STOER RECEWED FOR FILING

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE – W/S Winters Lane, 630' NW of the c/l Frederick Road

(21 Winters Lane)

1<sup>st</sup> Election District 1<sup>st</sup> Council District

Roman Catholic Archbishop of Baltimore, A corporation sole, and St. Mark Roman Catholic Church - Petitioners \* BEFORE THE

\* ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

Case No. 03-605-SPHA

\* \* \* \* \*

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Roman Catholic Archbishop of Baltimore, a corporation sole, by Cardinal William H. Keeler, and St. Mark Roman Catholic Church, through their attorney, Michael P. Tanczyn, Esquire. The Petitioners request a special hearing to approve a use permit for parking on an adjacent D.R.5.5 zoned parcel to support the pre-school use on the subject property, zoned R.O., pursuant to Sections 204.3.B.2.b.4 and 409.8.B.1 and 2 of the Baltimore County Zoning Regulations (B.C.Z.R.), and a modification of the Residential Transition Area (RTA), pursuant to Section 1B01.1.B.1.C(1&2) of the B.C.Z.R. In addition, variance relief is requested from Sections 204.4.A and 1B01.2.C.1.A of the B.C.Z.R. to permit side yard setbacks of as close as 7.89 feet in lieu of the required 20 feet for the existing building and proposed addition, and from Section 1B01.2.C.1.a of the B.C.Z.R. to allow a front yard setback of 25 feet in lieu of the required 40 feet for the existing building, and any other variances deemed necessary by the Zoning Commissioner. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Nora Coakley Reiter on behalf of St. Mark Church, property owner; Herbert Malmud, the Registered Land Surveyor who prepared the site plan for this property; and, Michael P. Tanczyn, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel located with frontage on Winters Lane near Melrose Avenue and Melvin Avenue in Catonsville. The property contains a gross area of .209 acres in area, zoned R.O., and is improved with a two-story building used in association with St. Mark Roman Catholic Church as a preschool. In this regard, the Church owns significant holdings in the immediate area, including property on either side of the subject site. To the north is the Church and school building; to the south is an apartment complex owned by the Church; and across the street is a community service center. As noted above, the existing building is used as a pre-school that is run in conjunction with the Kindergarten through 8<sup>th</sup> Grade school on the adjacent lot. Classes are held three days a week for 4-year-old children and two days a week for 3-year-old children. The instant request relates to a proposed addition to the rear of the existing building. In this regard, testimony indicated that additional area was needed to provide more classroom space and an activity room for the children. In fact, the Petitioners obtained a conditional permit and the building is under construction at the present time. It was indicated that the permit was obtained in advance of the hearing in order to complete construction by the beginning of the school year in September 2003. A series of photographs were submitted into evidence as Petitioner's Exhibits 2A through 2C and 3A and 3B, which show a one-story addition, 18' x 50' in dimension, and a 15' x 15' activity room to the rear of the existing building. It appears that the addition will be similar in style and architecture and of the same materials used on the existing building.

Variance relief is necessary due to the narrow width of the lot. As shown on the site plan, the lot is approximately 42 feet wide along Winters Lane; however, tapers to a width of 26 feet along the rear. Although the proposed addition will be narrower than the existing building, variance relief is necessary due to the narrow width of the lot in order to legitimize the location of the existing building and allow construction of the proposed addition. As shown on the site plan, the existing building is located just 25 feet from the front property line and side yard setbacks of as little as 7.89 feet are provided.

ORDER RECEIVED/FOR FILING By Special hearing relief is also requested. As to the requested modification of RTA requirements, testimony indicated that after filing the Petition, the Department of Permits and Development Management determined that RTA is not applicable in this instance. A note contained within the case file from Donna Thompson, dated July 17, 2003, indicates that the special hearing is not necessary in that the pre-school is used in conjunction with the adjacent Church and zoned R.O., which does not trigger RTA requirements. Thus, that portion of the special hearing request shall be dismissed as moot. However, the use permit for parking on the adjacent lot is necessary, given that there is no on-site parking on the subject lot. Testimony indicated that teachers who work at the pre-school park on the adjacent church parking lot. In addition, the parents of students who are enrolled at the school drop off their children on the immediately adjacent church parking lot. The site plan shows that this parking lot is very large and that several spaces have been dedicated for use by teachers and parents of pre-school students.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. It is clear that the special hearing relief is appropriate in this instance and that strict compliance with the zoning regulations would be unduly burdensome, given the narrow width of the lot and the location of existing improvements thereon. The relief requested will not adversely impact any adjacent property or be detrimental to the surrounding locale.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this \_\_\_\_\_\_\_ day of August 2003, that the Petition for Special Hearing to approve a use permit for parking on an adjacent D.R.5.5 zoned parcel to support the pre-school use on the subject property, zoned R.O., pursuant to Sections 204.3.B.2.b.4 and 409.8.B.1 and 2 of the Baltimore County Zoning Regulations (B.C.Z.R.) and in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 204.4.A and 1B01.2.C.1.A of the B.C.Z.R. to permit side yard setbacks of as close as 7.89 feet in

lieu of the required 20 feet for the existing building and proposed addition, and from Section 1B01.2.C.1.a of the B.C.Z.R. to allow a front yard setback of 25 feet in lieu of the required 40 feet for the existing building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

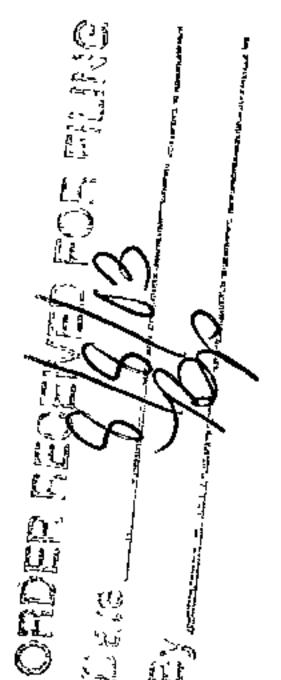
1) The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking approval of a modification of the Residential Transition Area (RTA), pursuant to Section 1B01.1.B.1.C(1&2) of the B.C.Z.R., be and is hereby DISMISSED AS MOOT.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs



ORDER REGENER FOR FILING
Date

By

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE – W/S Winters Lane,

630' NW of the c/l Frederick Road

(21 Winters Lane)

1<sup>st</sup> Election District

1<sup>st</sup> Council District

\* BEFORE THE

\* ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case No. 03-605-SPHA

Roman Catholic Archbishop of Baltimore, A corporation sole, and St. Mark Roman

Catholic Church - Petitioners

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

#### ORDER ON THE MOTION FOR RECONSIDERATION

WHEREAS this matter came before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Roman Catholic Archbishop of Baltimore, a corporation sole, and St. Mark Roman Catholic Church, through their attorney, Michael P. Tanczyn, Esquire. The Petitioners requested a special hearing to approve a use permit for parking on an adjacent D.R.5.5 zoned parcel to support the pre-school use on the subject property, zoned R.O., and a modification of the Residential Transition Area (RTA) requirements, pursuant to Section 1B01.1.B.1.C(1&2). In addition, variance relief was requested from Sections 204.4.A and 1B01.2.C.1.A of the B.C.Z.R. to permit side yard setbacks of as close as 7.89 feet in lieu of the required 20 feet for the existing building and proposed addition, and from Section 1B01.2.C.1.a of the B.C.Z.R. to allow a front yard setback of 25 feet in lieu of the required 40 feet for the existing building on the subject property.

By my Order dated August 8, 2003, the requested relief was granted, and a finding was made that the requested modification of RTA requirements was not necessary. Subsequent to the issuance of said Order, the Office of People's Counsel filed a Motion for Reconsideration. Within their Motion, the Office of People's Counsel stated that they believe the RTA law applies to properties in office and business zones, not just to D.R. zones. They further request that the Petition for Special Hearing be revisited in light of the recent opinion by the Circuit Court of Maryland for Baltimore County in the matter of Oella Mill, LLP, Case No. 03-C-03-0016.

In response thereto, Counsel for the Petitioners has indicated that the Petitioners do not oppose the granting of the reconsideration.

The record of this case supports a finding that a modification of Residential Transition Area (RTA) requirements is appropriate in this instance, pursuant to Section 1B01.1.B.1.c(1&2) of the B.C.Z.R. Further, as specifically stated in my previous Findings of Fact and Conclusions of Law, the proposed addition will be similar in style and architecture to the existing building and constructed of the same materials used thereon. Thus, I am persuaded to grant the Motion and will therefore strike that portion of the prior Order in which I dismissed as moot the special hearing request.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of September, 2003 that the Order issued August 8, 2003 be and is hereby AMENDED to GRANT the Petition for Special Hearing seeking approval of a modification of the Residential Transition Area (RTA) requirements, pursuant to Section 1B01.1.B.1.C(1&2; and as such, the Motion for Reconsideration is hereby GRANTED.

IT IS FURTHER ORDERED that all other terms and conditions of the Order issued August 8, 2003 shall remain in full force and effect.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc:

Michael P. Tanczyn, Esquire

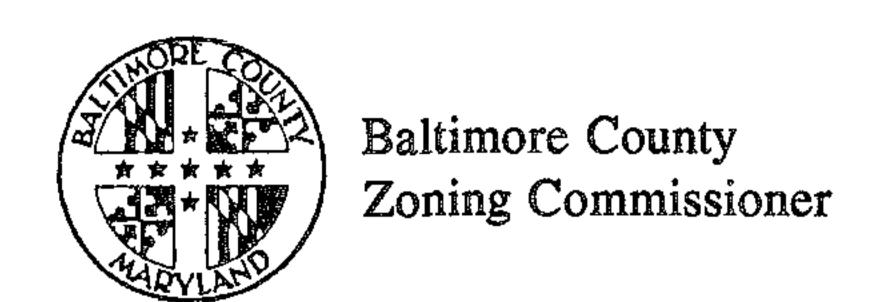
606 Baltimore Avenue, #106, Towson, Md. 21204

Ms. Nora Coakley Reiter, St. Mark Roman Catholic Church

30 Melvin Avenue, Catonsville, Md. 21228

Mr. Herbert Malmud, 100 Church Lane, Baltimore, Md. 21208

Peter Max Zimmerman, Office of People's Counsel; Case File



August 7, 2003

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

Fax: 410-887-3468

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

RE: PETITIONS FOR SPECIAL HEARING & VARIANCE W/S Winters Lane, 630' NW of the c/l Frederick Road (21 Winters Lane)

1st Election District – 1st Council District

1<sup>st</sup> Election District – 1<sup>st</sup> Council District Roman Catholic Archbishop of Baltimore, a corporation sole, and St. Mark Roman Catholic Church - Petitioners Case No. 03-605-SPHA

Dear Mr. Tanczyn:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT Zoning Commissioner

for Baltimore County

LES:bjs

cc: Ms. Nora Coakley Reiter, St. Mark Roman Catholic Church 30 Melvin Avenue, Catonsville, Md. 21228 Mr. Herbert Malmud, 100 Church Lane, Baltimore, Md. 21208 People's Counsel; Case File



2 20 9/15/98 2 2 2

## Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at _	21	Winters	Lane	
·	pres	ently zoned	RO	

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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve per BCZR 204.3.B.2.b.4 and 409.8 B.1 & 2 to allow a use permit for existing parking spaces on adjacent DR5.5 church parcel to support the pre-school use on the subject parcel zoned RO and any other variance which the Zoning Commissioner deems appropriate at time of hearing. To modify the RTA, pursuant to BCZR 1B01.1B1C(1,2).

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, 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.
<u>C</u>	Contract Purchaser/Lessee:		<u>Legal Owner(s):</u> Roman Catholic Archbishop of Baltimore, a corporation sole
N	ame - Type or Print	······································	Name - Type or Print By:
Si	gnature		Signature Cardinal William H. Keeler
Ā	ddress	Telephone No.	Name - Type or Print
<u>c</u> i	ty State ttorney For Petitioner:	Zip Code	Signature c/o St. Mark R.C. Church 30 Melvin Ave.  410-744-6560
М	ichael P. Tanczyn		Address Catonsville, Maryland 21228
Si	gnature		City State Zip Coo Representative to be Contacted:
6 A	ichael P. Tanczyn, P.A.  or pany  06 Balto. Ave. Ste. 106	410-296-8823 Telephone No.	Name 100 Church Lane Address Telephone No.
" <u>  "</u>	owson, Maryland 21204 ty State	Zip Code	Baltimore, Maryland 21208 City State Zip Coo
193			OFFICE USE ONLY
			ESTIMATED LENGTH OF HEARING
	ase No. 03-605-SPHA		UNAVAILABLE FOR HEARING
)ate	20 9/15/98		iewed By D.THOMPSON Date 10/26/03



## Petition for Variance

#### to the Zoning Commissioner of Baltimore County

for the property located at 21 Winters Lane

hich	is	presently zoned	RO
		<b>T</b>	The state of the s

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) BCZR 204, 4A and 1B01.2C1A

for 8.13% 7.89side yands on each side in lieu of the required 20' and any other variance which the Zoning Commissioner deems appropriate at time of hearing and a variance from Section BCZR 1B01.2C1A for a front yard of 25', in lieu of the required 40'.

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

Size, shape, topography of the lot and other reasons to be given at the time of hearing.

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.

Contract Purchaser/Lessee:		Legal Owner(s): Roman Catholic A
Name - Type or Print		Name - Type or Print
Signature	·	By: Signature
Address	Telephone No.	Name - Type or Print
City	Zip Code	Signature c/o St
Attorney For Petitioner:		30 Melvin Av
Michael P. Tanczyn		Address Catonsville,
Name - Type or Print		City
mal Pham	,	Representative to
Signature Michael P. Tanczyn, P.A.		Herbert Malm
Company 606 Balto. Ave. Ste. 106	410-296-8823	Name 100 Church La
Address	Telephone No.	Address
Towson, Maryland	21204	Baltimore, Ma
City	Zip Code	City
2		<u>OFF</u>

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.

Archbishop of Baltimore, ole

n H. Keeler

Mark R.C. Church 410-744-6560

e.

Telephone No.

Maryland

21228 Zip Coce

State

#### be Contacted:

ud

ane

410-<u>382-2959</u> Telephone No.

aryland State 21208 Zip Cage

ICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING Reviewed By D. THOMPSON

Date

REU 9115198

Sase No. 03-605-SPHA

The same of the sa

11)

#### H. MALMUD & ASSOCIATES, INC. 100 CHURCH LANE BALTIMORE, MARYLAND 21208

TELEPHONE 410 653-9511

### DESCRIPTION OF 21 WINTERS LANE BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME ON THE WEST SIDE OF WINTERS LANE, AS NOW LAID OUT, 630 FEET NORTHWESTERLY FROM THE NORTH SIDE OF FREDERICK ROAD, THENCE BINDING ON SAID LANE:

- (1) North 29 degrees 19' 13" West 42.78 feet, thence leaving said Lane and running the three (3) following and distances:
  - (2) SOUTH 60 DEGREES 46' 03" WEST 262.43 FEET.
  - (3) SOUTH 29 DEGREES 52' 36" EAST 26.00 FEET AND
- (4) North 64 degrees 25' 47" East 226.74 feet to the place of Beginning.

CONTAINING 0.207 OF AN ACRE OF LAND, MORE OR LESS.

THIS DESCRIPTION IS FOR ZONING PURSPOSES ONLY AND NOT FOR THE CONVEYANCE OF TITLE.

THIS PROPERTY IS SUBJECT TO ANY AND ALL AGREEMENTS, EASEMENTS, RIGHTS OF WAY, AND/OR COVENANTS OF RECORD AND LAW.

HERBERT MALMUD REGISTERED LAND SURVEYOR MARYLAND # 7558 MAY 28, 2003

file: Zoning Petition St Mark's Pre-School



OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT		No. 23866
DATE	ACCOUNT	1006/0150
	AMOUNT \$	050.00
RECEIVED MICHAEL.	TANCZYN,	P.A.
FOR: ITEM + 1005	03-605-5	PHA
SPH + VAR. 21	WINTERS LA	( BY D.T.

YELLOW - CUSTOMER

BALTIMORE COUNTY, MARYLAND

PINK - AGENCY

DISTRIBUTION

WHITE - CASHIER

BEINER 部開始 门道 in the 从第200 WW. Dis Links !!! Mixin MAL 1880 - AULIFI A 152805 WAR MAN 5 528 ZIMING VERIFICATION IRF 02366 Recet Int \$650.00 650.(F) (K (¥). Baltimore County, Haryland

CASHIER'S VALIDATION

#### 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 <u>Towson, Maryland</u> on the property identified herein as follows:

Case, #03-605-SPHA

/ 21 Winters Lane

W/side Winters Lane 630 feet northwest from north side Frederick Road

11th Election District-3rd Councilmanic District

Legal Owner(s). Cardinal William H. Keeler, Roman

Catholic Archbishop of Baltimore, a corporation sole.

Special Hearing: to allow a use permit for existing parking spaces on adjacent DR 5.5 church parcel to support the pre-school use on the subject parcel zoned RO and any other variance which the Zoning Commissioner deems appropriate at time of bearing To modify the DTA propriate at time of hearing. To modify the RTA, pursuant to BCZR. Variance: to permit side yard setback of 8.13' and 7.89' in lieu of the required 20 feet and a variance for a front yard setback of 25 feet, in lieu of the required 40

Hearing: Wednesday, July 30, 2003 at 11:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake 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 JT/7/722 July 15 C615069

#### CERTIFICATE OF PUBLICATION

<del></del>
<u> </u>
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on <u>7115</u> ,20 <u>03</u> .
The Jeffersonian  Arbutus Times  Catonsville Times  Towson Times  Owings Mills Times
□ NE Booster/Reporter □ North County North
North County News  S. WULLINGS

LEGAL ADVERTISING



CASE # 03-605-SPHA

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

POOM LOG COUNTY OFFICE PATAS

PLACE: TOY SON MD 21204

WEDNESDAY, JULY 30, 2003

MACOUNT TA : MACOUNT STATE

PRESENCE ON THE SUBJECT PARCEL ZONED BO

AND ANY OTHER VARIANCE WHICH THE ZOUNC COMMISSIONER DEETS APPRIATE AT TIME OFHER AINC, TO MODIFY THE RTA,

PLASULUT TO BOZE VARIANCE TO PERMIT SIDE YARD SETBACK OF 813' AND 7 89' IN LIGU OF THE RECONDED 20 FEET AND A MOIX HER FOR A FRONT MAY SETBACK OF 25 FOST, IT LIEU OF THE RECONDED 40 FEET

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY TO CONFIRM HEARING CALL 887 3391

OO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

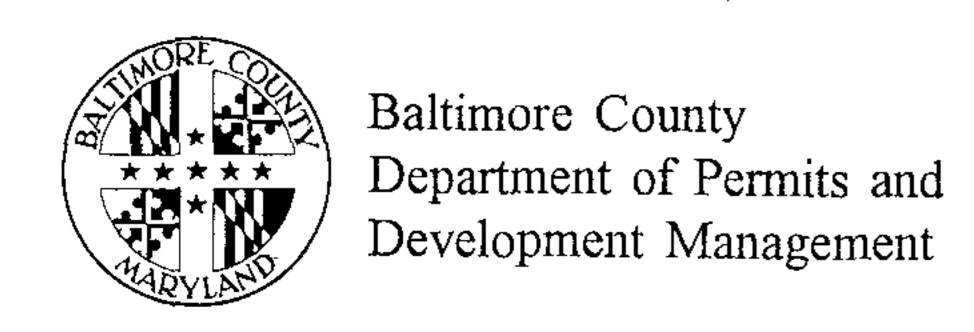


#### CERTIFICATE OF POSTING

44

	Petitioner/Developer: Roman CATHOLIC CHUNES
•	Date of Hearing/Closing: Juy 30, 2003
altimore County Department of ermits and Development Management ounty Office Building, Room 111  11 West Chesapeake Avenue owson, MD 21204	
ttention: BECKY HART	
adies and Gentlemen: This letter is to certify under	the penalties of perjury that the necessary sign(s) required by
w were posted conspicuously on the property locate	dat # 21 WINTERS LANE
· · · · · · · · · · · · · · · · · · ·	
· · · · · · · · · · · · · · · · · · ·	
ne sign(s) were posted on	onth, Day, Year)
	Sincerely,
	Signature of Sign Poster and Date)
	GARLANDE, Woors (Printed Name)
	3225 RYERSON CIRCLES (Address)
,	PAUTINIARE, MD. 2127 (City, State, Zip Code)
•	(Telephone Number)
•	

RE: Case No.: 03-605-SPHA



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

Fax: 410-887-5708

July 2, 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: 03-605-SPHA

21 Winters Lane

W/side Winters Lane 630 feet northwest from north side Frederick Road

11<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owner: Cardinal William H. Keeler, Roman Catholic Archbishop of Baltimore, a corporation sole

Special Hearing to allow a use permit for existing parking spaces on adjacent DR 5.5 church parcel to support the pre-school use on the subject parcel zoned RO and any other variance which the Zoning Commissioner deems appropriate at time of hearing. To modify the RTA, pursuant to BCZR. <u>Variance</u> to permit side yard setback of 8.13' and 7.89' in lieu of the required 20 feet and a variance for a front yard setback of 25 feet, in lieu of the required 40 feet.

Hearings:

Wednesday, July 30, 2003 at 11:00 a.m. in Room 106, County Office Building 111 W. Chesaneake Ave.

Building, 111 W. Chesapeake Ave

Timothy Kotroco Director

TK:rlh

C: Michael P. Tanczyn, 606 Baltimore Avenue, Suite 106, Towson 21204 Herbert Malmud, 100 Church Lane, Baltimore 21208 Roman Catholic Archbishop of Baltimore, a corporation sole, 30 Melvin Ave., Catonsville 21228

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JULY 15, 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

Tuesday, July 15, 2003 Issue - Jeffersonian

Please forward billing to:

Michael P. Tanczyn 606 Baltimore Avenue Suite 106 Towson, MD 21204 410-296-8823

#### **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: 03-605-SPHA

21 Winters Lane

W/side Winters Lane 630 feet northwest from north side Frederick Road

11th Election District – 3rd Councilmanic District

Legal Owner: Cardinal William H. Keeler, Roman Catholic Archbishop of Baltimore, a corporation sole

Special Hearing to allow a use permit for existing parking spaces on adjacent DR 5.5 church parcel to support the pre-school use on the subject parcel zoned RO and any other variance which the Zoning Commissioner deems appropriate at time of hearing. To modify the RTA, pursuant to BCZR. <u>Variance</u> to permit side yard setback of 8.13' and 7.89' in lieu of the required 20 feet and a variance for a front yard setback of 25 feet, in lieu of the required 40 feet.

Hearings: Wednesday, July 30, 2003 at 11:00 a.m. in Room 106, County Office

Building, 111 W. Chesapeake Ave

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.

## DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

#### **ZONING REVIEW**

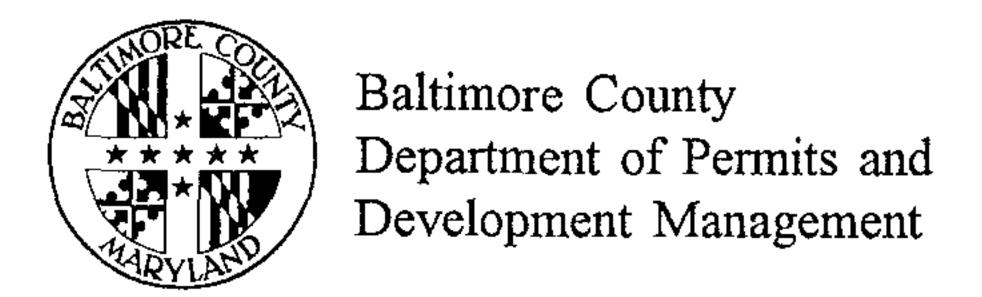
### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:
Item Number or Case Number: 03-605-SPHA
Petitioner Roman Catholic Archbistop of BALTIMORE
Address or Location: 21 WINTERS LANE
PLEASE FORWARD ADVERTISING BILL TO
Name. MICHAEL P. TANCZYN, P.A.
Address 606 BALTIMORE AVE.
Suite 106
TOWSON, MD 21204
Telephone Number: 410-296-8823



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

July 28, 2003

Michael Tanczyn 606 Baltimore Avenue, Suite 106 Towson, Maryland 21204

Dear Mr. Tanczyn:

RE: Case Number: 03-605-SPHA, 21 Winters Lane

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

W. Carl Richards, Jr. Supervisor, Zoning Review

u. Callidall

WCR:klm

Enclosures

c: People's Counsel Roman Catholic Archbishop of Baltimore, Cardinal William Keeler, St. Mark R.C. Church, 30 Melvin Avenue, Catonsville 21228 Herbert Malmud, 100 Church Lane, Baltimore 21208



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

July 2, 2002

ATTENTION: Rebecca Hart

Distribution Meeting of: July 7, 2003

Item No.:

602-610

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

With and Department of Frances Prances

Date: 7.7.03

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

RE:

Baltimore County

Item No. 425

DT

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,

1-

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

# for my

#### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

RECEIVED

**DATE:** July10, 2003

JUL 1 1 2003

ZONING COMMISSIONER

**SUBJECT:** 

21 Winters Lane

INFORMATION:

Item Number:

03-605

Petitioner:

Roman Catholic Archbishop of Baltimore

c/o Cardinal William H. Keeler

Zoning:

RO

Requested Action:

Special Hearing/Variance

#### SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request provided the proposed addition is architecturally compatible with the existing building, and constructed of similar building materials.

Submit elevation drawings of the proposed addition to this office for review and approval prior to the issuance of any building permits.

Prepared by:

Section Chief: Volley Schlabach

AFK/LL:MAC:

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** September 8, 2003

Department of Permits & Development Management

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For July 14, 2003 Item Nos. 602, 603, 604, 605, 606,

607, 608, 609, and 610

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

RWB:CEN:jrb

cc: File

## BALTIMORE COUNTY, MARYLAND Interoffice Memorandum

DATE:

July 17, 2003

TO:

Zoning Commissioner and File

FROM:

Donna Thompson, Planner II, Zoning Review

SUBJECT:

Petition for Special Hearing and Variance, Item 605,

Case No. 03-605-SPHA St. Mark's Pre-School

After reviewing both petitions for the above referenced property it was determined by myself as well as with Carl Richards, Zoning Supervisor that the Special Hearing was not necessary since the pre-school was in conjunction with the adjacent church and zoned R.O. which does not trigger R.T.A.

DT

RE:			FOR SE	PEĆIAI	HEAR	ING	*	BEF	ORE T	HE		
	21 W	/inters	Lane; W		Vinters I erick Ro	•	*	ZON	NING C	OMMI	SSIONE	ER
	$1^{st}$ E	lection	& 1 <sup>st</sup> Co	ouncilm	nanic Dis William	stricts	* ler	FOR	<b>t</b>			
	Rom		10lic Ar		op of Bal		•	BAI	LTIMOI	RE COU	UNTY	
	a cor	porano	ai soic	Petit	tioner(s)		*	03-6	05-SPE	ÍΑ		
*	*	*	*	*	*	*	*	*	*	*	*	5

#### 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.

RECEIVED

JUL 0 3 2003

Per....

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 3<sup>rd</sup> day of July, 2003, a copy of the foregoing Entry of Appearance was mailed to Herbert Malmud, 100 Church Lane, Baltimore, MD 21208 and to Michael P Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, MD 21204, Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



## 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

June 17, 2003

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

RF ·

Drop-Off Petition for 21 Winters Lane

1<sup>st</sup> Election District

ORPH

Dear Mr. Tanczyn:

The petition that was recently dropped off to this office for the above referenced office was reviewed. The following comments must be addressed prior to acceptance by this department.

- 1. After reviewing the plan with Carl Richards, Zoning Supervisor and John Lewis, Planner, a special hearing for parking for the proposed pre-school on the adjacent church parking lot is not necessary. The parking spaces as well as entrances, drive aisle to spaces must be shown on the plan. In notes show parking calculations and explain how the parking for church use and school use will not be a conflict.
- 2. The seal must be signed by the surveyor.
- 3. Dimension rear setback for the proposed addition.
- 4. Provide right-of-way dimension for Winters Lane.
- 5. Provide a point of beginning. Indicate distance from the lot to be developed to the centerline of the nearest intersecting street.
- 6. Change the title of plan to reflect the hearings applied for.
- 7. If any signs are proposed a note should be added to plan that proposed signs will comply with Section 450 of the BCZR or show elevation drawings to scale and exact placement.

Michael P. Tanczyn, P.A. Drop-off Petition for 21 Winters Lane Page 2

- 8. Show all zone lines within 200-feet of tract boundary.
- 9. Provide a lease agreement for the pre-school that permits parking on the church parking lot at time of filing.
- 10. Please double check that all items on our commercial checklist have been addressed.

If you have any other questions, I can be reached at 410-887-3391.

Sincerely,

Donna Thompson

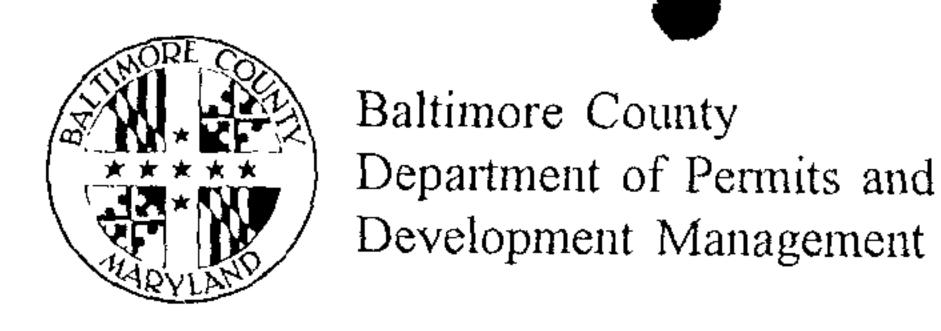
Planner II

Zoning Review

DT

Attachments

Cc: Herbert Malmud, H. Malmud & Assoc., Inc.



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

Fax: 410-887-5708

July 2, 2003

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

RE:

Provisional Approval for 21 Winters Lane

1<sup>st</sup> Election District

Dear Mr. Tanczyn:

Your request for provisional approval for the construction of an addition at 21 Winters Lane which will be in conflict of the setback requirements outlined in the <u>Baltimore County Zoning Regulations</u> has been approved by Zoning Review. The proposed addition must conform with the plan submitted in the pending Zoning Case No. 03-605-SPHA for setback variances and the Special Hearing request to allow existing parking spaces on the adjacent church parcel to support the pre-school use which is permitted by right in a R.O. zone.

Once a building application is submitted to this office it will be subject to the following conditions. The owner/contract purchaser may proceed at their own risk with the construction indicated on the permit. However, in the event that the petition for relief is denied, dismissed, or withdrawn, this provisional approval will be rescinded. The owner/contract purchaser must immediately return the property to the condition prior to the issuance of the building permit and must accept full financial liability in this matter.

A Provisional Approval form will be completed by Donna Thompson, Planner for Zoning Review at the time of building permit submittal.

If you have any questions please do not hesitate contacting Donna Thompson or myself at 410-887-3391.

Sincerely, lotro co
Timothy M. Kotroco

Director

Permits and Development Management

TMK:dt

Cc.

Cardinal William H. Keeler, c/o St. Mark R.C. Church Herbert Malmud, H. Malmud & Associates, Inc. Donna Thompson, Zoning Review

#### 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

June 19, 2003

#### VIA HAND-DELIVERY

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

Re:

St. Marks Church

21 Winters Lane

Dear Tim:

I represent St. Mark's Church on a drop-off Petition for Special Hearing and Petition for Variance for a preschool in a RO zoned land at 21 Winters Lane. At present, Donna Thompson is reviewing the Petitions. My clients are in a time jam, as they hope to open in September, and the addition cannot be built prior to a favorable zoning decision. St. Mark's, as you may know, owns all the land around this site, and has already hired teachers and signed up students for the fall. I hate to trouble you, but as my wife's mother died unexpectedly yesterday, I would deeply appreciate any assistance you could give to get this matter scheduled for an early hearing. I anticipate it taking no more than one hour. Could you kindly call my office and advise my assistant, Connie Lambright, of any hearing dates which could be set?

Thank you for your kind consideration in this request.

Very truly yours,

MICHAEL Janes

Michael P. Tanczyn, Esquire

MPT/cbl Enclosures

cc:

Nora Reiter

Herbert Malmud

DICTATED, NOT READ

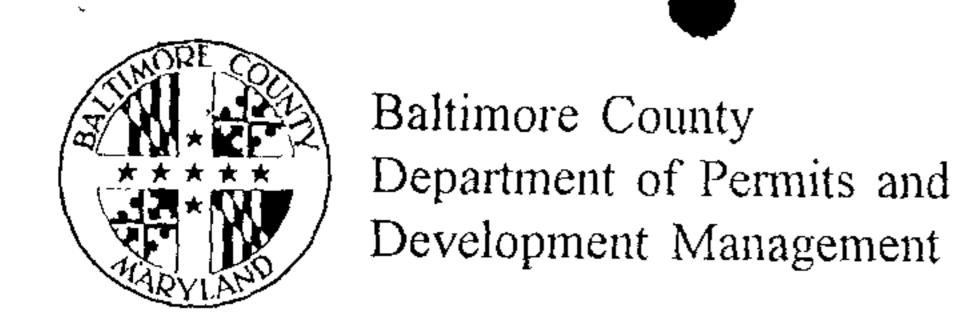
RECEIVED JUN 19 2003 03-2107 9573 OF \$5 915 m 9

#### Baltimore County Government Office of Permits and Development Management 111 West Chesapeake Avenue, Room 111 Towson, MD 21204 (410) 887-3391

PROVISIONAL APPROVAL
PERMIT NUMBER:

RMIT NUMBER:I	Date:	
ation:		
The issuance of this permit in no way this property which is in conflict with		_
The issuance of this permit is subject	to the following Condition	ls:
Owner has filed for a public hea	aring, Item #	
Owner must file for a publ Commissionr requesting relie Zoning Regulations.	ic hearing within d f from all conflicts with	ays before the Zoning the <u>Baltimore County</u>
Owner/contract purchaser must and requested accompanying is conflicts with the Baltimore Conflicts with	nformation within day	ed site development plan ys resolving all possible
The owner/contract purchaser may indicated in the above referenced perm	<b>-</b>	with the construction
However, in the event that any or stipulated, and/or the petition for rel provisional approval is rescinded fort	ief has been denied, dismi	-
Immediately thereafter, the owner/cocondition it was in prior to the begin liability in the matter.	-	2 2 2
ONING STAFF	DIRECTOR, PERMITS & DEVE	TI ODMENIT MANIACENATIT

I have read the above statement and I agree to abide by the decision of the zoning commissioner, if applicable, in this matter. I also hereby certify that I, the undersigned, am in fact the owner and, if applicable, the contract purchaser and not just an agent for same.



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

June 17, 2003

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

RE: Drop-Off Petition for 21 Winters Lane

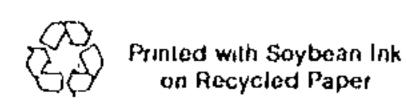
1<sup>st</sup> Election District

Dear Mr. Tanczyn:

The petition that was recently dropped off to this office for the above referenced office was reviewed. The following comments must be addressed prior to acceptance by this department.

- 1. After reviewing the plan with Carl Richards, Zoning Supervisor and John Lowis, Planner, a special hearing for parking for the proposed pre-school on the adjacent church parking lot is not necessary. The parking spaces as well as entrances, drive also to spaces must be shown on the plan. In notes show parking calculations and explain how the parking for church use and school use will not be a conflict.
- 2. The seal must be signed by the surveyor.
- Dimension rear setback for the proposed addition.
- 4. Provide right-of-way dimension for Winters Lane.
- 5. Provide a point of beginning. Indicate distance from the lot to be developed to the centerline of the nearest intersecting street.
- 6. Change the title of plan to reflect the hearings applied for.
- 7. If any signs are proposed a note should be added to plan that proposed signs will comply with Section 450 of the BCZR or show elevation drawings to scale and exact placement.

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



Michael P. Tanczyn, P.A. Drop-off Petition for 21 Winters Lane Page 2

- 8. Show all zone lines within 200-feet of tract boundary.
- 9. Provide a lease agreement for the pre-school that permits parking on the church parking lot at time of filing.
- 10. In addition to the description for 21 Winters Lane, provide a description for the proposed parking area.

If you have any other questions, I can be reached at 410-887-3391.

Sincerely,

Donna Thompson

Planner II

Zoning Review

DT

Attachments

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

June 9, 2003

VIA HAND-DELIVERY

Baltimore County Department of Permits and Development Management Attn: Mr. Carl Richards County Office Building 111 West Chesapeake Avenue Towson, MD 21204

Re:

St. Marks Church

21 Winters Lane

Dear Carl:

Enclosed herewith for filing by drop off, you will find three (3) originals of each of the following:

- A. Petition for Special Hearing to modify RTA, if required, and to allow use of eleven (11) spaces from the adjacent St. Mark's Church lot for the required parking for this facility;
- B. Petition for Variance for the 50' x 18' addition to the existing structure in the RO zone, for the purposes of creating a pre-school for St. Mark's school;
- C. Twelve (12) copies of the plat of Herbert Malmud;
- D. Three (3) sealed surveyor's descriptions from Herbert Malmud; and
- E. Zoning excerpt 200 scale map, showing the site of the Petition.

There are no existing code violation cases to the best of my knowledge. You may recall, this was the subject of a DRC proceeding earlier this spring, which was referred for these zoning hearings. As the project calls for a pre-school to be opened when school begins at the end of this summer, we would very much appreciate any assistance you could give in scheduling this matter for hearing at the earliest possible date, to allow adequate time for speedy construction, if approval is obtained on these Petitions. Please don't hesitate to contact me if you have any questions.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl Enclosures

cc:

Nora Reiter

Herbert Malmud

JUN 9 2003 03-1949

Janeyro M. Janeyro M.

**	DT
	Intake Planner

4	6/12/03
	Date Assigned

### DROP-OFF PETITIONS PROCESSING CHECK-OFF

Two Questions Answered on Cover Sheet:
Any previous reviews in the zoning office? Any current building or zoning violations on site?
Petition Form Matches Plat in these areas:  Address Zoning Legal Owner(s) Contract Purchaser(s) Request (if listed on plat)
Petition Form (must be current PDM form) is Complete:  Request: Section Numbers Correct Wording (must relate to the code, especially floodplain and historical standard wording. Variances must include the request in lieu of the required code quantities. Hardship/Practical Difficulty Reasons Legal Owner/Contract Purchaser: Signatures (originals) Printed/Typed Name and Title (if company) Attorney (if incorporated) Signature/Address/Telephone Number of Attorney
Correct Number of Petition Forms, Descriptions and Plats
200 Scale Zoning Map
Check: Amount Correct? Signed?
ZAC Plat Information:    Location (by Carl)   Sw/S Winters Lane   approx. 650 ft.     N/w Carlow (ine Freedowck Pel. (21 Winters Lane)     Zoning:

JA 44

# RICHARD W. WOODS & LORI WOODS 14 Melvin Avenue Catonsville, MD 21228 (410) 744-7620

March 25, 2003

We, the undersigned, approve of St. Mark Parish utilizing the property located at 21 Winters Lane as a Pre-School for students ages 3 and 4. We further agree, that St. Mark build an addition onto the rear of the property in place of the current back deck. Said addition will be no wider than the existing building and will extend off the back no further than 40 feet. We understand this addition is necessary for the Pre-School to be in conformity with Baltimore County guidelines.

Richard W. Woods

Date

Lori Woods

Date

# JOSEPH & COLLEEN KNEPPER 12 Melvin Avenue Catonsville, MD 21228 (410) 744-1350

1

March 25, 2003

We, the undersigned, approve of St. Mark Parish utilizing the property located at 21 Winters Lane as a Pre-School for students ages 3 and 4. We further agree, that St. Mark build an addition onto the rear of the property in place of the current back deck. Said addition will be no wider than the existing building and will extend off the back no further than 40 feet. We understand this addition is necessary for the Pre-School to be in conformity with Baltimore County guidelines.

Joseph Knepper Date Colleen Knepper Date

## 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

August 26, 2003

RECEIVED

AUG 2 7 2003

ZONING COMMISSIONER

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

Re:

Roman Catholic Archbishop of Baltimore, a corporation sole, et al.

Case No.: 03-605-SPHA

Dear Mr. Schmidt:

Upon review of Michael Tancyzn's letter dated August 22, 2003, we reply so there is no misunderstanding.

Our request is for a new decision on the RTA variance, but not a new hearing. We are not prejudging whether a variance is justified, but rather asking for a decision on the merits.

If the variance is granted, we ask that there be a specific condition in the Order which incorporates the OPZ comments dated July 10, 2003.

Thank you in advance for your further review of this matter.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Pete Max Zimmerman

PMZ/rmw

Enclosure

cc: Michael Tanczyn, Esquire

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

August 22, 2003

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

AUG 2 6 2003

ZONING COMMISSIONER

Re:

Roman Catholic Archbishop of Baltimore

21 Winters Lane

Case No.: 03-605--SPHA

Dear Mr. Schmidt:

I had received a call from People's Counsel and am responding to his letter of August 21, 2003 to you. I believe that on page 2 of your opinion, the OPZ comment about requesting architectural compatibility and similar types of materials is addressed at the end of the first full paragraph, where you say, "It appears that the addition will be similar in style and architecture, and of the same materials used on the existing building." It was my understanding from my conversation when People's Counsel called me, that he was not going to request a new hearing on his other point, concerning RTA, but merely ask you to revise your opinion, to account for the RTA issue and to make an appropriate finding, that adjustment of RTA as requested in our Petition, was appropriate in the circumstances. By copy of this letter to Mr. Zimmerman, I am asking him to advise you whether he is seeking another hearing on that point or not. As you know, we filed for RTA. I told you at the hearing, during my extensive proffer, that we thought the RTA determination and adjustment, based on the factors that I did present at the hearing. At the hearing I also told you that if you made a finding, in your opinion, that the RTA was not required to be adjusted and the Petition was moot, that would satisfy us, so long as it satisfied all other parties. That apparently is not the case, so far as People's Counsel is concerned. If People's Counsel is willing to live with a revised opinion, and if you are willing to issue such a revised opinion, finding that the RTA adjustment was proper, than that may resolve the matter.

I look forward to hearing back from you or from People's Counsel on the question raised by me in this letter.

Very truly yours.

Michael P. Tanczyn, Esquire

MPT/cbl

cc:

Peter Max Zimmerman, Esquire

Nora Reiter

Herbert Malmud



## Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 21, 2003

RECEIVED

AUG 2 2 2003

ZONING COMMISSIONER

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

Re:

Roman Catholic Archbishop of Baltimore, a corporation sole, et al.

Case No.: 03-605-SPHA

Dear Mr. Schmidt:

Please accept this letter as a request for reconsideration of your Order dated August 8, 2003 in this case. It concerns mainly the application of the Residential Transition Area (RTA) law in a Residential-Office Zone. We also are concerned about the comment from the Office of Planning and Zoning (OPZ) dated July 10 2003.

We believe RTA law applies to properties in office and business zones, not just to D.R. zones, which otherwise meet the RTA definitional standards involving adjacent single-family or duplex residences. Petitioner has applied to vary the RTA requirements under BCZR 1B01.1B1c. This variance should be reviewed on the merits.

We enclose the Circuit Court decision in <u>Oella Mill, LLP</u> (Petition of Greater Oella Community Association, et al.) Case No. 03-C-03-0016. Judge Patrick Cavanaugh decided that RTA requirements govern apartments in a Business Zone. The reasoning is the same for the R.O. zone.

Separately, we ask for consideration of a condition incorporating the enclosed OPZ comment on architectural compatibility.

Thank you in advance for your further review of this matter.

Very truly yours,

Peter Max Zimmerman

Carole S. Demilio

Deputy People's Counsel for Baltimore County

PMZ/CSD/rmw

Enclosure

Michael Tanczyn, Esquire Cc:

Arnold F. Keller, Director of Planning Timothy Kotroco, Director of PDM

PETITION OF GREATER OELLA

٧.

IN THE

CIRCUIT COURT

FOR

IN THE MATTER OF OELLA MILL, LLP et al., FOR DEVELOPMENT PLAN APPROVAL AND APPROVAL OF PETITION FOR VARIANCE 840 Oella Avenue

BALTIMORE COUNTY

Civil Action No. 03-C-03-0016

1st Councilman District 1st Election District

7

CBA Nos. CBA-02-137/02-412-SPHA PDM No. I-498

#### ORDER

It is this <u>I</u> day of July, 2003, by the Circuit Court for Baltimore County, **ORDERED** that the Baltimore County Board of Appeals Order dated the 4th day of December, 2002, in Case No. CBA-02-137 and Case No. 02-412-SPHA are hereby **REVERSED** and **REMANDED** for further action consistent with the Opinion filed herewith.

Patrick Cavanaugh

Judge

PC/sc

Ø 02

ZUNING COMM.

PETTION OF GREATER OELLA
COMMUNITY ASSOCIATION INC, et al.,

IN THE

CIRCUIT COURT

٧.

FOR '

IN THE MATTER OF OELLA MILL,
LLF st al., FOR DEVELOPMENT PLAN
APPLOVAL AND APPROVAL OF
PETITION FOR VARIANCE
840 Ciella Avenue

BALTIMORE COUNTY

Civil Action No. 03-C-03-0016

1st Councilman District
1st Election District

CB.4 Nos. CBA-02-137/02-412-SPHA PDM No. I-498

## MEMORANDUM

\*

This Court finds that the Board of Appeals of Baltimore County (hereinafter referred to as "the Board") and the Hearing and Zoning Commissioner of Baltimore County (hereinafter referred to as the "Hearing Officer") exceeded their statutory author ty in approving this development plan and granting the requested variances.

Ţ

As an initial matter, I find that the Board erred as a matter of law in affirming the Hearing Officer's approval of the development plan since part of the development was located within an area clearly shown to be within a 100-year floodplain and subject to possible future approval of the federal government and Federal Emergency Management Agency ("FEMA"). BCC § 26-206 (Development Plan Approval) states that:

- (a) (1) A public quasi-judicial hearing before the hearing officer is required prior to final action on a plan....
  - (3) The hearing officer shall make findings for the record and shall render a decision pursuant to the requirements of this section.

ZONING COMM.

(b) The hearing officer shall gram approval of a development plan that complies with these development regulations and applicable policies, rules and regulations ... provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein. All final decisions of the hearing officer with respect to such matters shall be subject to appeal to the county board of appeals as provided in section 26-209 below.

As of the date of the Hearing Officer's hearing it was undisputed that the development plan's proposal to build in the floodplain was in violation of BCC § 26-276, and there was no evidence of any approval from FEMA. Since the development plan violated BCC § 26-276, the hearing officer clearly did not have the ambority to grant approval of the development plan because it failed to comply with development regulations and applicable policies, rules and regulations as required under § 206(b).

Moreover, BCC § 206 only authorizes a Hearing Officer to review a final action on a development plan. A review of the "General Notes" section of the Development Plan clearly shows that the Board erred in confirming the Hearing Officer's approval of the plan since it was contingent upon the subsequent permission of the federal government and FEMA. "General Notes" number 13, states that "[a] letter of Map Amendment (LOMA) will be requested to revise the

BCC § 26-276 states that "[n]o dredging, filling or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination. It is the purpose of this section to reduce losses to life and property from flooding, to obviate the need for public

-4, -440 Taido Luy 4T09912488

flock plain shown on the Federal Emergency Management Association's (FEMA)

Flood Insurance Rate Map (FIRM), Panel # 240010 0370 B, to agree with the

1980 study provided by Baltimore County Department of Public Works." This

clearly indicates that the development plan was not final since no application

regarding the change in flood plain had ever been requested from FEMA.

"General Notes" number 27 also provides that "[w]ithin the area shown as 'Balti more County Recreational Greenway Easement', access by Baltimore County, or its assigns, for public safety or maintenance is allowed, subject to approval by the Department of Environmental Protection and Resource Management." This further indicates that this is not a final plan because it is "subject to approval by the Department of Environmental Protection and Resource Management."

Finally, "General Note" number 17 states that "[e]nvironmental variances for continued use of existing structures and proposed improvements in the Forest Buffer will be requested." This further shows that the plan is still not complete and could not have been considered by the Hearing Officer or the Board of Appea s.

П

This is a development plan for a residential apartment building on a property zoned BM-CCC with a small area zoned DR 3.5, in the midst of other propert es zoned D.R. 3.5, that fails to provide for any recreational space in

expend to res for flood protection, and to protect or enhance the environmental quality of

ZONING COMM.

accordance with BCC § 26-498. Under § 26-498 (c)(1), "an applicant shall be required to provide a minimum of 1000 square feet of suitable open space per dwelling unit." BCC § 26-498(b)(1) provides that this requirement applies to "residential development," which is defined at BCC § 26-492(g) as meaning "the development of property for the construction of dwelling facilities."

I was amazed to find that the Hearing Officer and Board did not consider the construction of residential apartments to be the construction of dwelling facilities, thus not requiring active open space of 1000 square feet per unit.

Instead, the Board confirms the decision of the Hearing officer that this project did not constitute "construction" under BCC § 26-498(b) and BCC § 26-492(g), based on the fact that the development plan involves the renovation of an existing building, "no change in building footprint and no new external construction." (See Board Opinion at 18)

A review of Article IX (Adequate Public Facilities) reveals that this is clearly an erroneous basis for excluding the applicant from the recreational space require nents of BCC § 26-498, as well as contrary to the basic intent of the law. It is its portant to note that "redevelopment" is defined in BCC § 26-492, not excluded under § 26-498(b), and is, in fact, completely omitted from § 26-498. Moreon er, I find that the language and clear intent of § 26-498 requires that a development plan provide inhabitants of residential apartments with the required amount of recreational space, regardless of whether the apartment complex is newly built or results from the renovation of an existing building.

Watersteils."

The next question presented is whether the Hearing Officer and Board erred as a matter of law in approving the development plan without requiring a Residential Transition Area. The Board concurred with the Hearing Officer's determination that a Residential Transition Area was not required because the proposed project was not completely contained within a D.R. zone. In doing so, the Board indicated that the most "persuasive factor" was the location of the RTA regulations within the section governing D.R. zones since it evidenced the "Cour cil's intent that the RTA regulations are applicable only to development in the D.R. zone." (See Board Opinion at 24-25). Based on a review of BCZR § 1B01.1B, I find this was a clearly erroneous basis for finding the RTA inappl cable to this development plan. Under BCZR § 1B01.1B:

- 1. Residential transformation areas and permitted uses therein.
  - Generation of residential transition area. An RTA is generated if the property to be developed lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R. 5.5, or R.C. which:
- (1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; ...

"In construing statutes, we obviously begin with the language of the statute. If that language, both on its face and in context, is clear and unambiguous, we need go no further. We give the language its plain meaning. We do not add or delete words in order to reflect an intent not evidenced by what

BCC if !6-498(b)(2) explicitly exempts non-residential development and "minor subdivisions" from the

ZONING COMM.

the leg slature actually said and we do not construe statutes with 'forced or subtle interpretations' that limit or extend its application." Swinson v. Lords Landing Village Condominium, 360 Md. 462, 478 (2000).

I find that the plain language of BCZR § 1B01.1B(1)(b)(1) clearly indicates that where BM-CCC property is to be developed as residential apartinents and a portion of the property is zoned DR 3.5 and is surrounded by other properties zoned DR 3.5, Residential Transition Area Restrictions do apply. Since there is no dispute that: i) D.R. 3.5 zoned land adjoins the Oella Mill property, ii) single-family detached, duplex, and/or semi-detached dwellings are within 150 feet of the tract boundary, and iii) the development plan fails to provide for a RTA buffer, I find that the Board clearly erred as a matter of law in affirming the Hearing Officer's approval of the development plan without an RTA buffer.

IV

The next question presented is whether the Board erred as a matter of law by failing to require a use permit review hearing to allow Business Parking in Resider tial Zones. There is no dispute that the proposed plan utilizes eleven (11) parking spaces situated in the DR 3.5 portion of the property to support the proposed apartments across Oella Avenue in the BM-CCC portion of the property. Under BCZR § 409.8(B), entitled "Business or industrial parking in residential zones," in order to use parking spaces in a DR zone to support business across a street, a developer is required to apply for a use permit review hearing,

residential space requirements.

ZUNING COMM.

post the property to notify the public of the proposal and submit to a hearing on the reatter. In this instance, the Board simply affirmed the Hearing Officer's determination that "the spaces in question were not serving a business or industrial use, but rather a use that is residential in nature, since tenants of the aparaments will reside on site." (See Board Opinion, 12/4/02, p. 19).

While in isolation this ruling might be fairly debatable, it is clearly inconsistent with the Board's findings that this project be exempted from the density and RTA restrictions because it is in a business zone/district. Because of the E-oard's inconsistent position and the fact that none of these requirements in § 409.8(3) took place, I find that the Board erred by failing to conduct a hearing regarding the eleven business parking spaces in the DR 3.5 area as proposed by the development plan.

The Board also notes that these parking spaces have been used to support the present business uses across Oella Avenue for years and would be considered "non-conforming." However, in order to find a "non-conforming" use under BCZP. 104, the respondent should have been required to apply for a hearing and prove that the use was a legal use that existed prior to the zoning maps, and the propert, must be posted to notify the public. Because there was no application for a so scial hearing, the property was not posted and there was no showing by the respondent that the use was legal, I find that the Board erred as a matter of law in affirming the Hearing Officer's decision to approve the plan since it did not conform to development regulations, and applicable policies, rules and regulations as required by BCC 206(b).

V

The final question presented is whether the Hearing Officer and Board erred; s a matter of law in granting the parking variances requested. Under BCZR 307.1:

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 public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variances, 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 shall contain a finding of fact setting forth and specifying the reasons for such variance.

Under BCZR § 307.1, the Hearing Officer and Board have the authority to grant variances "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance would result in practical difficulty or unreasonable hardship." Cromwell v. Wara, 102 Md. App. 691, 698 (1995).

In McLean v. Soley, 270 Md. 208, 214-215 (1973), the following criteria for determining whether "practical difficulty" has been established are set forth:

- (1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- (2) Whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- (3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Not sing in the record indicates that the developer has presented any evidence that their proposal would not have an adverse effect upon public safety and welfare or uptir traffic safety and congestion in the area. On the other hand, the protestant's wells not permitted to present any evidence. Specifically, the Board denied petitioner Lydia Temoshok's request to present a video presentation and other pictorial evidence showing the narrowness and hazards of Oella Avenue and the poter tial dangers to the community that could result from traffic generated by the proposed apartments on the connecting roadways. Accordingly, this case is remainded to the Board to allow the petitioners to present evidence on the question whether the variance may result in any injury to public health, safety and general welfare, in addition to complying with the other issues set forth in this memorandum.

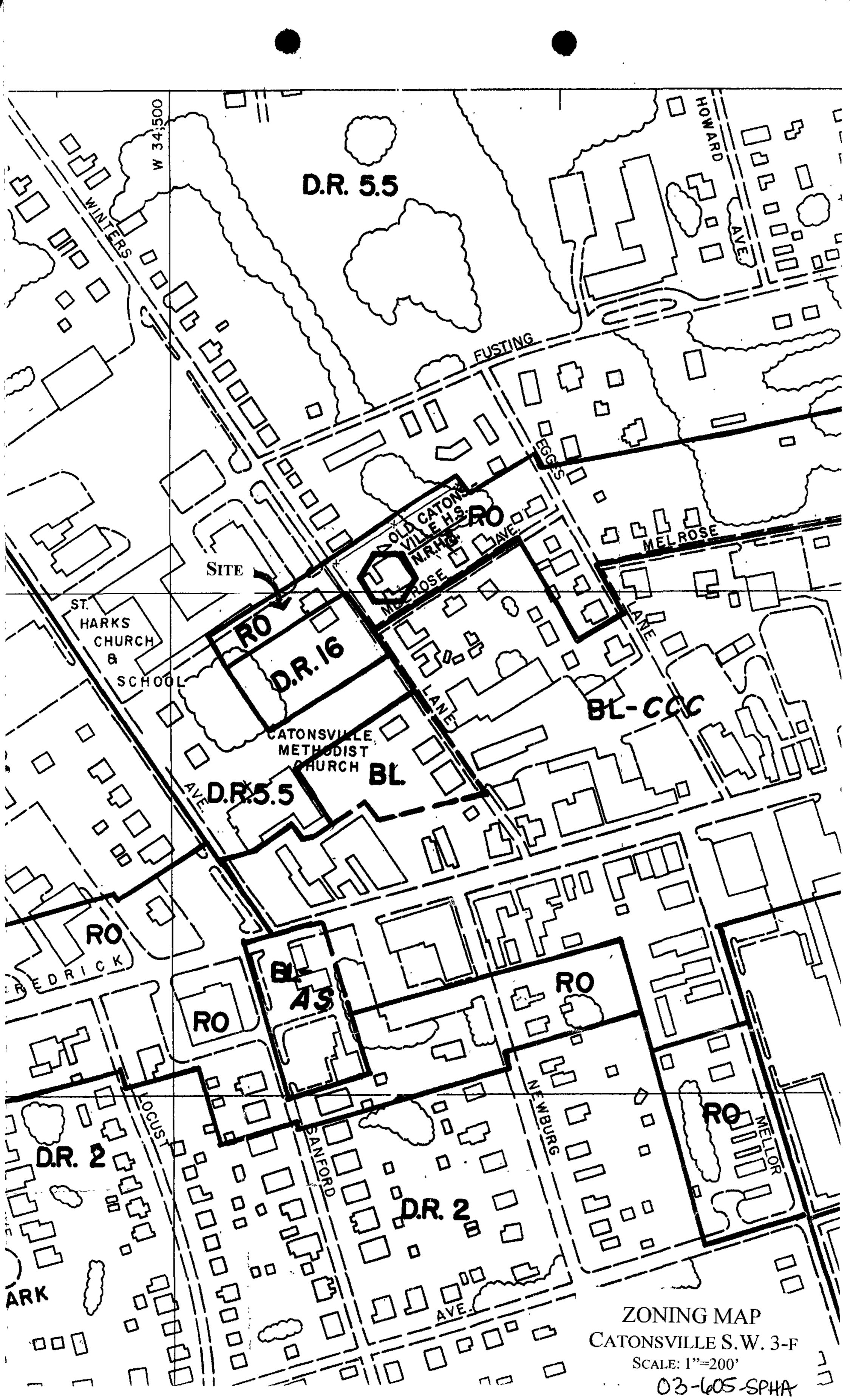
Judge Patrick Cavanaugh

PLEASE PRINT CLEARL	Y
---------------------	---

CASE NAME		
CASE NUMBER	32125	SPAR
DATE		

# PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
HERBBET MALMUD			
H. MALMUD & ASSOTUC	100 CHURCH LANE	BAUTIMORE MO ZIZOB	
NORA COCKLEY RE: TER, CPA			
St. Mank Church	30 MElvin AVE.	CATORENTE, MD 21228	NReiter @ Archbalt.org
Wiches Lucsan	STE 106 GOG BALTIMERPW	Towson Md 212074	
		<u></u>	
	<del></del>	······································	
	······································		
			······································
	·	· · · · · · · · · · · · · · · · · · ·	
		,	······································
	<u> </u>		







JES MAN 213



Vet Shoot 20

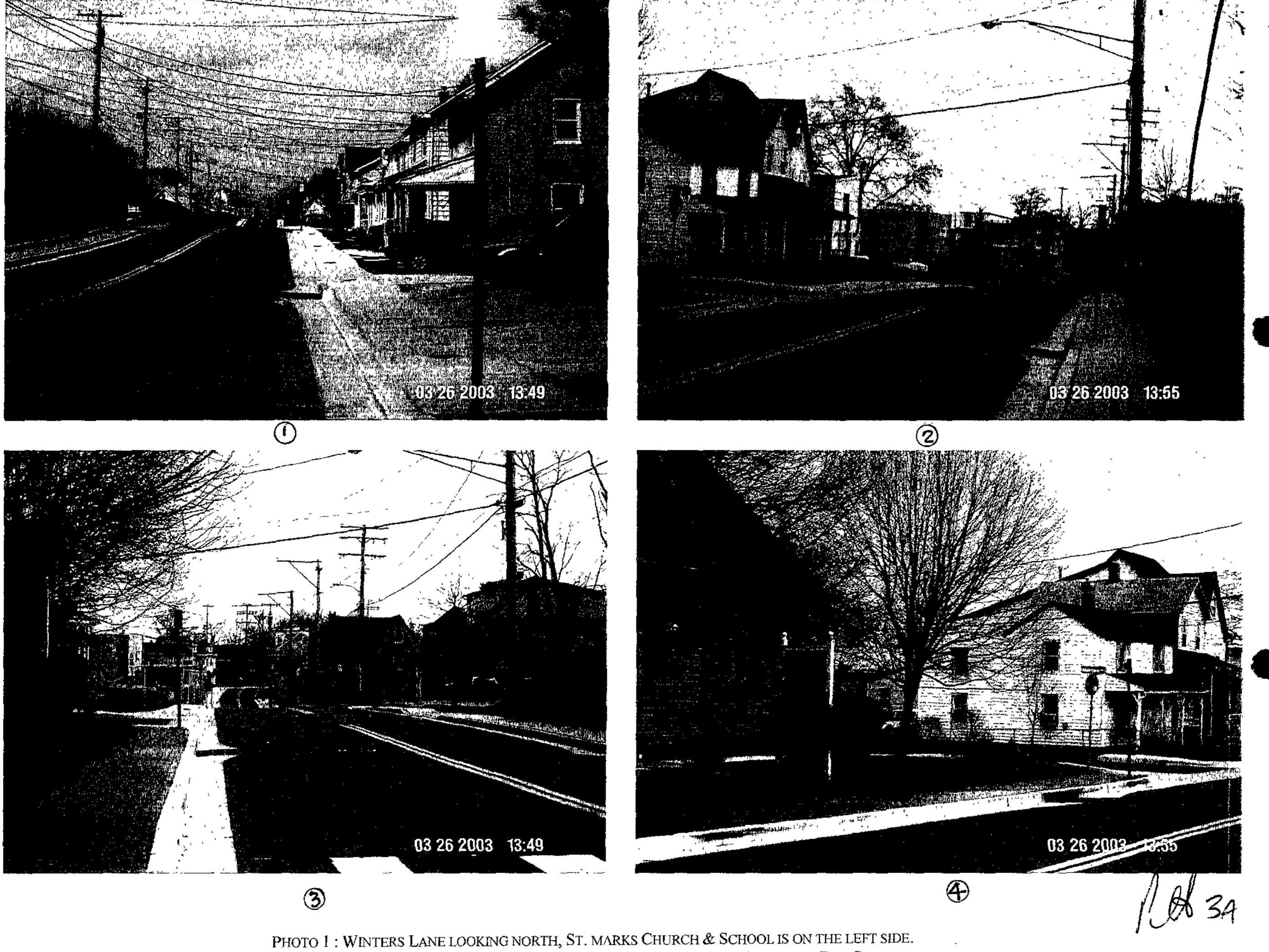
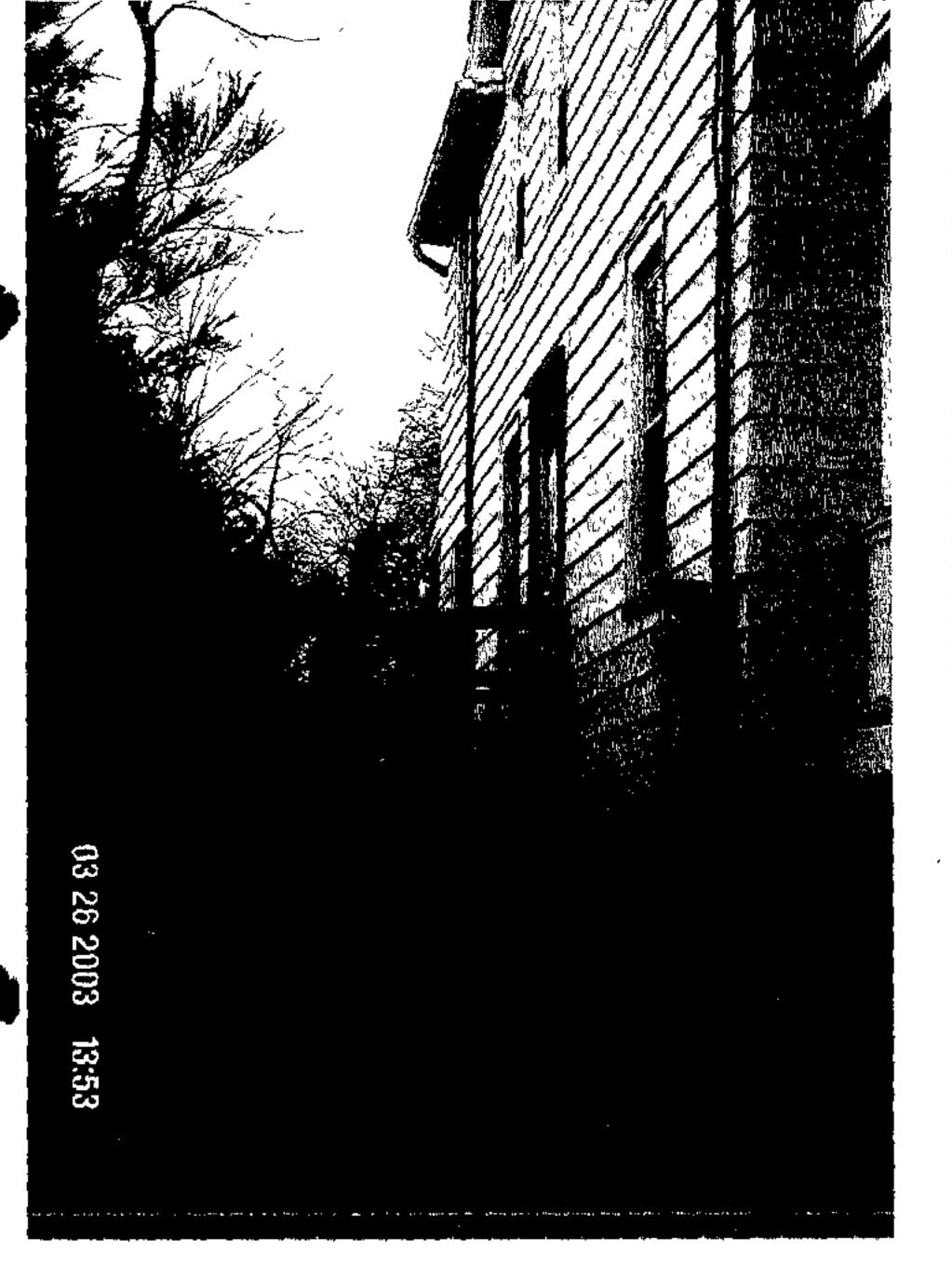


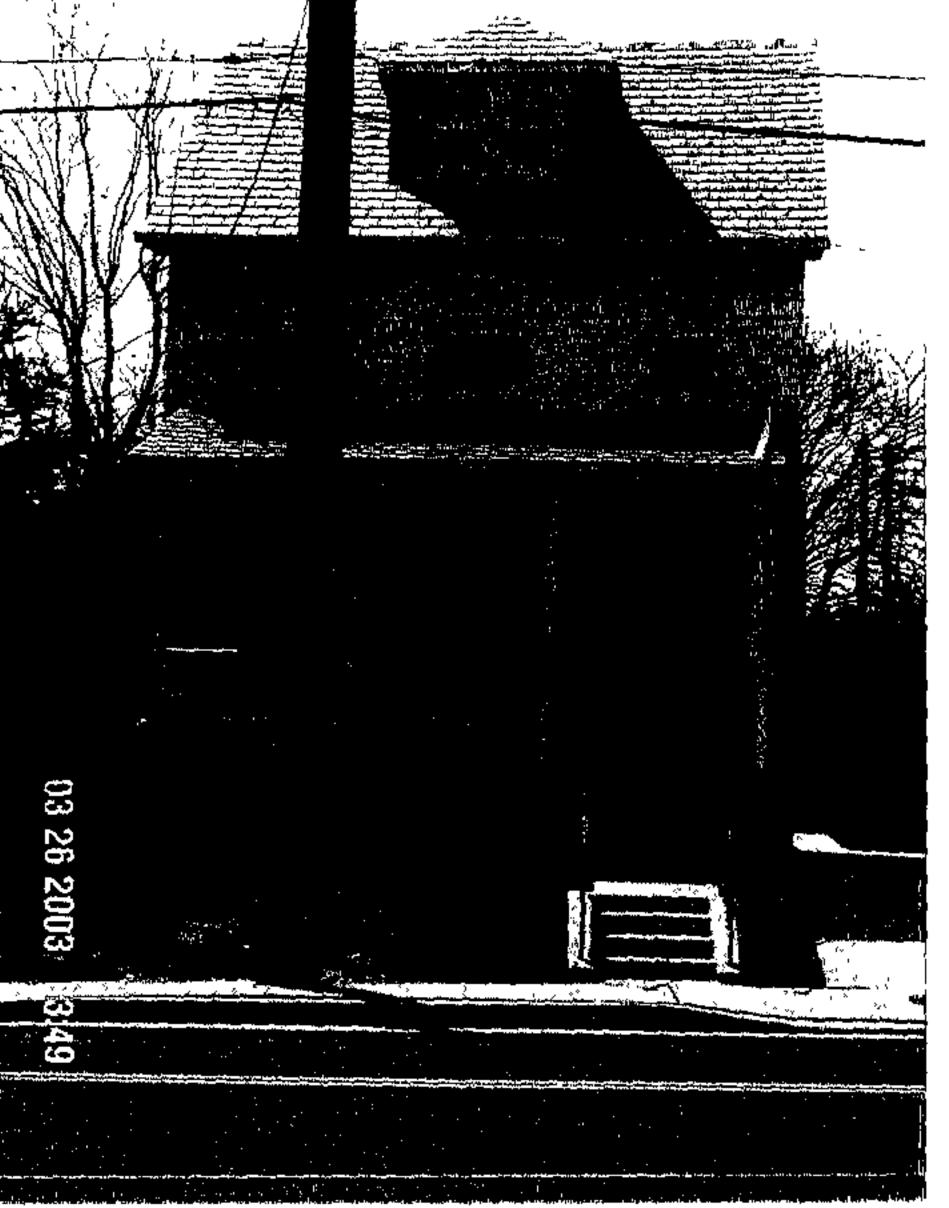
PHOTO 1: WINTERS LANE LOOKING NORTH, ST. MARKS CHURCH & SCHOOL IS ON THE LEFT SIDE.

PHOTOS 2 & 3: WINTERS LANE LOOKING SOUTH TOWARDS FREDERICK ROAD THE PRE-SCHOOL SITE IS THE

ON RIGHT SIDE. PHOTO 4: SHOWS THE REVISIONS INC. COMMUNITY SERVICES BUILDING ACROSS WINTERS

LANE FROM THE PRE-SCHOOL SITE.





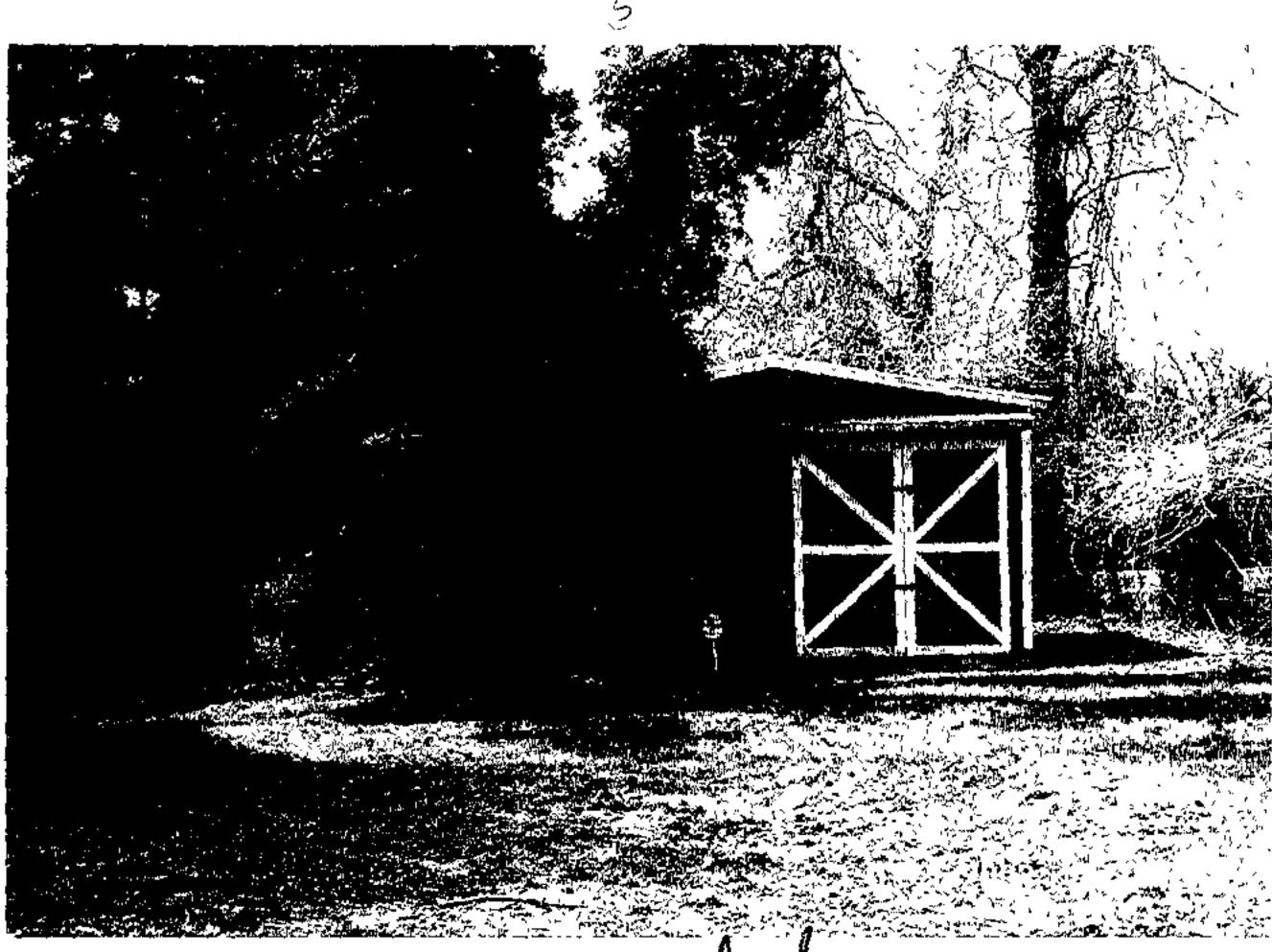


PHOTO ON LEFT AND CENTER SHOWS SIDE AND FRONT OF PRE-SCHOOL SITE. PHOTO ON RIGHT SHOWS REAR YARD WITH WOODEN SHED..

