALAN J. DeSa	<i>Alan J. DeSa</i>	1816 Sutton Ave St. Denis Md 21227
Doreen L. DeSa	<i>Doreen L. DeSa</i>	1816 Sutton Ave St. Denis
FLAINE V. O'HEIR	<i>Flaine V. O'Heir</i>	1807 Sutton Ave Balt, Md 21227
RICHARD O'HEIR	<i>Richard O'Heir</i>	1807 Sutton Ave
Mary C. Hergenhan	<i>Mary C. Hergenhan</i>	1808 Sutton Ave.
Joseph A. Hergenhan	<i>J. A. Hergenhan</i>	1808 Sutton Ave.
Ethel Huber-Smith	<i>Ethel Huber-Smith</i>	1827 Sutton Ave.
Esin Huber-Smith	<i>Esin Huber-Smith</i>	1827 Sutton Ave.
Barbara M. Jenkins	<i>Barbara M. Jenkins</i>	1819 Sutton Ave
James V. Jenkins	<i>James V. Jenkins</i>	1819 Sutton Ave.
Brinda Chaney	<i>Brinda Chaney</i>	1817 Sutton Ave.
Mary C. Rider	<i>Mary C. Rider</i>	1817 Sutton Ave
Wayne B. Rider	<i>Wayne B. Rider</i>	1817 Sutton Ave
JEAN BLAMBERG	<i>Jean Blamberg</i>	1829 Sutton Ave
CHARLES B. MITTEN	<i>Charles B. Mitten</i>	1801 Sutton Ave
EVELYN M. MITTEN	<i>Evelyn M. Mitten</i>	1801 Sutton Ave
Ruth Carruba	<i>Ruth Carruba</i>	1723 Sutton Ave
CARMEN M. CARUBA	<i>Carmen M. Caruba</i>	1723 Sutton Ave
CHEERIE SILVERMAN	<i>Cheeriem Silverman</i>	1711 Sutton Ave 21227
Tim Prendergast	<i>Tim Prendergast</i>	1711 Sutton Ave 21227
E. Peter Schoenbrodt	<i>E. Peter Schoenbrodt</i>	1805 Sutton Ave 21227

Prot #3

PETITION

We the residents of St. Denis, Maryland 21227 by our signatures below, indicate strong opposition to the Petition for Administrative Variance to the Zoning Commissioner of Baltimore County for the property located at 1809 Sutton Avenue, St. Denis Md. 21227. The petition is for an Administrative Variance in Case Number 03-572-A. The property is owned by Ms. Carol Susan Green.

NAME	SIGNATURE	ADDRESS
ALFRED A. VOLKMAN	Alfred A. Volkman	1807 Sutton Ave
OLGA N. VOLKMAN	Olga N. Volkman	" "
LOYD A. LARSEN	Lloyd A. Larsen	1833 Sutton Ave
Timothy J. McKenrick	Tim McKenrick	1719 Sutton Ave
Cheryl McKenrick	Cheryl McKenrick	1719 Sutton Avenue



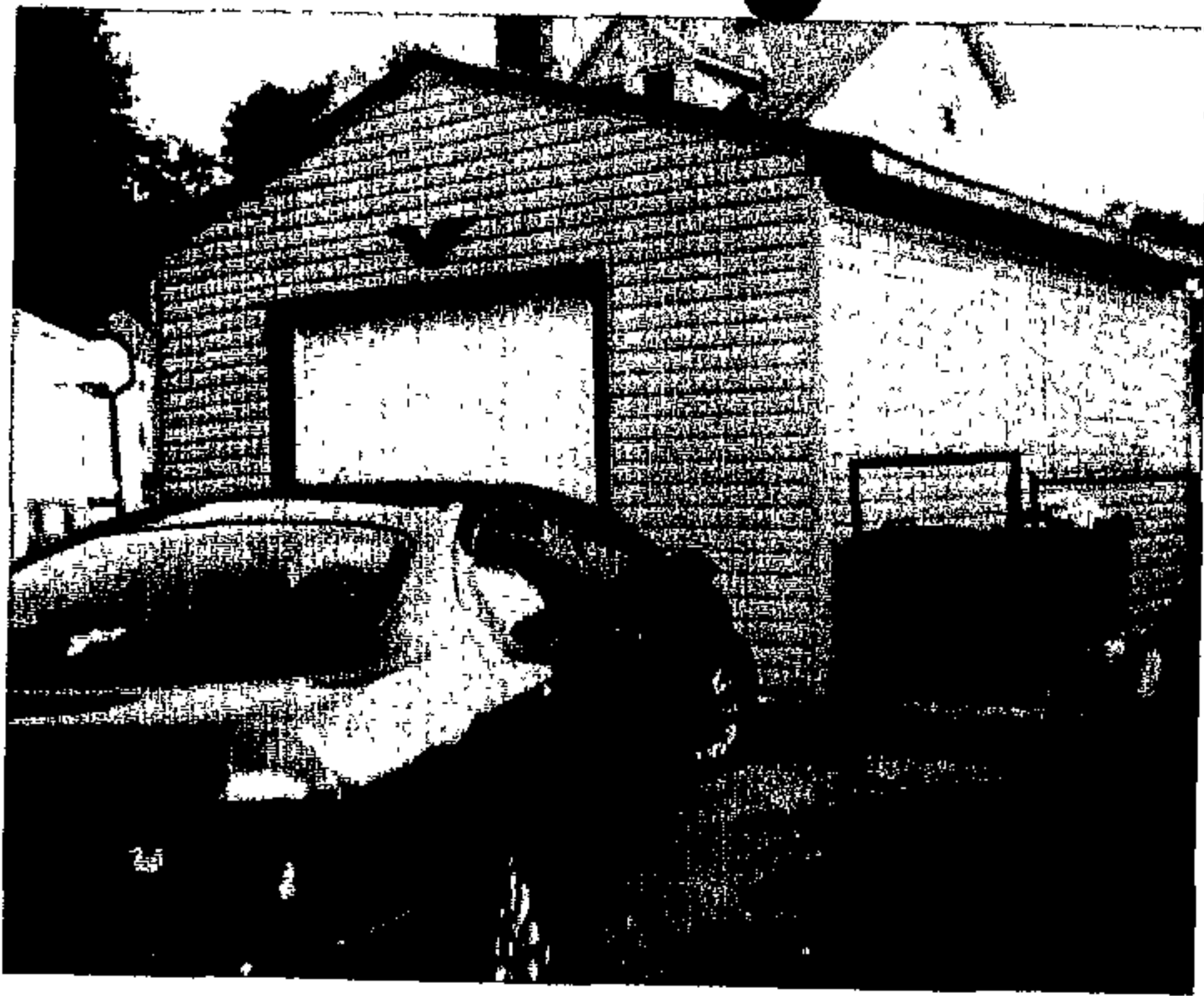
2nd floor

#572



Person

#572



1815 Sutton Ave.
403

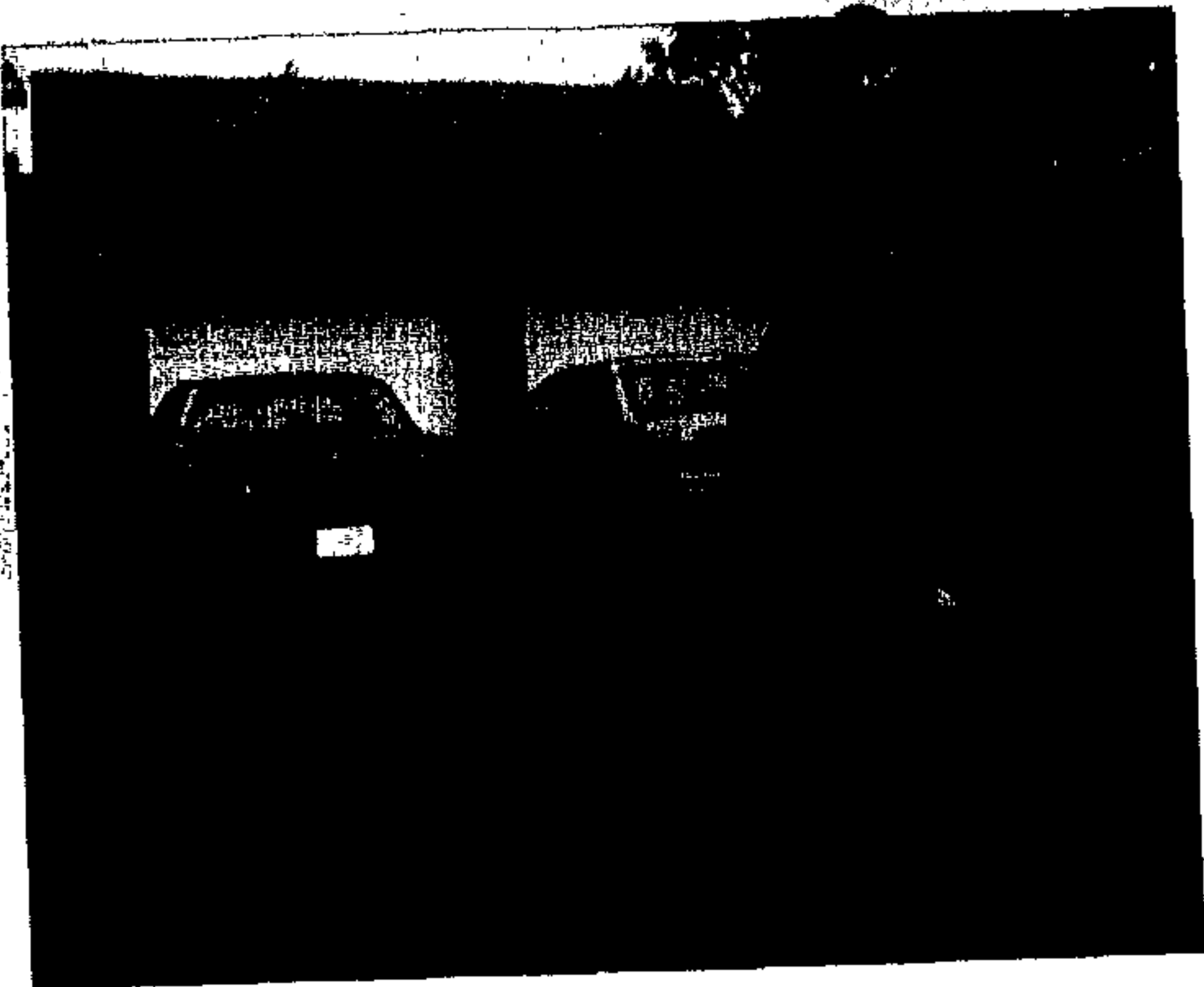


1813 Sutton Ave.
16'2" L Approx 40' wide

Ret
HWA



1817 Sutton Ave.
40

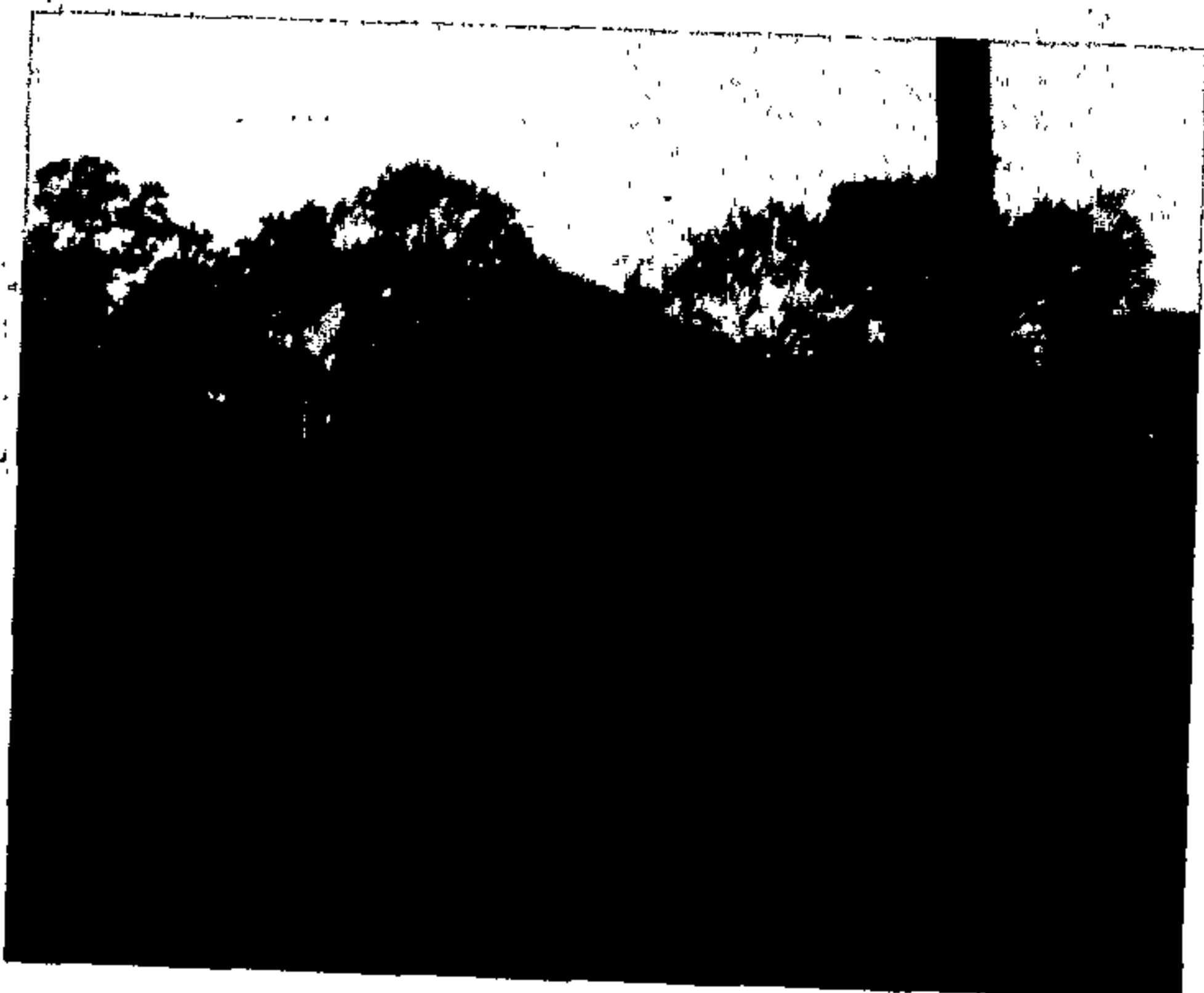


South St.

D

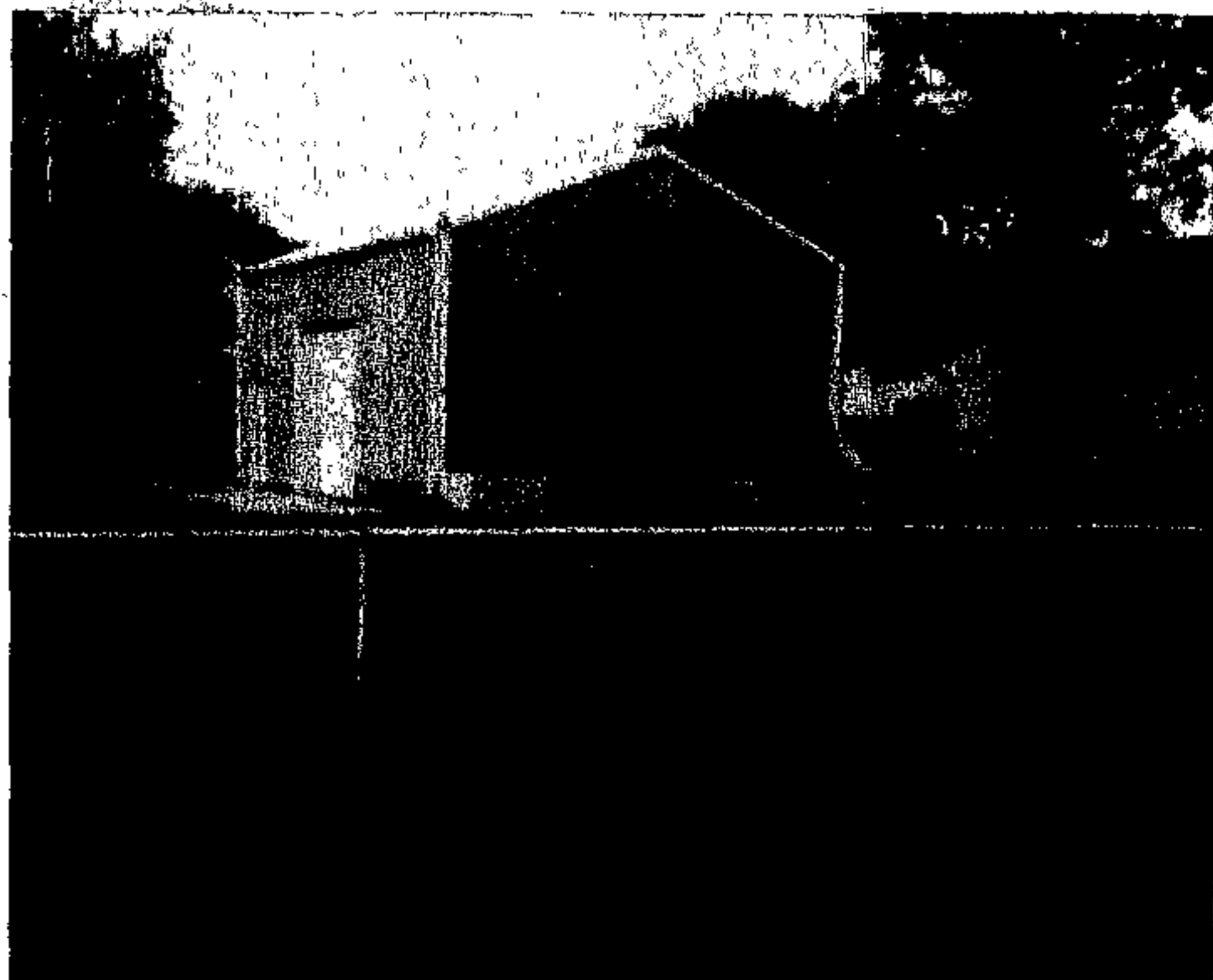


5110 South St. pet ~~the~~ A



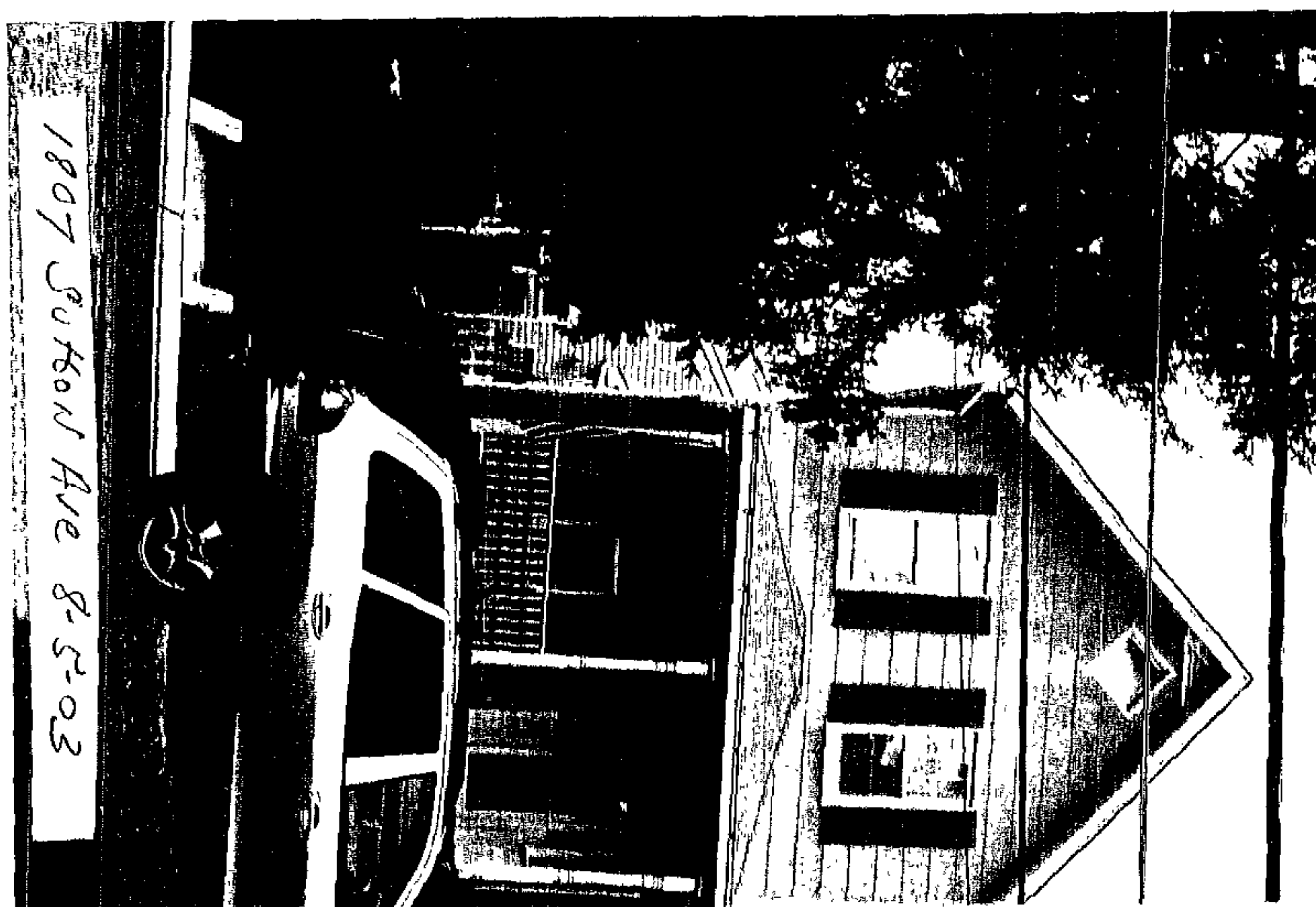
1833 Sutton Ave.

D



#19 1833 Sutton Ave

a

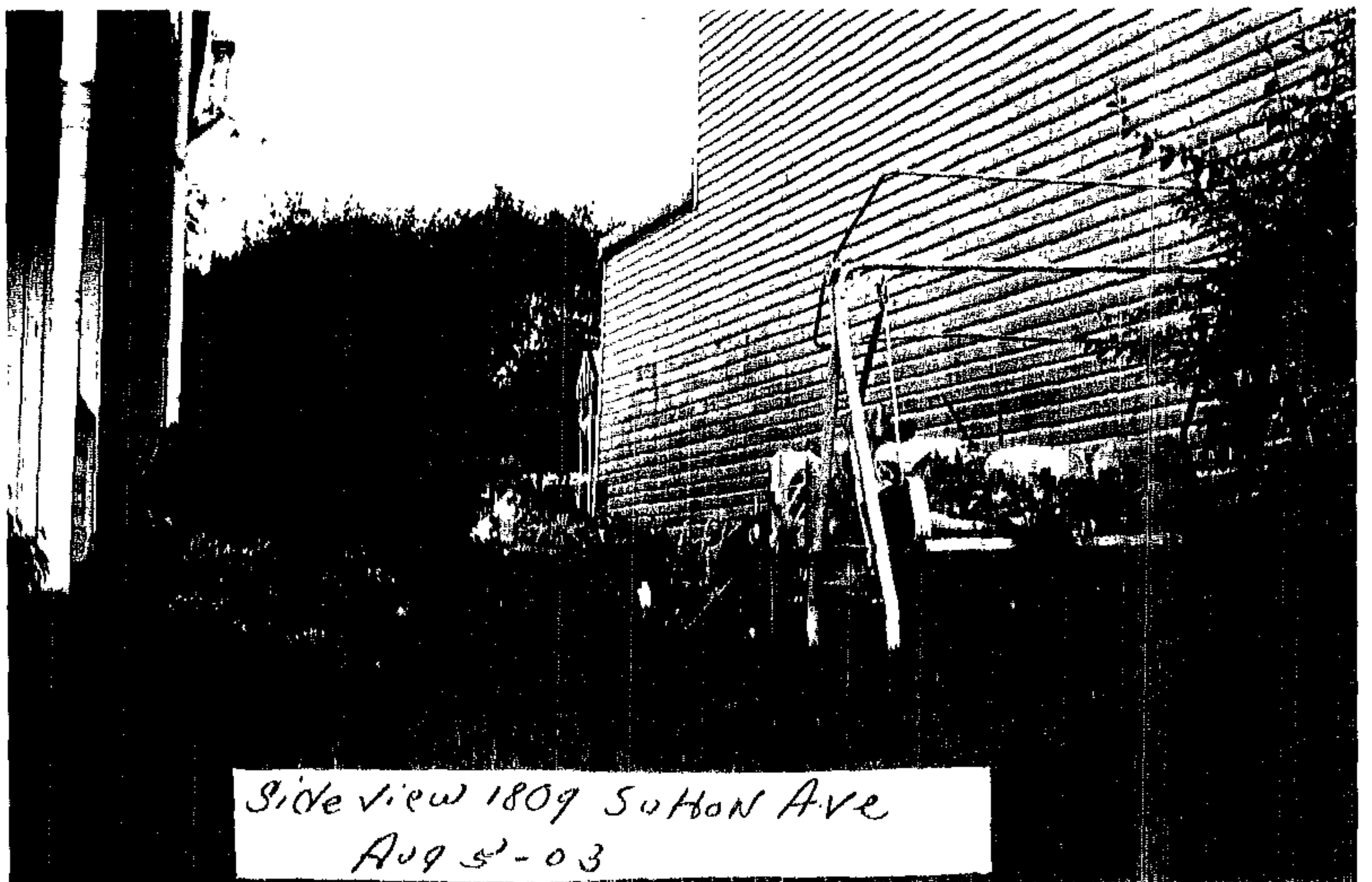




Side view 1809 Sutton Ave
Aug 5. 2003



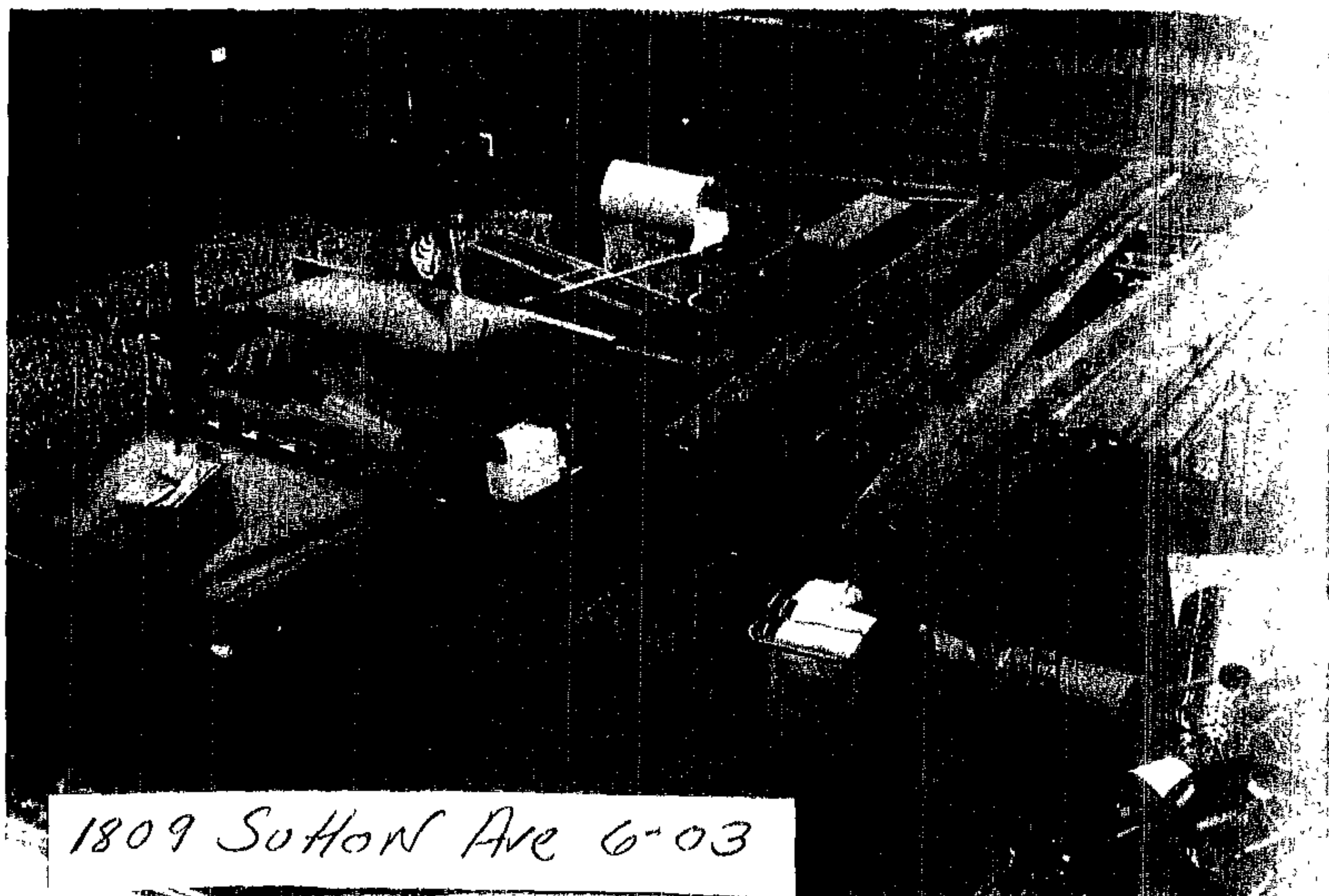
Side view 1809 Sutton Ave 8-5
03



Side view 1809 Sutton Ave
Aug 5-03



1809 Sutton Ave 6-03

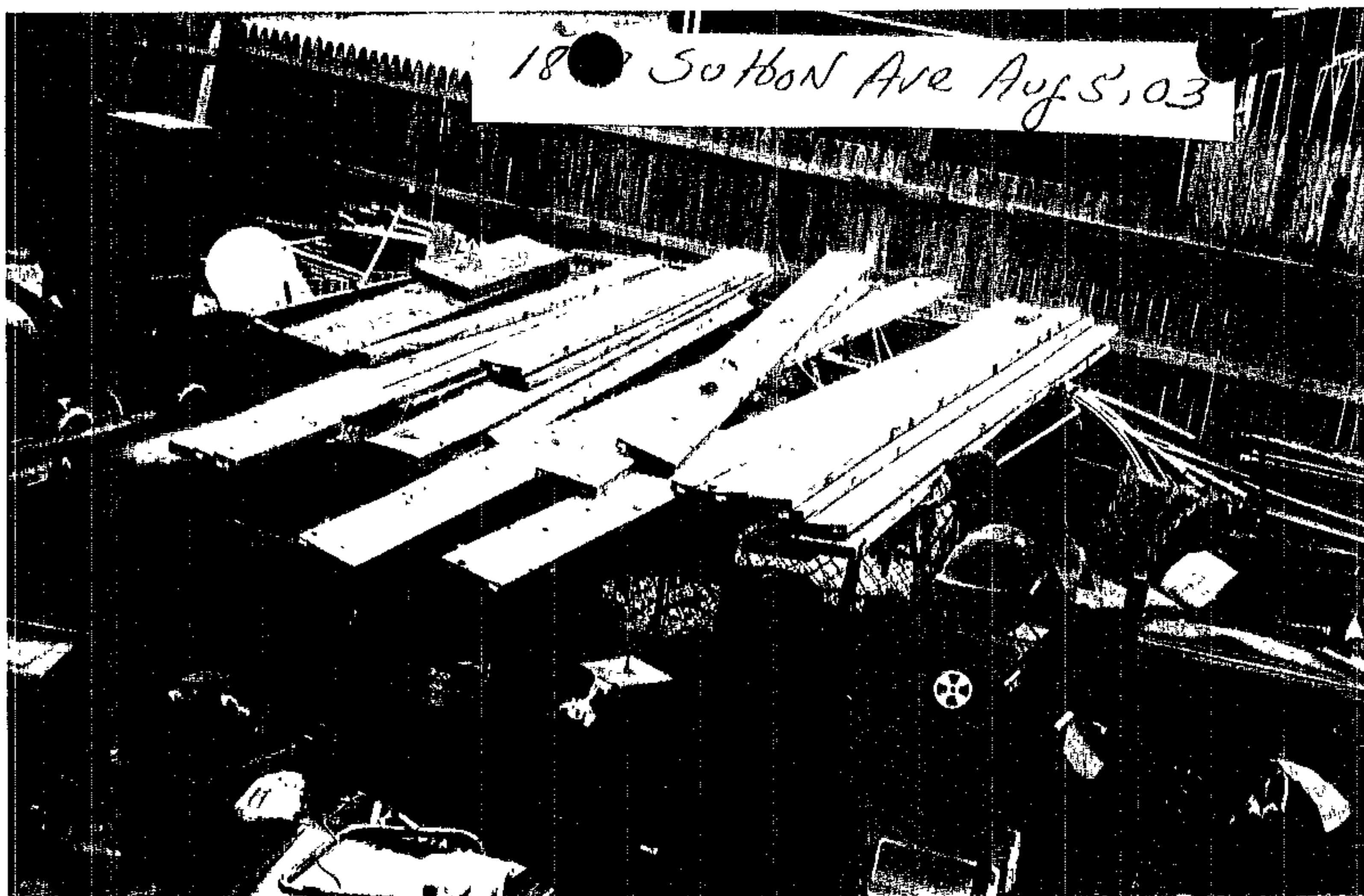


1809 Sutton Ave 6-03



1809 Sutton Ave
August 5, 2003.

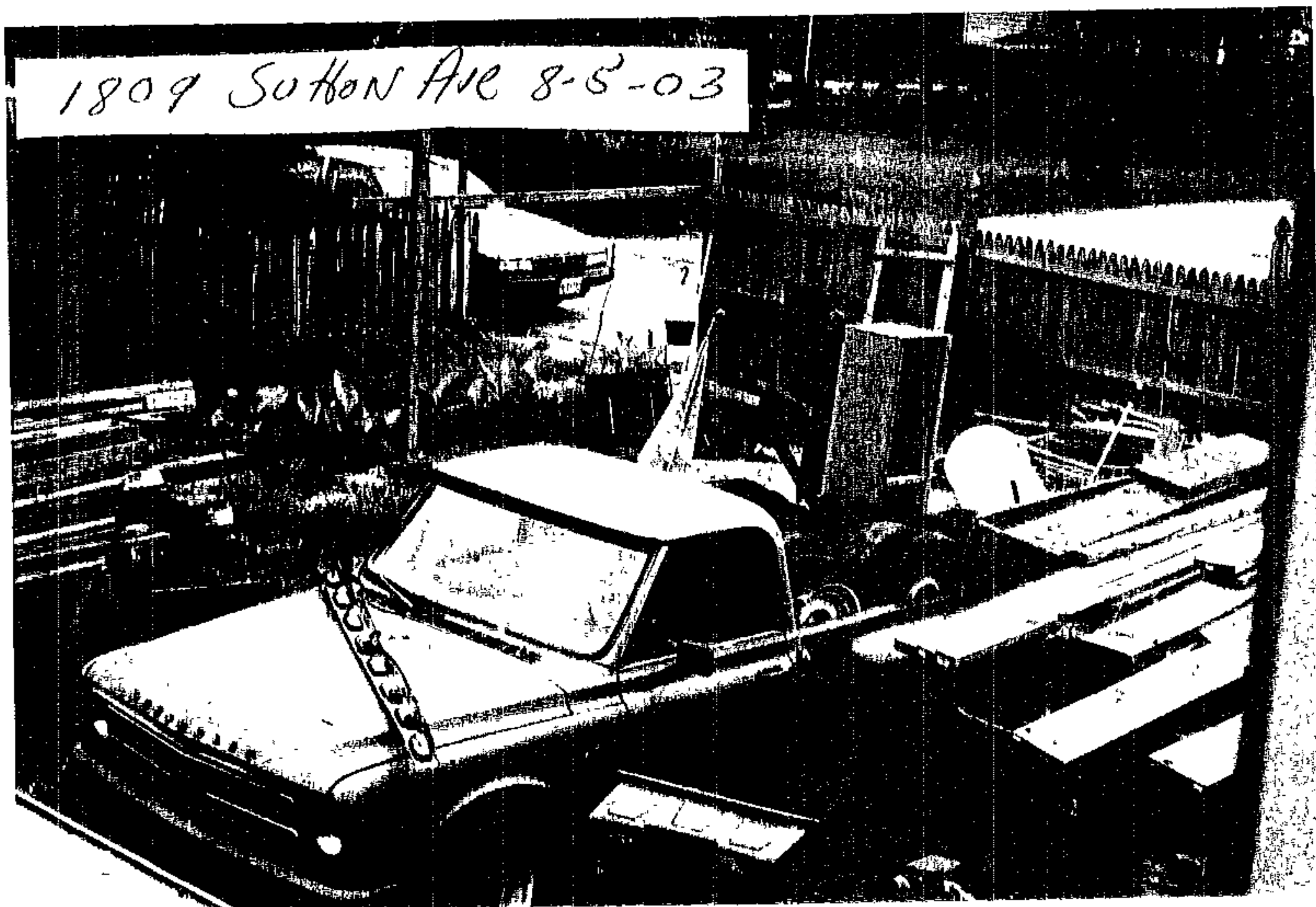
1809 Sutton Ave Aug 5, 03

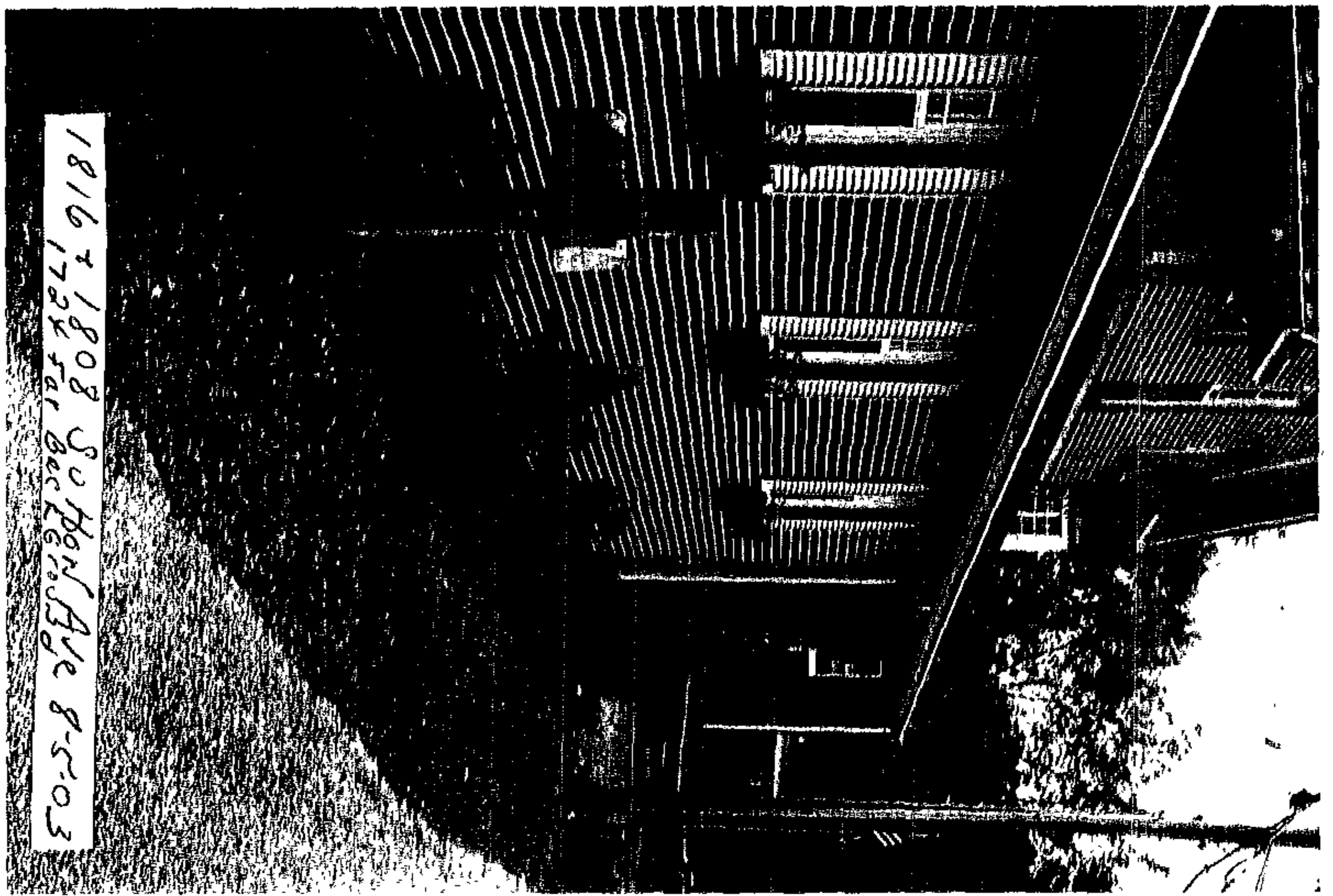


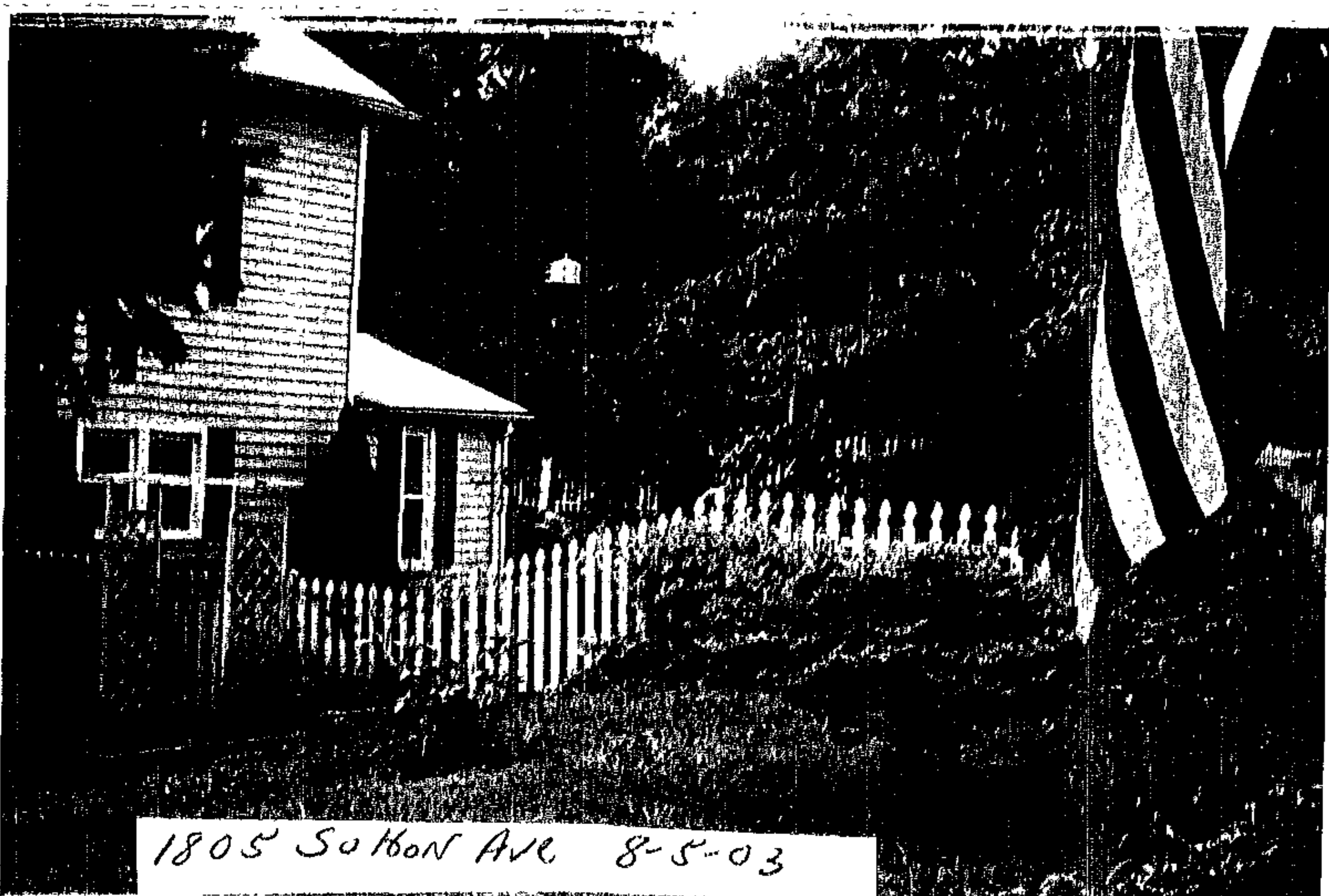
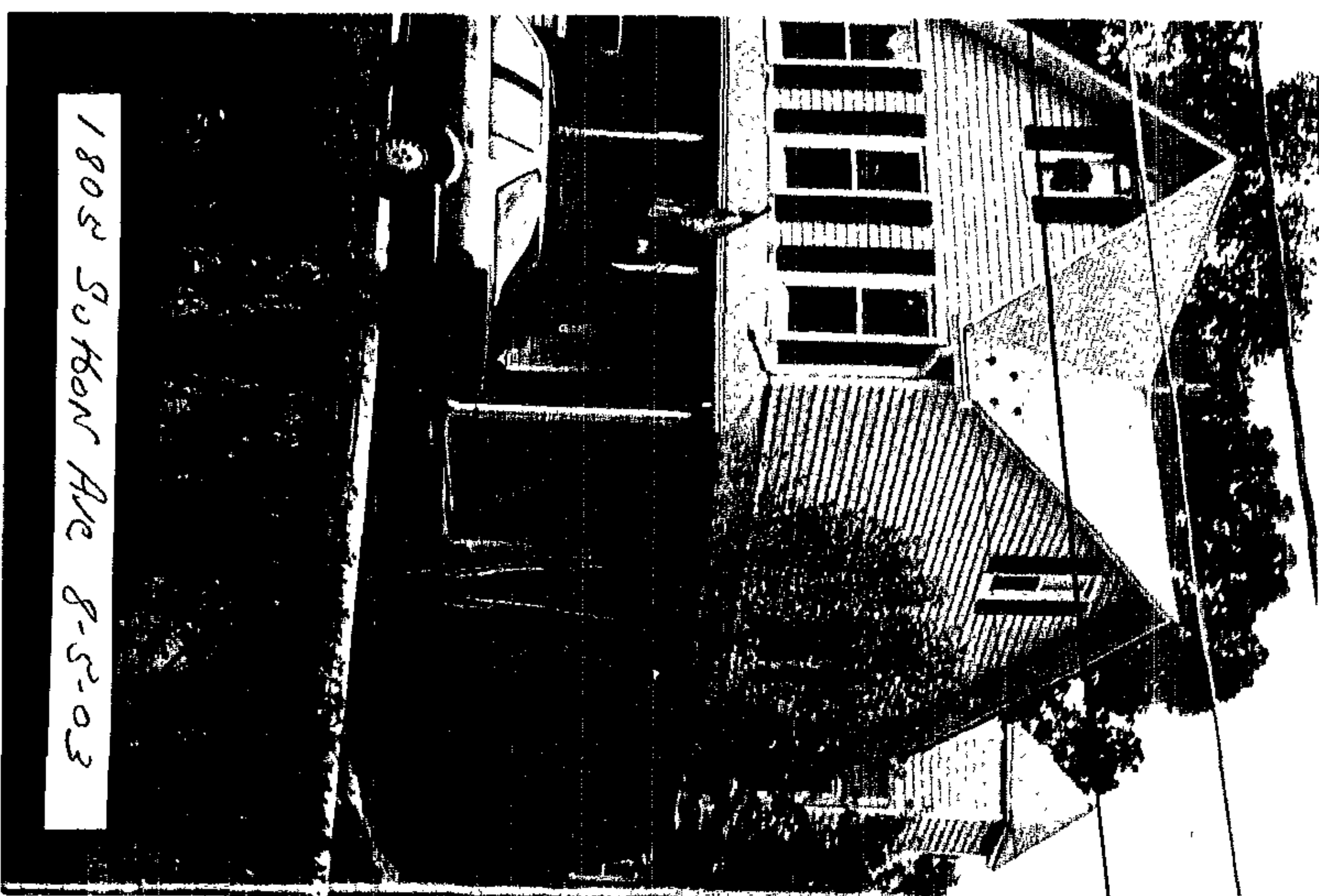
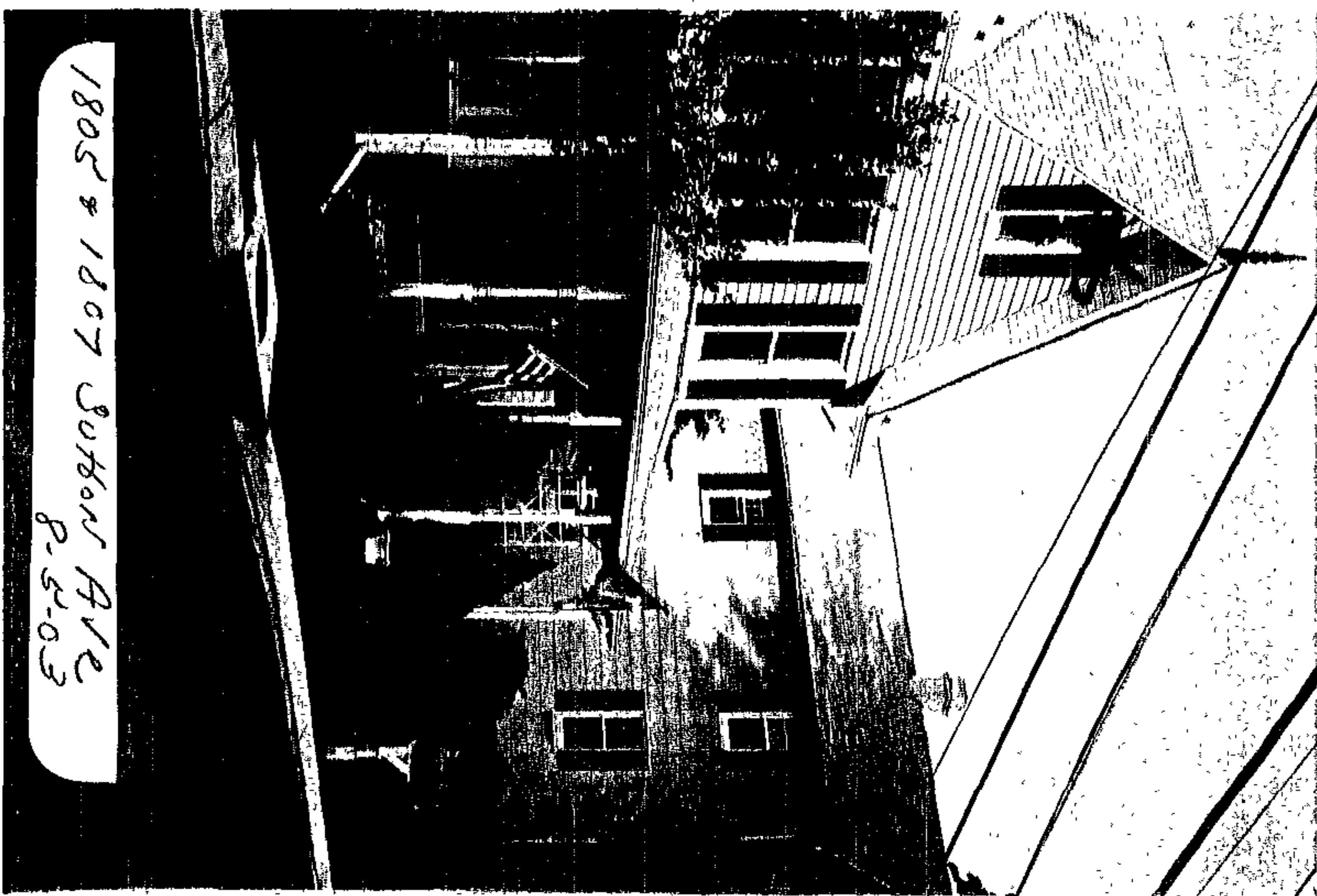
1809 Sutton Ave
Aug 5, 2003



1809 Sutton Ave 8-5-03







PLAT TO ACCOMPANY PETITION FOR ZONING

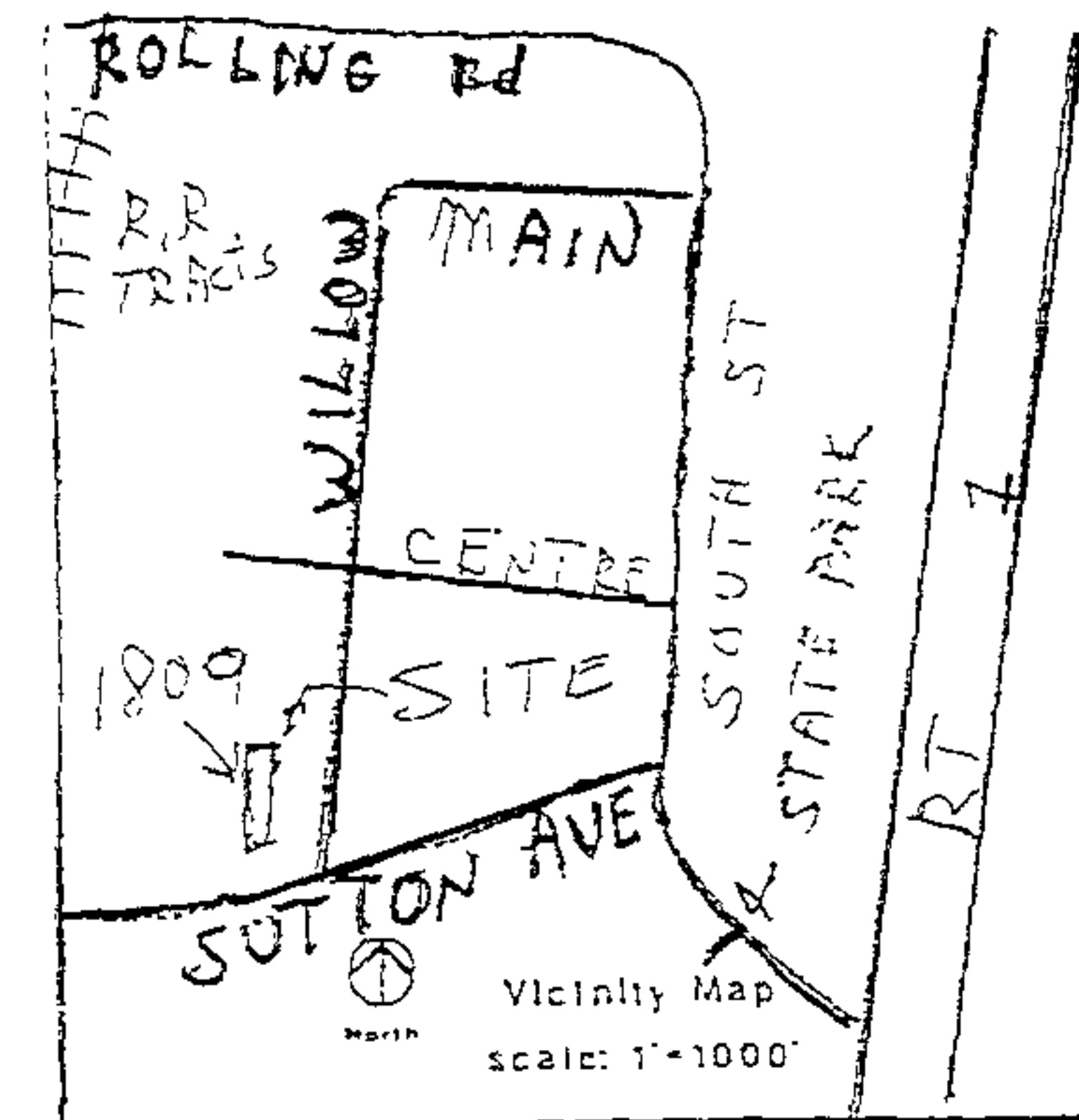
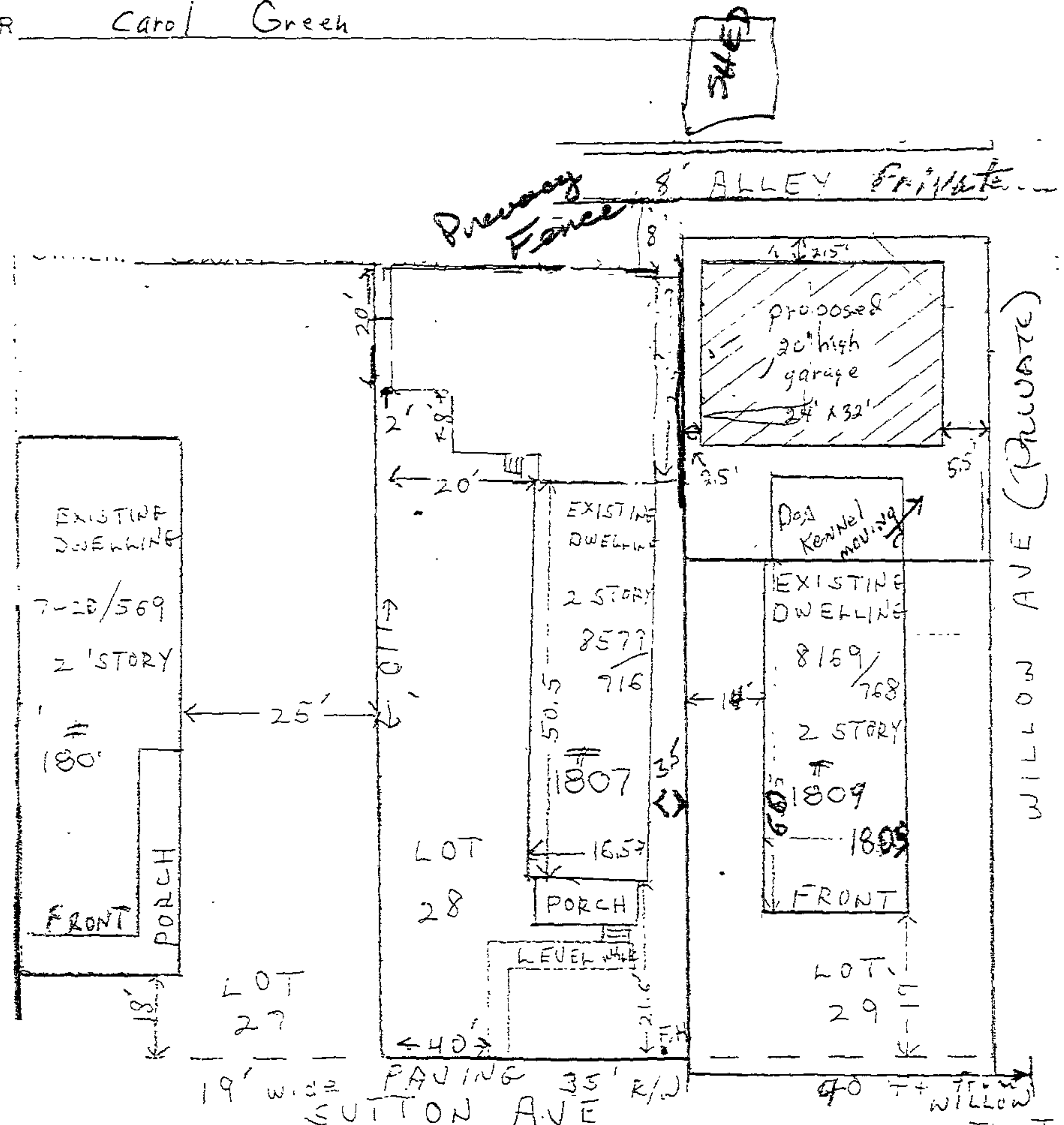
PROPERTY ADDRESS 1809 Sutton Avenue

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Saint Dennis

PLAT BOOK # 1 FOLIO # 9 LOT # 29 SECTION #

OWNER Carol Green



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 13th

COUNCILMANIC DISTRICT 1st

1" = 200' SCALE MAP # S.W. 7-E

ZONING D.R.-5.5

LOT SIZE 4,400
ACREAGE 0.1 SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☒	☐
WATER	☒	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☐	☒

	YES	NO
100 YEAR FLOOD PLAIN	☐	☒

	YES	NO
HISTORIC PROPERTY/BUILDING	☐	☒

PRIOR ZONING HEARING None



NORTH

PREPARED BY Carol Green

SCALE OF DRAWING: 1" = 20'

ZONING OFFICE USE ONLY

REVIEWED BY Bh ITEM # 572 CASE # 63-572-4

Pet #1