FILING

IN RE: PETITION FOR VARIANCE N/S intersection of Klein Avenue and Belair Road 14th Election District 6th Councilmanic District

> Gerald J. Stautberg Petitioner

> (8001 Belair Road)

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 04-162-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, Gerald J. Stautberg. The Petitioner is requesting a variance for property he owns at 8001 Belair Road. The variance request is from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to provide a rear yard of 5 ft. in lieu of the required 30 ft. and to amend the previously approved site plan in Case No. 03-113-A.

The property was posted with Notice of Hearing on November 13, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. However through no fault of the Petitioner, the Certificate of Publication was not in the file at the time of the hearing. Subsequently it was discovered that notice to the public regarding the hearing had not been given. While testimony and evidence was taken on December 3, 2003, the case was continued. Notice was given to the public by publication in "The Jeffersonian" newspaper on December 9, 2003 that additional testimony would be taken on December 12, 2003 so as to notify any interested persons of the scheduled hearing date. The case was called on December 12, 2003 and no citizens or protestants appeared. The case was then closed.

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

ORDER RECEIVED FOR

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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 (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated October 17, 2003, a copy of which is attached hereto and made a part hereof. Included in these comments was the note that the landscape plan ordered in Case No. 03-113-A was never submitted to the County. The Petitioner's admitted this plan was not submitted because the buildings approved in the former case were never constructed due to the review by Toyota Headquarters as described below.

Interested Persons

Appearing at the hearing on behalf of the variance request were Alonzo Childress, of R. A. Childress & Associates, Inc., the engineers who prepared the site plan of the property, John Farley, Jerry's Toyota, and Michael Tanczyn, Esquire, Petitioner's attorney. There were no protestants or citizens attending the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

<u>Testimony and Evidence</u>

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 5.2 acres of property, split-zoned BR and MLR-IM. The subject property is the site of the "The Jerry's Toyota" dealership which has been located on Belair Road in Fullerton for many years. The dealership previously requested certain variances and amendment to site plan in case no. 03-113-A which the Deputy Zoning Commissioner Kotrocco approved on October 8, 2002. This site plan showed several new buildings were to be erected one of which was to be located 5 feet from the rear property line. Apparently once the zoning petition was approved, the Petitioner submitted the plan to Toyota headquarters only to find that headquarters required a new archtectural features among which were a 17 x 25 foot addition to Building A and a greatly expanded Building C. See Petitioner's exhibit 1 in which the new 17 x 25 extension of Building A is shown in light gray. Also shown are the new dimensions of Building C which previously a 75 x65 foot rectangle. Among other reasons, headquarters wanted space to house the new "Zion" vehicle installation and accessories. Apparently this requirement was not known at the time case no. 03-113 was decided. Again the landscape plan still needs to be submitted.

The Petitioner proffered that the surrounding uses were all commercial and industrial uses including two restaurants, storage facility and contractor's office and yard. Based upon the surrounding uses the Petitioner opined that the enlarged Building C which is located almost in the center of the five acre parcel would have no detrimental effect on the surrounding uses. Similarly the variance request for 5 foot setback in lieu of the required 30 foot setback simply continues the line of Building A for which a setback variance was approved in the prior case. In addition that location of the new "Zion" building adjoins a storm water management facility. Finally the site plan modification and variance would allow this dealership to achieve the standards for layout required by Toyota Headquarters.

Findings of fact and conclusions of law

^

ORDER RECEIVED FOR FILING

I find that special circumstances or conditions 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 for Baltimore County would result in practical difficulty or unreasonable hardship. Furthermore, I find that this variance can be granted in strict harmony with the spirit and intent of regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. I will require the landscape plan to be submitted as required in the former case.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED, this 12 day of December, 2003, by this Deputy Zoning Commissioner, that the Petitioners' request for variance Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to provide a rear yard of 5 ft. in lieu of the required 30 ft. and to amend the previously approved site plan in Case No. 03-113-A, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition;
- 2. Compliance with the ZAC comments made by the Office of Planning dated October 17, 2003, a copy of which is attached hereto and made a part hereof. Included in this condition a landscape plan shall be submitted in accord with the requirements of Case no 03-113.
- 3. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj

8

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

December 12, 2003

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

RE: PETITION FOR VARIANCE
SE/S Belair Road, corner NE/S Klein Avenue
(8001 Belair Road)
14th Election District – 6th Council District
Gerald J. Stautberg - Petitioner
Case No. 04-162-A

Dear Mr. Tanczyn:

JVM:bjs

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has 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,

OHN V. MURPHY

Deputy Zoning Commissioner

for Baltimore County

cc: Mr. John P. Farley, 8001 Belair Road, Baltimore, Md. 21236

Mr. Alonzo Childress, 7/13 Pheasant Drive, Forest Hill, Md. 21050

People's Counsel; Case/File



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



FOR FILING

ORDER RECEIVED

Date

280 9115198

Petition for Variance

to the Zoning Cimmissioner of Baltimore County

for the property located at 8001 Belair Road

which is presently zoned BR/MLR-IM

I/We do solemnly declare and affirm, under the penalties of

perjury, that I/we are the legal owner(s) of the property which

Zip Cace

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)

See attached description

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

See attached description

Property is to be posted and advertised as prescribed by the zoning regulations. is or well 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 pursuarit to the zoning law for Saltimore County.

is the subject of this Petition. Legal Owner(s): Contract Purchaser/Lessee: Gerald J. Stautberg Name - whe or Part Name - Type or Print Signature Signature Telephone No. Name - Type or Print Address Zip Code Signature State City 410-661-5700 Attorney For Petitioner: Telephone No. Address 21236 8001 Belair Road - Michael P. Tanczyn, Esquire City Baltimore State MD Name - Type or Print Representative to be Contacted: Signature Michael P. Tanczyn, P.A. R. Alonzo Childress **Name** Company 106 Baltimore Avenue, Ste. 106 713 Pheasant Drive 410-803-0304 Telephone No. Telephone No. Address Addless Mowson, MD 21204 410) 296-8823 Forest Hill, MD State City Zip Code State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING Case No. C UNAVAILABLE FOR HEARING Date 0

Reviewed By CTM

DESCRIPTION

A variance from BCZR Section 238.2 to provide a rear yard of 5', in lieu of the required 30'

and to anend Proviously approved site Plan in case 03-113A mo;

#16Z

Civil Engineering Consultants

713 Pheasant Drive Forest Hill, Maryland 21050-1528 (410) 803-0304 FAX (410) 803-0299

August 15, 2003

ZONING DESCRIPTION FOR GERALD J. STAUTBERG PROPERTY (JERRY'S TOYOTA) 8001 BELAIR ROAD BALTIMORE COUNTY, MARYLAND

Beginning at a point at the north side of Klein Avenue, 20 feet wide, (at the intersect of Belair road); and leaving Klein Avenue and running along the following course:

1.	N 47 28' 00" E	18.14 ft.
2.	N 42 32' 01" W	10.00 ft.
3	N 00 54' 12" W	45.64 ft.

To the right of way line of the Belair Road, approximately 104 feet wide, and binding along the said right of way the following courses:

4.	N 40 41' 12" E	40.06 ft.
5.	N 40 35' 13" E	339.17 ft.

Thence leaving said Belair Road right of way and running along the following courses:

6.	S 47 50' 18" E	173.88 ft.
7.	S 39 27' 43" W	109.99 ft.
8.	S 43 31' 24" E	523.35 ft.
9.	S 38 55' 01" W	113.91 ft.

To the north side of Klein Avenue, 20 feet wide, thence running along the north side of said right of way the following courses:

10.	S 88 34' 10" W	100.15 ft.
11.	N 75 37' 30" W	263.56 ft.
12.	N 44 01' 18" W	352.66 ft.

To the Point of Beginning.

The Property, located in the 14th Election District, 6th Councilmanic District, four parcels as recorded in:

<u>Deed</u>	<u>Tax Map</u>	<u>Parcel</u>
Liber 7425, Folio 039	81	295
Liber 6893, Folio 125	81	449
Liber 12006, Folio 510	81	130
Liber 12006, Folio 510	81	371

Containing 5.0 acres of land more or less.

R. Alonzo Childress
Registered Professional Engineer
Maryland P.E. No. 10227

SEAL

1107/

DISTRIBUTION WHITE - CASHIER	FOR:	RECEIVED	DAILE CELLY	BALTIMORE COUNT
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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: #04-162-A

8001 Belair Road

S/east side Belair Road, corner northeast side Klein Avenue 14th Election District - 6th Councilmanic District

Legal Owner(s): Geraid J. Stautberg

Variance: to provide a rear yard of 5 feet, in lieu of the required 30 feet and to amend previously approved site plans in Case 03-113-A

Hearing(s): Friday, December 12, 2003 at 9:00 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.

C640715 JT 12/681Dec. 9

CERTIFICATE OF PUBLICATION

1210,2003
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
m = 12 9 2003
The Jeffersonian
Arbutus TimesCatonsville Times
☐ Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News
>1/100

PATUXENT PUBLISHING COMPANY TO:

Tuesday, November 18, 2003 Issue - Jeffersonian Tues day

Please forward billing to:

Michael P. Tancyzn

606 Baltimore Avenue, Suite 106

Towson, MD 21204

410-296-8824 Timothy Kotroco 410-887-3353

LOWSON, WO GIBOCI

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: 04-162-A

8001 Belair Road

S/east side Belair Road, corner northeast side Klein Avenue

14th Election District – 6th Councilmanic District

Legal Owner: Gerald J. Stautberg

Variance to provide a rear yard of 5 feet, in lieu of the required30 feet and to amend previously approved site plan in case 03-113-A

Hearings:

Friday, December 3, 2003 at 9:00 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 ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

> 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: DCF-167-A Petitioner: GERALD J. STAUTBERG
Address or Location: SOOI BELAIR RD
PLEASE FORWARD ADVERTISING BILL TO: Name: MICHAEL P. TANCZYN Address: SUITE 106, 606 BALTIMONE AVEHUE TOWSON MD 21204
Telephone Number: (410) 206 - 8824

Revised 2/20/98 - SCJ

Department of Permits Ranagement

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

November 26, 2003

Michael Tanczyn 606 Baltimore Avenue, Ste. 106 Towson, MD 21204

Dear Mr. Tanczyn:

RE: Case Number: 04-162-A, 8001 Belair Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 30, 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. Cal Richard

WCR:kim

Enclosures

c: People's Counsel Gerald Stautberg, 8001 Belair Road, Baltimore 21236 R. Alonzo Childress, 713 Pheasant Drive, Forest Hill 21050-1528

July 3

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

DATE: October 17, 2003

RECEIVED

OCT 1 7 2003

ZONING COMMISSI

SUBJECT:

8001 Belair Road

INFORMATION:

Item Number:

04-162

Petitioner:

Gerald Stautberg

Zoning:

BR/MLR-IM

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request provided the subject site plan is revised to include the text of the conditions listed in the Order of Case 03-113A. To date, this office had not received a landscaped plan as required by the aforementioned Order.

Prepared by:

Mar KA

Section Chief:

AFK/LL:MAC:

ORDER RECEIVED FOR FILING



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

October 16, 2003

ATTENTION: Rebecca Hart

Distribution Meeting of: October 14, 2003

Item No.:

151 169

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, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 10.14.03

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

RE: Baltimore County

Item No. 162

LTM

Dear Ms. Hart:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US /.

are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA 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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: November 26, 2003

TO:

Timothy M. Kotroco, Director

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For October 20, 2003

Item Nos. 151, 152, 153, 154, 156, 157, 158, 159, 160, 161, 162, 163, 164,

167, and 168

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

RWB:CEN:jrb

cc: File

RE: PETITION FOR VARIANCE
8001 Belair Road; SE/side Belair Road,
corner NE/side Klein Avenue
14th Election & 6th Councilmanic Districts
Legal Owner(s): Gerald J. Stautberg
Petitioner(s)

- * BEFORE THE
- * ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY
- * 04-162-A

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.

 \bigwedge

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

RECEIVED

OCT 2 1 2003

Per.

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 day of October, 2003, a copy of the foregoing Entry of Appearance was mailed to, R. Alonzo Childress, 713 Pheasant Drive, Forest Hill, MD 21050 & to Michael Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, MD 21204, Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

LAW OFFICES

MICHAEL P. TANCZYN, P.A.

Suite 106, 606 Baltimore Avenue

Towson, Maryland 21204

6.8823 • (410) 296-8824 • Fax: (410) 2

(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

August 19, 2003

VIA HAND-DELIVERY

Baltimore County Department of Permits and Development Management Room 109 County Office Building 111 West Chesapeake Avenue Towson, MD 21204

Re:

Petitioner: Gerald J. Stautberg

8001 Belair Road

Dear Mr. Commissioner:

Enclosed herewith please find three (3) Petitions for Variance, twelve (12) plats, three (3) sealed engineer's descriptions, one (1) zoning excerpt sheet, showing the site outlined, as well as our check for filing costs. There are no active zoning violation cases affecting this property at the present time. I anticipate that this hearing will take an hour or less. Please coordinate a time and give us notice of a hearing, so that we can post and advertise as required.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl Enclosures

cc:

Gerald J. Stautberg

Alonzo Childress

AP. POSTIPA

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.

December 4, 2003

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

> Re: Petition for Variance Case No. 04-162-A Property: 8001 Belair Road

Dear Mr. Tanczyn:

As I mentioned at the hearing for the above case, our file did not contain a certificate of publication that is required by the Baltimore County Code. In taking testimony and receiving evidence, I assumed that the certificate was available in the Office of Permits & Development Management and that it had not caught up to the file. Consequently, I requested that department to forward the certificate to this office for the file.

Unfortunately, after an extended search, it was discovered that there had been no certificate of publication and that the necessary paper work had never been sent to the newspaper for publication of the notice of hearing. This oversight is not your problem, but one that the County will have to correct.

Nonetheless, publication of the notice in a newspaper of general circulation in the County is an absolute requirement in order for any decision I make to be legally sufficient. Therefore, I have decided to handle this matter in the following manner:

- 1. I will reopen and continue your case;
- 2. I will request the County to set a new hearing date as soon as possible and publish that date in a countywide newspaper as required by statute;
- 3. I will reopen the case on that date and hear any testimony that is generated as the result of the notice;
- 4. I will not require you or any of your witnesses to attend the new hearing, although you and your witnesses are welcome to attend; and



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

Re: 04-162-A (8001 Belair Road)
Michael P. Tanczyn, Esquire
December 4, 2003
Page –Two-

5. I will issue a written opinion immediately thereafter.

Please accept my apologies for any inconvenience this may have caused you. In the meantime, should you have any questions or require any additional information, please feel free to contact my office at 410-887-3868.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj Enclosure

c: Gerald J. Stautberg 8001 Belair Road Baltimore, MD 21236

R. Alonzo Childress 713 Pheasant Drive Forest Hill, MD 21050

KRISTEN:

RE: <u>04-158-A (2354 GEISE AVE.)</u> & 04-162-A (8001 BELAIR RD.)

THE ABOVE CASES WERE SCHEDULED FOR HEARING ON WEDNESDAY, DECEMBER 3RD. PLEASE SEE THE ATTACHED LETTERS FOR FURTHER INFORMATION.

IN ANY EVENT, THESE TWO CASES WERE NEVER PUBLISHED AND WE ARE REQUESTING THAT YOU SCHEDULE BOTH ITEMS FOR HEARING ON FRIDAY, DECEMBER 12^{TH @} 9:00 A.M. JACK ALREADY HAS AN HOH SCHEDULED FOR ROOM #106 AT THE SAME DATE & TIME.

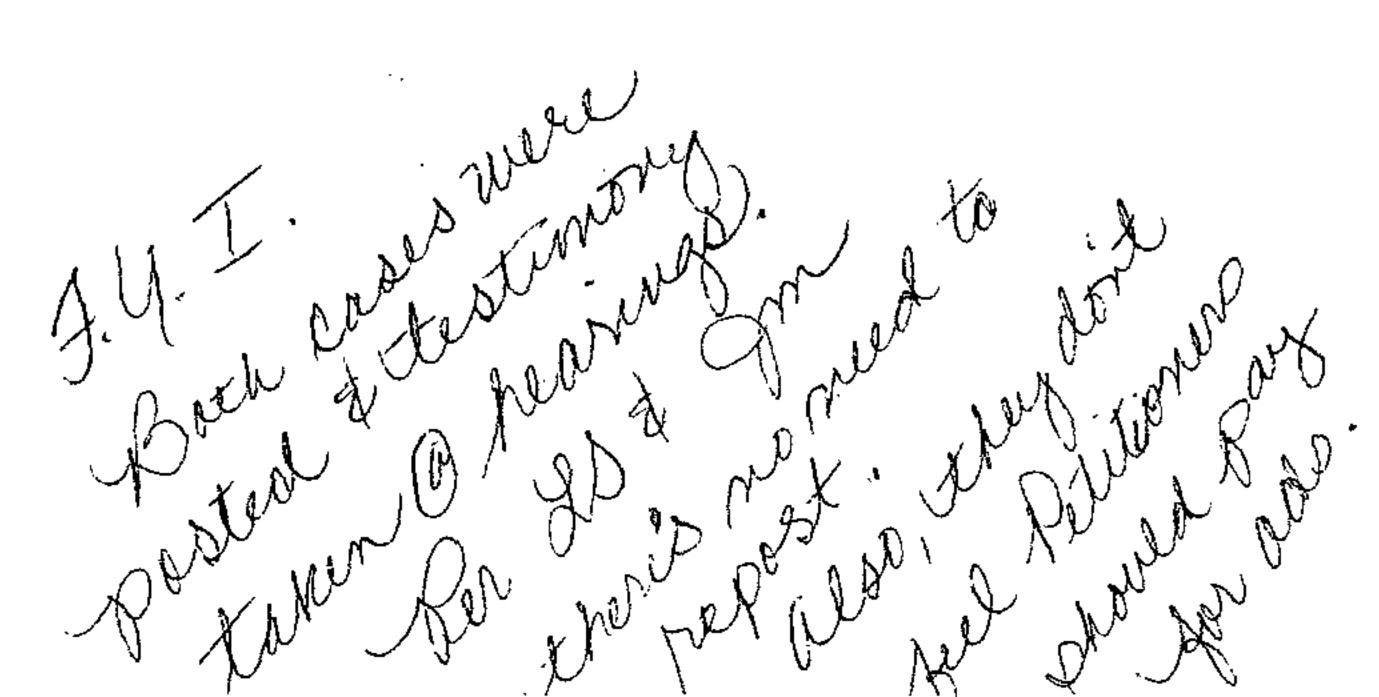
HE DOESN'T EXPECT ANYONE TO APPEAR FOR TESTIMONY IN EITHER OF THESE CASES.

PLEASE GET THE NOTICES TO THE JEFFERSONIAN ASAP SO THAT THEY CAN BE PUBLISHED IN TUESDAY'S EDITION – NOTIFYING THE PUBLIC THAT THE HEARING DATE IS ON FRIDAY, 12/12/03.

THANKS FOR ALL YOUR HELP!!

ALSO: PLEASE LET ME KNOW IF YOU WERE ABLE TO GET THE NOTICES IN THE JEFFERSONIAN TO MEET THE DEADLINE FOR NEXT TUESDAY'S EDITION. IF SO, I WILL NOTIFY THE PETITIONERS.

ROBIN 12/04/03



Intake Flamilei
DROP-OFF PETITIONS PROCESSING CHECK-OFF THIS
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) SEIS Belain Rd. Cott NEIS Klein Are. (Robl (Belain Rd) Zoning: Acreage: Previous Hearing Listed With Decision Election District Councilmanic District Case # Check to See if the Subject Site or Request is: CBCA Floodplain Elderly Historical

Item Number Assigned

Pawn Shop

*If No, Print No

*If Yes, Print Special Handling Category Here

Helicopter

Date Accepted for Filing

IN RE: PETITION FOR VARIANCE

N/S intersection of Klein Avenue
and Belair Road

14th Election District
6th Councilmanic District
(8001 Belair Road)

Gerald J. Stautberg

Petitioner

BEFORE THE

- DEPUTY ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
 - CASE NO. 03-113-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, Gerald J. Stautberg. The Petitioner is requesting a variance for property he owns at 8001 Belair Road. The variance request is to permit a rear yard setback of 5 ft. in lieu of the required 30 ft. for a new building.

Appearing at the hearing on behalf of the variance request were representatives of R. A. Childress & Associates, Inc., the engineers who prepared the site plan of the property and I. William Chase, attorney at law. There were no protestants or others in attendance.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 5.2 acres of property, split-zoned BR and MLR-IM. The subject property is the site of the "The Jerry's Toyota" dealership which has been located on Belair Road in Fullerton for many years. The dealership is interested in constructing some new additions to their existing dealership. The building, which is the subject of this variance request, is proposed to be a used car sales office which is shown on Petitioner's Exhibit No. 1, the site plan submitted into evidence. The sales office itself will sit approximately 5 ft. from the rear property line which abuts a storm water management facility. The purpose of locating the building to the rear of the property is to provide ample display area of automobiles for sale in front of the building along

1018

Belair Road. In order to proceed with the construction of this building the variance request is necessary.

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

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this $\frac{\mathcal{F}^{+}\mathcal{L}}{\mathcal{F}^{-}}$ day of October, 2002, by this Deputy Zoning Commissioner, that the Petitioner's request for variance from Section 238.2 of the

Baltimore County Zoning Regulations, to permit a rear yard setback of 5 ft. in lieu of the required 30 ft. for a new building, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1. The Petitioner may apply for his permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition;
- 2. The Petitioner must comply with the recommendations of the Office of Planning dated September 27, 2002, a copy of which is attached hereto.

TIMOTHY M. KOTROCO

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:raj

PLEASE PRINT CLEARLY

9791-HO 2000 CASE NAME
CASE NUMBER
DATE De. 3. 000 gas) Balan P

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PETITIONER'S SIGN-IN SH

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ADDRESS	X EN	ALTIMORDAM	ELKIR RD. BOWLE									
NAME	ALANZO CHILDRED	TA Lezzyn	2									

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: September 27, 2002

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

8001 Belair Road

INFORMATION:

Item Number:

03-113

Petitioner:

Gerald Stautberg

Zoning:

BR/MLR-IM

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not object to the petitioner's request provided a landscape plan is submitted to this office for review and approval prior to the issuance of any permits. The plan should focus on treatment at the corner of Klein Avenue and Belair Road.

Prepared by:

Section Chief:

AFK/LL:MAC:

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

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: 04-162-A

8001 Belair Road

S/east side Belair Road, corner northeast side Klein Avenue

14th Election District – 6th Councilmanic District

Legal Owner: Gerald J. Stautberg

Variance to provide a rear yard of 5 feet, in lieu of the required30 feet and to amend previously approved site plan in case 03-113-A

Hearings:

Wednesday, December 3, 2003 at 9:00 a.m. in Room 106, County Office

Building, 111 W. Chesapeake Avenue

Timothy Kotroco Director

TK:rlh

C: Michael P. Tanczyn, 606 Baltimore Avenue, Suite 106, Towson 21204 Gerald J. Stautberg, 8001 Belair Road, Baltimore 21236

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, NOVEMBER 18, 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.



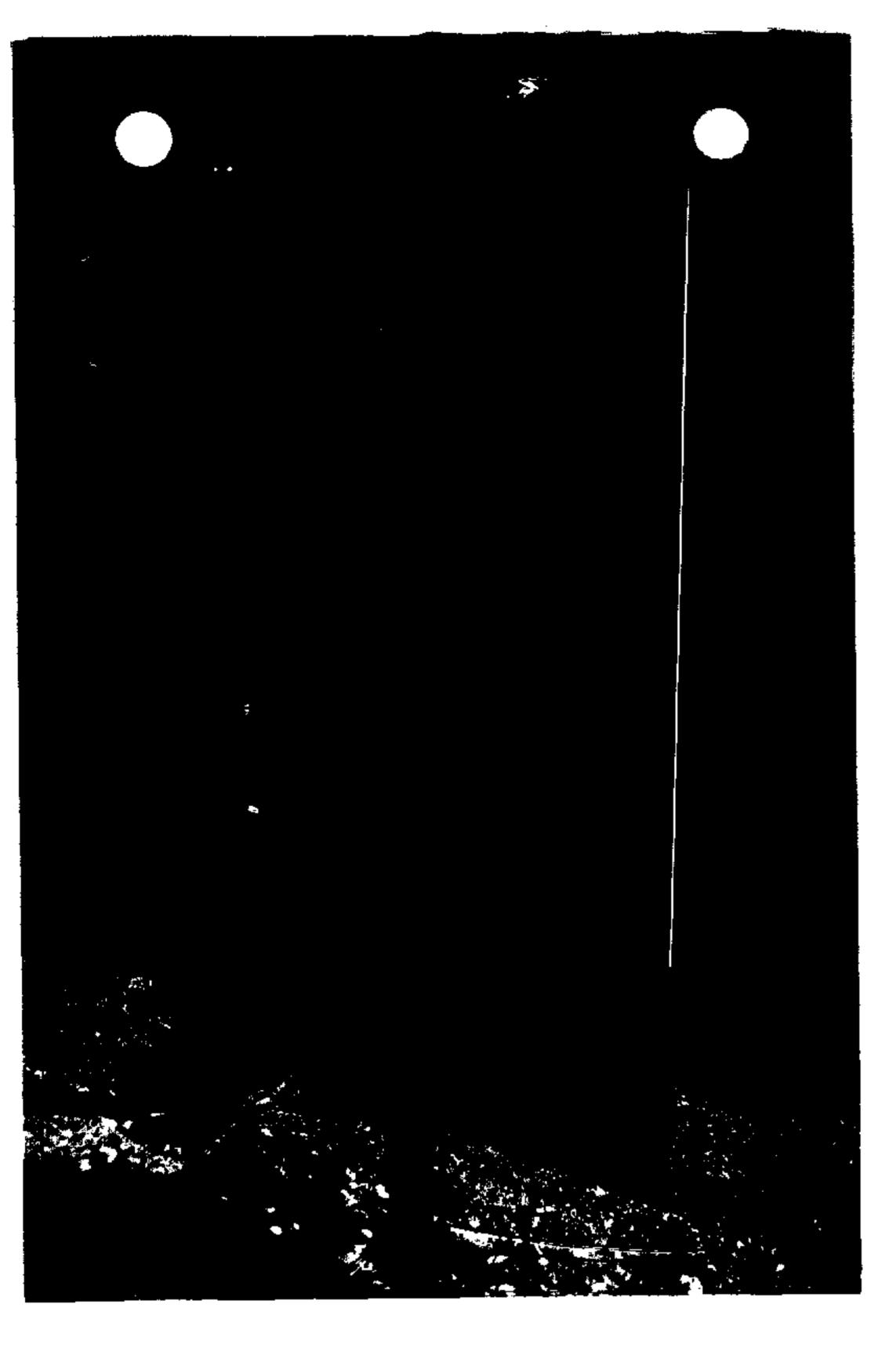
Visit the County's Website at www.baltimorecountyonline.info

CERTIFICATE OF POSTING

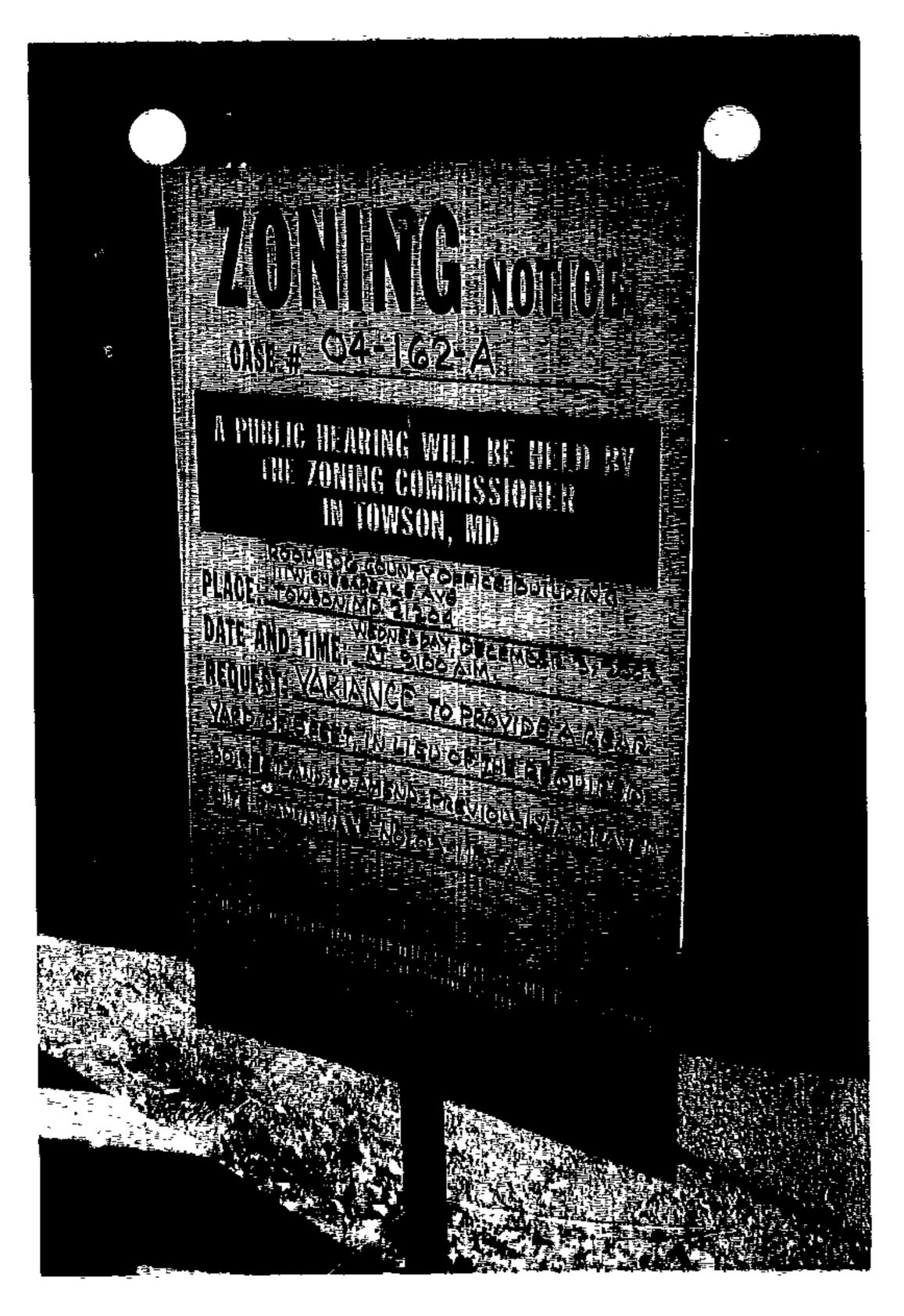
		Date of Hearing/Closing: 12c. 3, 2003
Saltimore County Department Counts and Development Mar County Office Building, Room 11 West Chesapeake Avenue Cowson, MD 21204	nagement n 111	
Attention: BECKY HA	LRT.	•
-		der the penalties of perjury that the necessary sign(s) required by
		cated at # 8001 BELAIN DOAD
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he sign(s) were posted on	Mov. 3,	7003
		(Month, Day, Year)
		Sincerely, Sincerely, (Signature of Sign Poster and Date)
		GARLANDE, Moord (Printed Name)
		3225 RYERSON CIRCLES (Address)
• • • • • • • • • • • • • • • • • • •	<i>:</i>	PAUTINIARE, MD. 2127 (City, State, Zip Code)
	•	(Telephone Number)
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RE: Case No.: 04-162-A

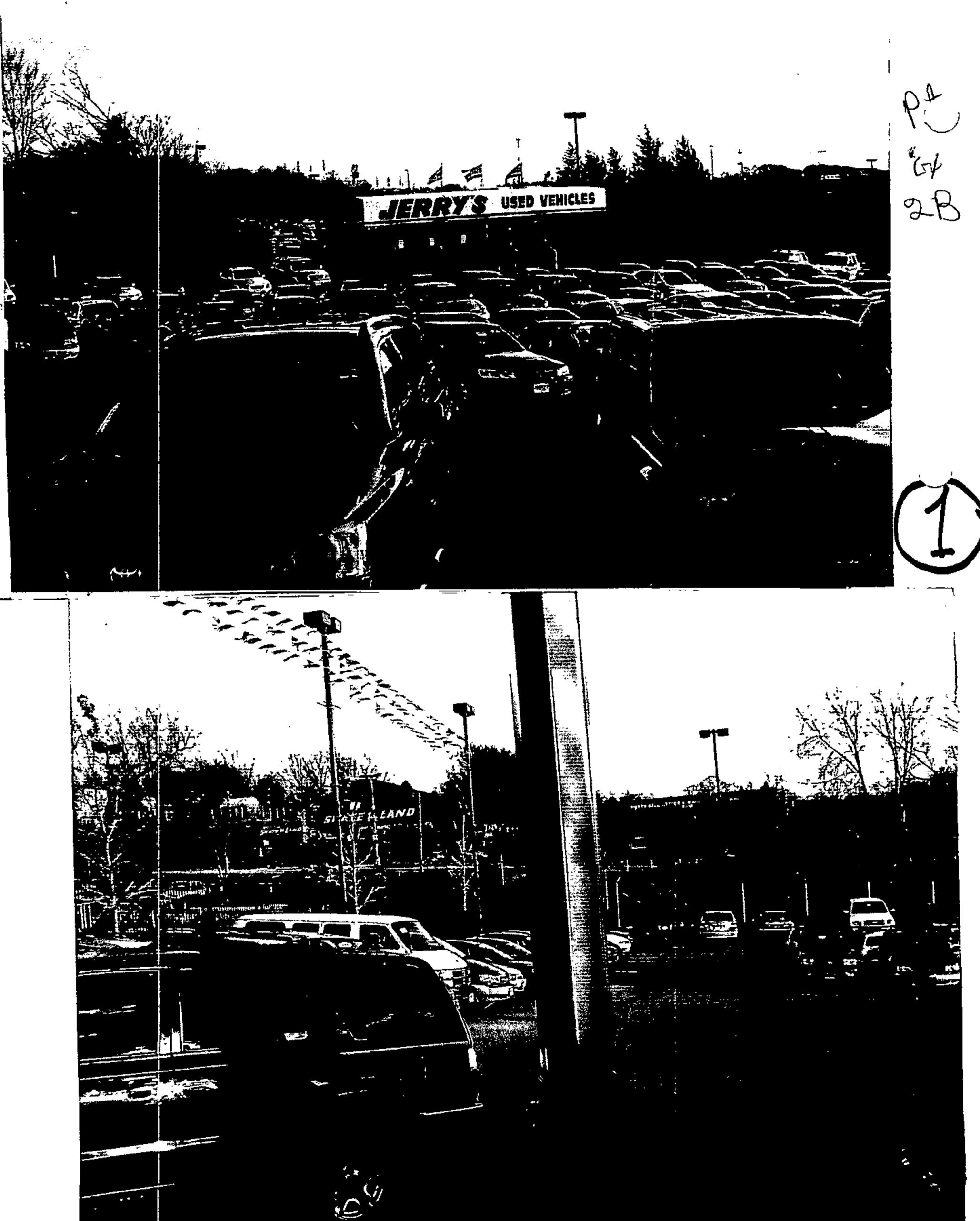
Petitioner/Developer: GERALD J. STAUTBERG





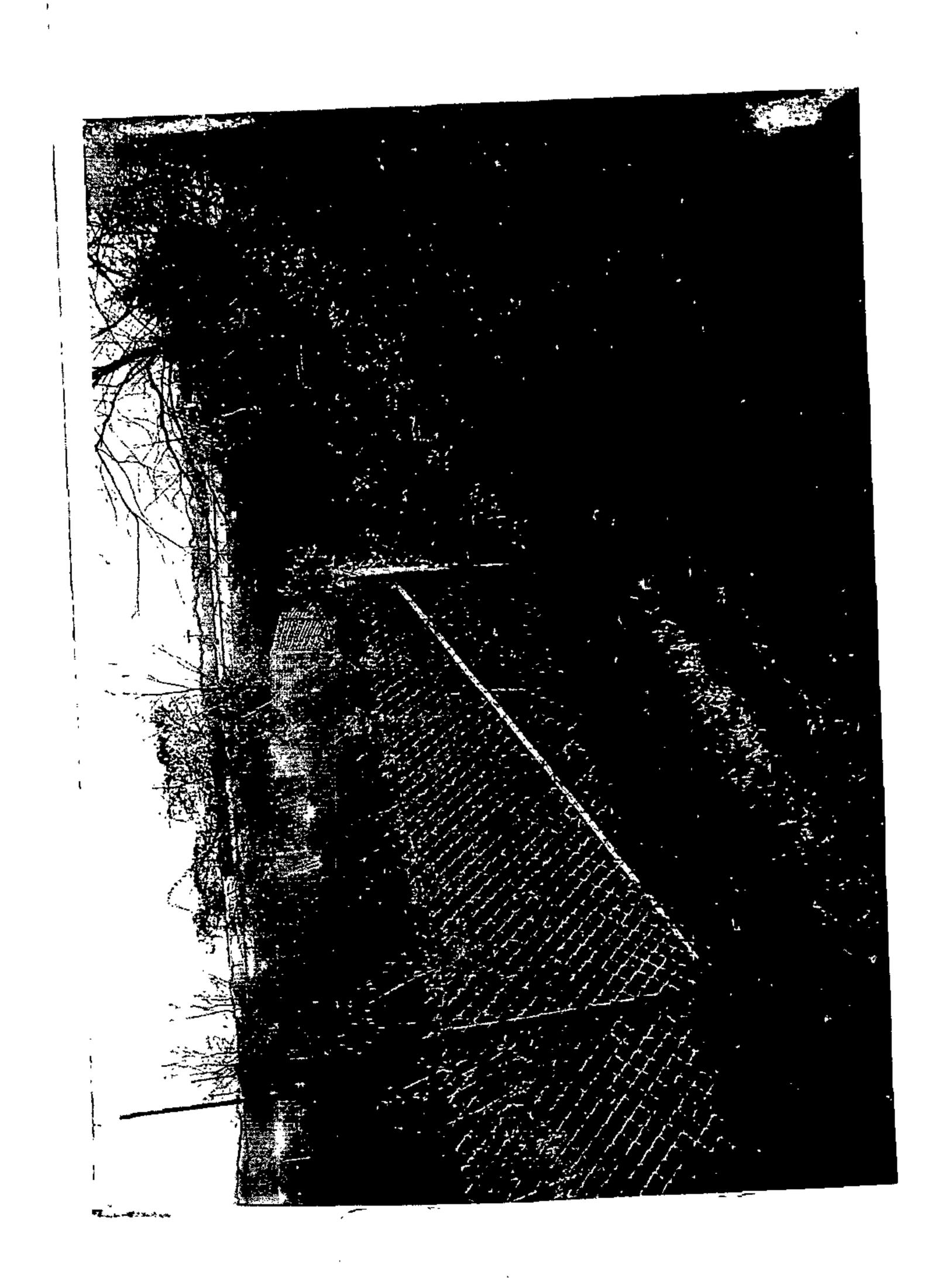


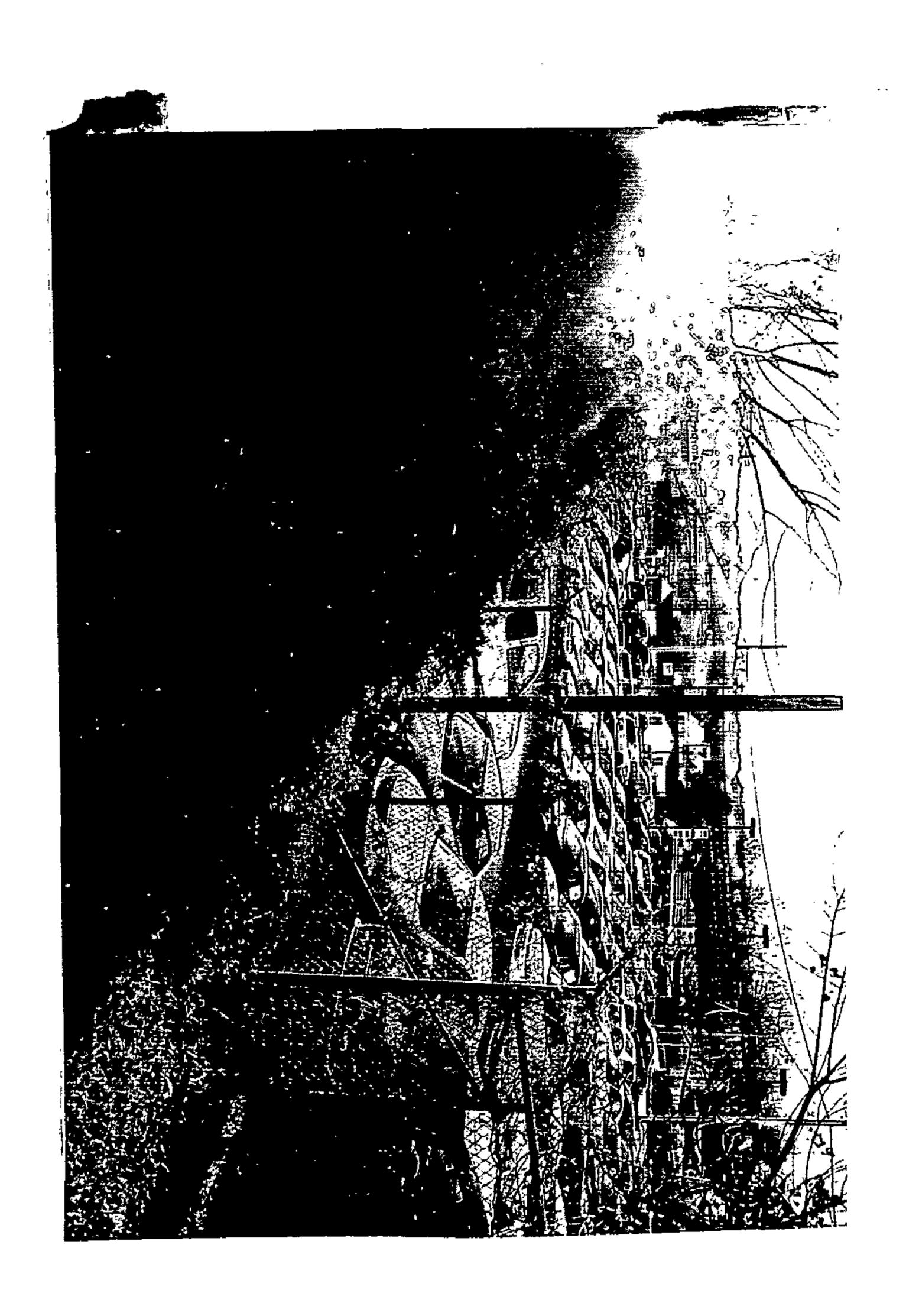


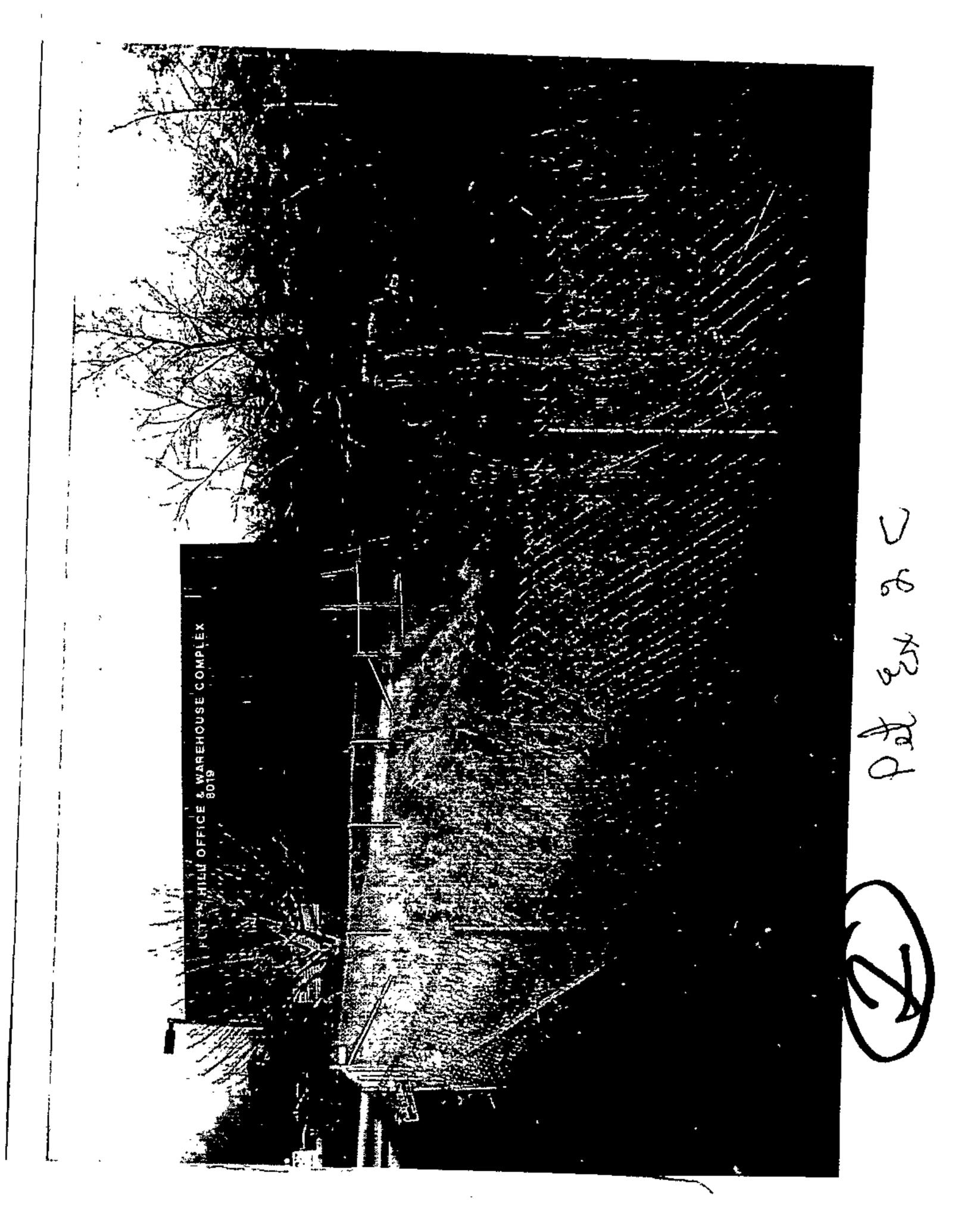


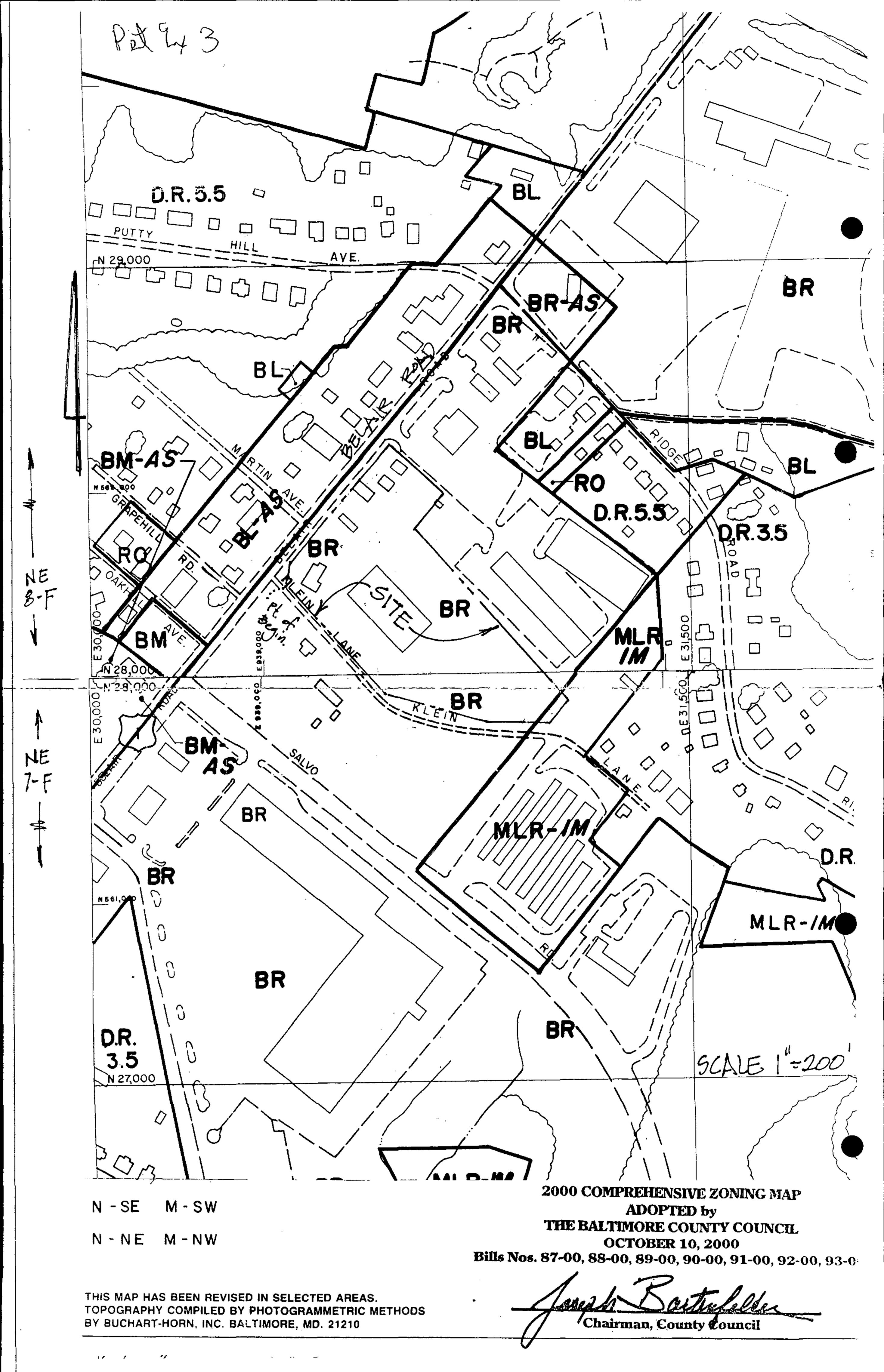


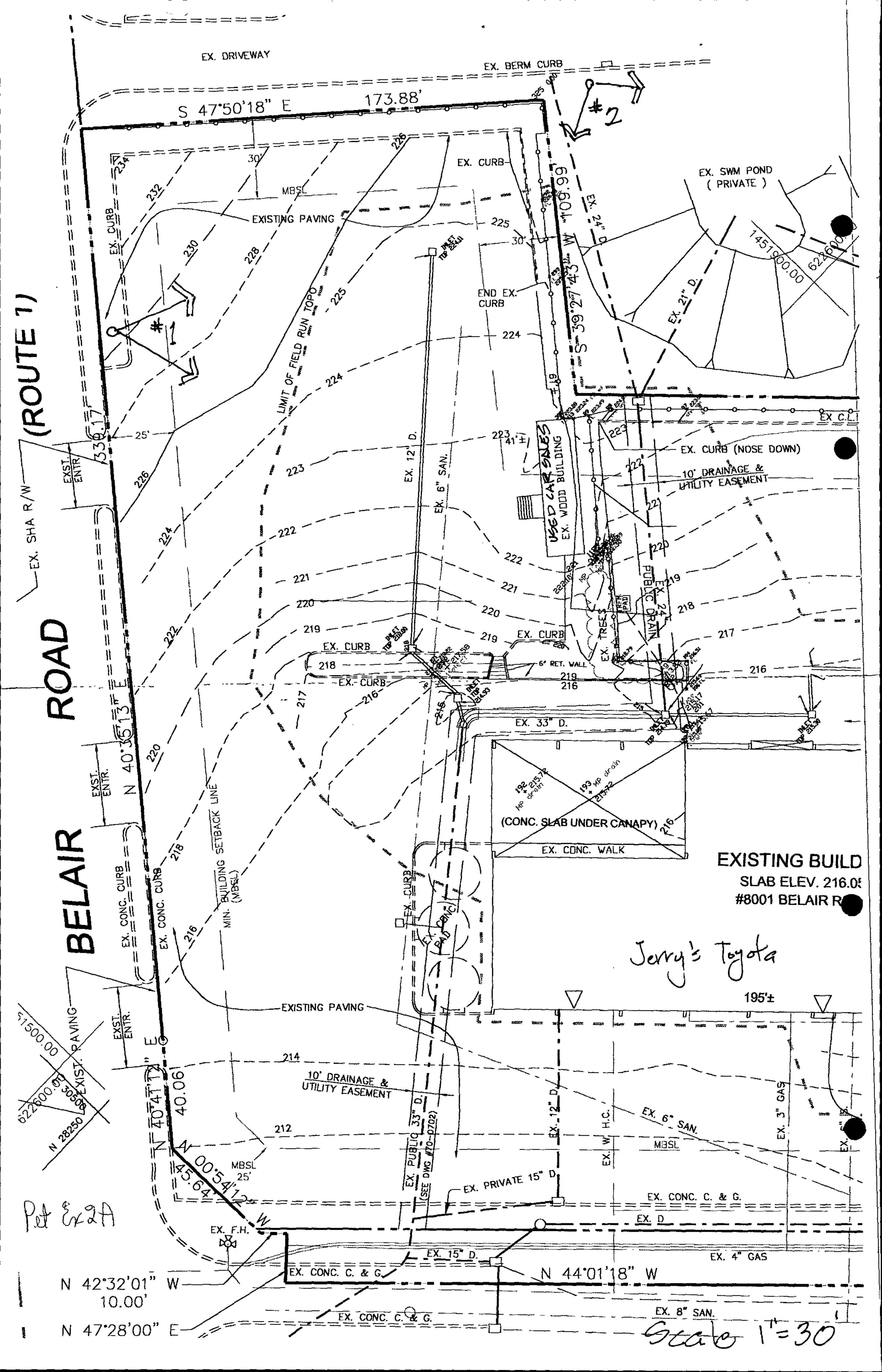















VICINITY MAP VERTICAL DATUM: NAVD 88 MARYLAND STATE COORDINATE SYSTEM NAD 83

1. DEED REFERENCE: 7425/039, 6893/125, 12006/510 (2 PARCELS) . NET = 5.0 A.C. \pm (APPROX. 218,000 sf) GROSS = 5.2 A.C. \pm (APPROX. 226,000 sf)

ENVIRONMENTAL - MAJOR PORTION OF THE SITE CONSIST OF BUILDING & PAVING 6. THERE ARE NO CRITICAL AREA, ARCHAEOLOGICAL SITES, ENDANGERED SPECIES HABITATS OR HISTORICAL BUILDINGS WITHIN THE LIMITS OF CONSTRUCTION SHOWN ON THIS PLAN. TO THE

1. THERE ARE NO CRITICAL EXISTING SLOPES OF 25% OR GREATER. 8. THERE ARE NO EXISTING WELL, SEPTIC SYSTEM OR ABANDONED UNDERGROUND TANKS ON SITE

10. NO WETLANDS EXIST WITHIN A 25' OF THE PROPOSED CONSTRUCTION. 11. NO STREAMS EXIST WITHIN A 100' OF THE PROPOSED CONSTRUCTION. THE SITE IS NOT WITHIN A 100 YEAR FLOODPLAIN.

13. AN ON-SITE PRIVATE UNDERGROUND STORMWATER MANAGEMENT FACILITY EXISTS. A REQUEST WILL BE MADE TO PAY A FEE IN LIEU OF PROVIDING SWM FOR 20% OF THE PROPOSED DISTURBED IMPERVIOUS AREA. (REDEVELOPMENT)

14. EXISTING ZONING OF SUBJECT PROPERTY: BR AND MLR-IM 22,006 SF (INCLUDES 791 SF MODULAR OFFICE BUILDING) PROP. ADDITIONAL FLOOR AREA =

ALLOWED FAR = 2.0

AMENITY OPEN SPACE (AOS) - NOT REQUIRED 16. EXISTING USE: AUTOMOTIVE DEALERSHIP PROPOSED USE: AUTOMOTIVE DEALERSHIP 17. THE SITE IS LOCATED ON 1"=200' SCALE ZONING MAP NE F-7 AND NE F-8 18. ALL PARKING SPACES WILL BE A MINIMUM OF 8.5' X 18' UNLESS OTHERWISE NOTED.

19. LIMITED EXEMPTION FILE 95-008-Z : (DRC No. 11214G) - PORTION OF THE SITE WAS GRANTED A "B-9" LIMITED EXCEPTION ON 11-23-94 FOR PARKING LOT EXPANSION. CASE No 85-239-A: VARIANCE GRANTED TO PERMIT A SETBACK OF 5 FT INSTEAD OF

THE REQUIRED 20 FT FROM THE FRONT PROPERTY LINE & A SIDEYARD SETBACK OF 6 FT INSTEAD OF THE REQUIRED 30 FT USED AS AN OFFICE FOR THE SALE OF USED MOTOR VEHICLES TO ACCURATE SITE PLAN APPROVED BY OFFICE OF PLANNING & THE TRAILER SHALL BE REMOVED WITHIN 2 YEARS

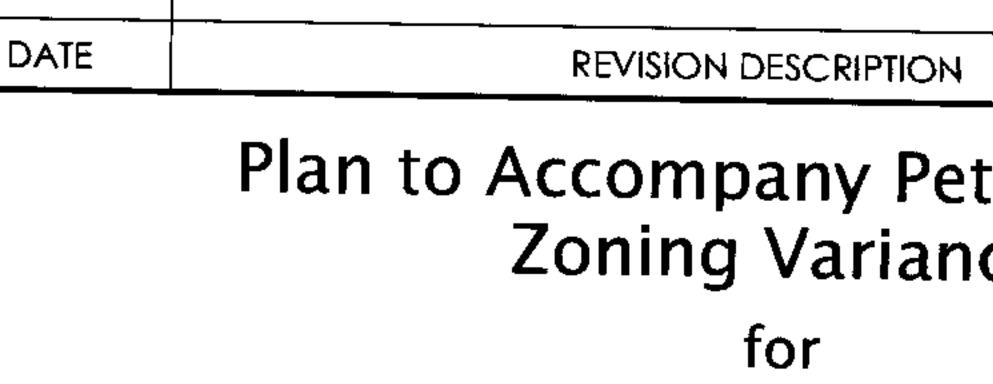
NOTE: THIS TRAILER WAS RELOCATED BY THE MARYLAND STATE HIGHWAY ADM. AS PART OF THE WIDENING OF BELAIR ROAD (ROUTE 1) CASE No 70-77-R: ZONING RE-CLASSIFICATION FROM MLR ZONE TO BR ZONE. CASE No 03-113-A: VARIANCE GRANTED TO PERMIT A REAR YARD SETBACK OF 5 FT IN LIEU OF THE REQUIRED 30 FT FOR A NEW BUILDING.

TOTAL REQUIRED: 143 PARKING SPACES (SEE PARKING DATA TABLE ON THIS SHEET) TOTAL PROVIDED : 86 OUTSIDE +15 OUTSIDE SERVICE STACKING +6 INSIDE SERVICE RECEPTION AREA +38 SERVICE BAYS = 145 SPACES (INCLUDING 5 HC) 22. INCREASED AVERAGE DAILY TRIPS (ADT) FOR PROPOSED SITE IMPROVEMENTS = ADDITIONAL CAR SALES AREA 9,104 SF X 38/1,000= 346 ADT ADDITIONAL SERVICE AREA 8,786 SF X 16/1,000= 140 ADT

TOTAL INCREASE 486 ADT 23. ANY NEW SIGN(S) WILL COMPLY WITH SECTION 413 OF THE "BCZR" & ALL ZONING POLICIES. 24. ILLUMINATION FOR OFF-STREET PARKING WILL REFLECT AWAY FROM RESIDENTIAL LOTS AND

25. THIS PROPOSED SITEWORK SHALL BE LANDSCAPED IN ACCORDANCE WITH THE BALTIMORE

26. APPROXIMATELY 150' OF PUBLIC STORM DRAIN PIPE WILL BE RELOCATED TO ACCOMMODATE EXPANSION OF THE "NEW CAR SALES AREA". A DRAINAGE AND UTILITY EASEMENT THROUGH THE ENTIRE PROPERTY WILL BE DEDICATED TO BALTIMORE COUNTY. CONSTRUCTION OF THE RELOCATED STORM DRAIN SHALL BE IN ACCORDANCE WITH THE "COUNTY UTILITY AGREEMENT".



Plan to Accompany Petition for a Zoning Variance

JERRY'S TOYOTA

8001 BELAIR ROAD BALTIMORE, MD. 21236-3709