IN RE: PETITION FOR VARIANCE N/S of Pine Avenue, 160 ft. E centerline of Windsor Mill Road 2nd Election District 4th Councilmanic District **(7404 Windsor Mill Road)** Rasha Realty, LLC By: Ed Litchfield, Managing Member *Petitioners*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-491-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 owners of the subject property, Rasha Realty, LLC, by Ed Litchfield, Managing Member. The Petitioners are requesting variance relief for property located at 7404 Windsor Mill Road in the western area of Baltimore County. The variance request is from Sections 235, 409.4(A) and 409.8(A)(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

1. to permit a setback variance to allow for a 0 ft. setback from an easterly property line;

2. to permit a variance to allow the current parking lot to remain gravel instead of paved, which has been requested by the County Inspector when HARI received its towing license; and

3. in the alternative, if the parking arrangement illustrated on the site plan, which contemplates only 50% of the interior parking having direct access to the aisle since the parking of the vehicles will be done by an attendance, is not permissible, a variance to allow for the parking of the vehicles on the interior.

The property was posted with Notice of Hearing on June 8, 2004, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 8, 2004 to notify any interested persons of the scheduled hearing date.

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

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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 dated June 1, 2004 was received from the Office of Planning opposing Petitioners' request, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request were Paul Darcy, manager of the facility and Edward Litchfield, managing member of the Petitioner LLC. Douglas S. Walker, Esquire represented the Petitioner. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of approximately one acre in area of which approximately 0.7 acres is zoned BM. The remaining 0.3 acres is zoned DR 5.5. The subject property is presently improved with an auto repair and towing service, which is licensed by the State and County to tow vehicles from County, State and Interstate roadways . Mr. Walker proffered that the existing buildings were built in 1940 and are severely limited from a business standpoint. The Petitioner has no place to service or

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maintain long tow trucks, which can be 40 ft. long, inside a building. Consequently, the Petitioner proposes to construct a 59 ft. x 96 ft. building on the north end of the property. See Petitioner's Exhibit No. 2. Mr. Walker explained that the new building would allow maintenance of the long tow trucks, which the Petitioner employs in its towing business.

Mr. Walker explained that because the subject property was down zoned several years ago, one third of the property was cut off for use as a commercial property. Testimony indicated that the property located to the east is zoned residential and was formerly used as an office although it is now vacant. There is no access to Pine Avenue. Rather, access is by way of a common 12 ft. right-of-way leading from Windsor Mill Road past two auto repair facilities on the adjacent properties, which are zoned BM and BL respectively. Again see Petitioner's Exhibit No. 2.

The Petitioner also uses the area north of the proposed new building to store damaged vehicles in a fenced and screened area, which presents the problem for this Petitioner. Access to this area is via a double gate through the fence, which Mr. Walker explained needed to be 20 ft. wide to accommodate the large trucks delivering damaged vehicles for repair. The distance between the new building and the existing storage building is shown as 37'– 9". The setback requirement for BM is 20 ft. Consequently, the new building, if moved off the property line to meet the setback requirements, would close this 37 ft. dimension to 17 ft. which is not wide enough for proper access to the storage area. Worse yet, the tow vehicles are often 40 ft. long and have to back into the storage area. To do so they need to turn away from the gate, going along the front of the new building nearly to the fence separating the Petitioner's BM and DR portions of the property. If the building were moved forward 20 ft. to meet the setback requirements, this turn would be impossible. The Petitioner explained that not only do tow trucks 40 ft. long use the facility, but even longer tractor trailers up to 65 ft. long deliver vehicles to the premises for repair. These vehicles are so long, they can not even turn around on the property but rather must back out of the facility onto Windsor Mill Road after discharging their contents.

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Moreover, the depth of the new building can not be decreased because the tow vehicles (40 ft. long) need to be able to be parked inside the building for proper maintenance. Similarly, the length of the new building can not be decreased if the volume of repair business is to be accommodated, much of which consists of damaged vehicles from the public roadways. Mr. Walker pointed out that the zoning downshifting of part of the property from BM to DR prevents the new building from being moved out of the way in that direction. Finally, he notes that there already is an 8 ft. high chain link fence with screening along the whole length of the BM zoned property line so that plantings to screen the adjacent DR zoned property or a token setback would be meaningless.

Findings of fact and conclusions of law

I find that there is no lesser variance that would reasonably balance the need to protect the public and the owners' right to develop and use their land. There was apparently no way to reduce the size of the building, or locate it some other place on the property. The property is already full when one considers the turns the tow vehicles must make to back into the fenced storage area. So I am left with either approving the variance or denying the variance. I chose the latter for the reasons to follow but because this decision may be appealed to the Board of Appeals, I will discuss each aspect of the case.

I find the property to be unique in that the imposition of the DR zone on one third of the property long after the lot was laid out clearly impacts this property in a way different from lots in which the zoning line follows the property line. This is basically the same problem we see so often on the eastern side of the County where RC 5 zoning is imposed on the lot long after it is laid out. Again, I think this impacts these properties more restrictively than other lots laid out after the RC zoning was applied.

I also find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The new building must be deep enough to allow maintenance of 40 ft. vehicles. It can not be moved forward because the gate to the storage

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area will be cut off. Similarly, the tow vehicles need to turn east toward the DR portion of the property to be able to back into the storage area. If the setback were enforced the new building would severely interfere with this maneuver.

However, I do not believe the new building located on the rear property line is within the spirit and intent of the zoning regulations. Here the zoning downshift by the County Council sends a loud message. They took extraordinary steps to limit the commercial part of this property when they downshifted the zoning on one third of it to DR 5.5. This limited the expansion of the business severely as shown above. That is what the Council wanted to accomplish.

As important, I find that the new building on the property line will adversely affect the health, safety and welfare of the community. The property is already over used considering 40 ft. and 65 ft. long trucks and trailers which deliver damaged vehicles for repair. The idea of a 65 ft. tractor trailer backing out onto heavily traveled Windsor Mill Road along the 12 ft. right-of-way is truly scary. As one example, see Photograph 1A to glimpse the lack of sight distance for such a maneuver.

The Petitioner's business has clearly outgrown this site. The 0.7 acre of BM zoned land is simply inadequate to serve the Petitioner's present commercial purposes much less the additional business the new building would create. I probably would not have come to this conclusion had the County Council, in its wisdom, left the whole one acre as BM. However, it is clear that with the downshift the site is too small to accommodate the present business much less with an additional building.

Having said that I want to make clear that the service this business provides for the community is valuable as presently operated but could be of even greater value if the expansion shown in the plan is accomplished. The business needs a larger lot. Toward that end I took the liberty to contact the Baltimore County Economic Development Office, Mr. William Jones, 410-887- 8237, for assistance for the Petitioner in finding a larger lot in the County if the Petitioner is

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interested in exploring this possibility. Mr. Jones expressed his understanding of the problem and willingness to help.

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 denied.

THEREFORE, IT IS ORDERED, this 2 day of July, 2004, by this Deputy Zoning Commissioner, that the Petitioner's request for variance from Sections 235, 409.4(A) and 409.8(A)(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

4. to permit a setback variance to allow for a 0 ft. setback from an easterly property line;

5. to permit a variance to allow the current parking lot to remain gravel instead of paved, which has been requested by the County Inspector when HARI received its towing license; and

6. in the alternative, if the parking arrangement illustrated on the site plan, which contemplates only 50% of the interior parking having direct access to the aisle since the parking of the vehicles will be done by an attendance, is not permissible, a variance to allow for the parking of the vehicles on the interior.

be and they are hereby DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING
Date 7/2/04
By

IN THE MATTER OF THE APPLICATION OF RASHA REALTY, LLC BY ED LITCHFIELD - PETITIONER FOR VARIANCE ON PROPERTY LOCATED ON THE N/S PINE AVE, 160' E C/L WINDSOR MILL ROAD (7404 WINDSOR MILL ROAD) 2ND ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	* * * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 04-491-A

* * * * * * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals as a Petition for Variance filed by the legal owners of the subject property, Rasha Realty LLC, by Ed Litchfield, Managing Member. The Petitioners request relief for property located at 7404 Windsor Mill Road in the western area of Baltimore County. The variance request is from §§ 235, 409.4(A) and 409.8(A)(2) of the *Baltimore County Zoning Regulations*.

There were three requests:

1. To permit a setback variance to allow for a 0-foot setback from an easterly property line;

2. To permit a variance to allow the current parking lot to remain gravel instead of paved, which had been requested by the County Inspector when Hebbville Auto Repair, Inc., received its towing license; and

3. In the alternative, if the parking arrangement illustrated on the site plan, which contemplates only 50% of the interior parking having direct access to the aisle since the parking of the vehicles will be done by an attendant, is not permissible, a variance to allow for the parking of the vehicles on the interior.

The Petitioners were present and represented by counsel. People's Counsel Peter M. Zimmerman represented his office.

Testimony indicated that the property is in the Windsor Mills area of the County and is approximately one acre. Part of the lot is zoned B.M. (0.7 acre) and part is zoned DR 5.5. There is presently an auto towing and repair shop located on the lot, which has State and County towing licenses. The licenses require the Petitioners to service an area of State and County roads in which they are able to respond in twenty minutes. Access to the property is by a common 12-

foot right-of-way from Windsor Mill Road. The majority of the business, approximately 80%, is towing. The balance of the business is automobile repair. The Petitioners testified that they are in need of a larger building for the repair, service and maintenance of their towing vehicles as well as to continue with the towing business and auto repairs. The present building is too small to bring the tow trucks inside for service. The current service and repairs of the tow vehicles are made outside. This presents a problem in the winter.

The current building was built in the 1940s. What is proposed is an additional building of 59 feet by 96 feet. This would allow the Petitioners to both service their tow trucks and allow space for more repairs. Part of the lot is needed to store damaged vehicles, thus further limiting the building area. The gate to this area must be 20 feet to allow for the tow trucks to bring in the damaged vehicles.

Applicable Law

Section 307 of the BCZR - Variances.

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

reasons for making such variance.

Section 307 .1 requires that variances only be granted in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request....*Cromwell v. Ward*, 102 Md. App. 691; 651 A. 2d 424 (1995). The first issue to be determined is the uniqueness of the subject property. *Cromwell, supra*, indicates that in the zoning context the unique aspect of variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

We find that the subject property is not unique as defined under *Cromwell, supra*; it is the same size and shape as other commercial lots. There was no evidence of practical restrictions imposed by abutting properties. Their was no evidence its topography was unique. The lot is accessible, and there is nothing unique about its environment. The structure of the building is also not unique. The lot is too small for the proposed addition. The requested variance would allow for additional commercial use by the Petitioners only. Because the petition fails to meet the first standard in § 307.1 of the *Baltimore County Zoning Regulations* and *Cromwell v. Ward*, the requested Petition must be denied.

ORDER

THEREFORE, IT IS THIS 13th day of May, 2005 by the County Board of Appeals of Baltimore County

ORDERED that Petitioners' request for variance from §§ 235, 409.4(A) and 409.8(A)(2) of the *Baltimore County Zoning Regulations* as follows:

1. To permit a setback variance to allow for a 0-ft. setback from an easterly property line;
2. To permit a variance to allow the current parking lot to remain gravel instead of paved, which had been requested by the County Inspector when Hebbville Auto Repair, Inc. (HARI) received its towing license; and
3. In the alternative, if the parking arrangement illustrated on the site plan, which contemplates only 50% of the interior parking having direct access to the aisle since the parking of the vehicles will be done by an attendant, is not permissible, a variance to allow for parking of the vehicles on the interior.

be and is hereby **DENIED**.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Michael O. Ramsey

Margaret Brassil, Ph.D.

In re Petition of RASHA REALTY, LLC for Variance	* *	BALTIMORE COUNTY BOARD OF APPEALS
CASE NO. 04-491-A	*	

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NOTICE OF APPEAL

Rasha Realty, LLC, by and through its undersigned counsel, hereby files this appeal from the decision of the Deputy Zoning Commissioner of Baltimore County and in support thereof states as follows:

1. On April 27, 2004, Rasha Realty, LLC filed a Petition for Variance with the Zoning Commissioner of Baltimore County for the property located at 7404 Windsor Mill Road, Baltimore, Maryland ("Petition for Variance").

2. Specifically, the Petition for Variance requested the following variances:

(a) a setback variance to allow for a zero setback from the easterly property line;

(b) a variance to allow a 12 foot wide entrance road for ingress and egress, which has been in use since prior to 1949;

(c) a variance to allow the current parking lot to remain gravel instead of paved, which has been requested by the County inspector when Hebbvile Auto Repair, Inc.[1] received its towing license; and

(d) in the alternative, if the parking arrangement illustrated on the site plan, which contemplates only 50% of the interior parking having direct access to the aisle since the parking of the vehicles will be done by an attendant, is not permissible, a variance to allow for the parking of the vehicles on the interior of the building with only 50% of the vehicles having direct access to an aisle; or

(e) in the alternative, to allow for only 26 parking spaces on the property rather than the required 30 parking spaces.

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Per.....

ROYSTON, MUELLER,
McLEAN & REID, LLP
SUITE 600
102 W PENN AVE
TOWSON MARYLAND
21204-4575
410 823-1800

3. On June 8, 2004 a hearing was held on the Petition for Variance in front of Deputy Zoning Commissioner John V. Murphy and thereafter an order was issued on July 2, 2004("Initial Order").

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[1] Hebbville Auto Repair, Inc. is the business operating on the Property.

4. The Initial Order denied the Petitioner's (a) request for a setback variance to allow for a zero feet setback from the eastern (rear) property line, (b) request for a variance to allow for the current parking lot to remain gravel instead of paved, (c) request in the alternative, if the parking arrangement illustrated on the site plan which contemplates only 50% of the interior parking lot having direct access to the aisle since the parking of the vehicles will be done by an attendant, is not permissible, a variance to allow for the parking of the vehicles on the interior.

5. On July 20, 2004, Petitioner requested reconsideration of the Initial Order, specifically requesting:

(a) that the Deputy Commissioner grant the Petitioner's request for a variance to allow the 12 foot wide entrance road for ingress and egress which has been in use prior to 1949 (this request was included in the justification statement but was erroneously left off the first page off the variance petition);

(b) for a variance to allow the Property to continue to remain gravel instead of a paved surface, as if the Property were to be paved the surrounding properties may be adversely affected by runoff (the Property is regularly inspected by Baltimore County because the business has a towing license and no objection has ever been made to the gravel lot); and

(c) for a variance to allow for a zero setback from the easterly (rear) property line in lieu of the twenty-foot setback.

6. On August 10, 2004, Deputy Zoning Commissioner Murphy issued an order on the Motion for Reconsideration ("Order on Motion for Reconsideration"), wherein Deputy Commissioner Murphy denied without prejudice the Petitioner's request to allow the 12 foot wide road for ingress for egress which has been used prior to 1949; granted the Petitioner's request for a variance to allow the property to continue to remain gravel instead of a paved surface; and denied the Petitioner's request for a variance to allow for a zero setback from an easterly (rear) property line in lieu of the 20 foot setback.

ROYSTON, MUELLER,
McLEAN & REID, LLP
SUITE 600
102 W PENN AVE
TOWSON MARYLAND
21204-4575
410-823-1800

7. Pursuant to §32-3-401 (formerly §26-132) of the Baltimore County Code, a final decision of the zoning commissioner may be appealed to the Zoning Board of Appeals by filing with the director a notice of appeal within 30 days after the final order.

8. Petitioner hereby appeals the Order on Motion for Reconsideration.

Douglas S. Walker
Royston, Mueller, McLean & Reid, LLP
The Royston Building, Suite 600
102 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 823-1800

ROYSTON, MUELLER,
McLEAN & REID, LLP
SUITE 600
102 W PENN AVE
TOWSON MARYLAND
21204-4575
410-823-1800

IN RE: PETITION FOR VARIANCE N/S of Pine Avenue, 160 ft. E centerline of Windsor Mill Road 2nd Election District 4th Councilmanic District **(7404 Windsor Mill Road)** Rasha Realty, LLC By: Ed Litchfield, Managing Member* *Petitioners*	* * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-491-A

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

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner as a Motion for Reconsideration filed by the legal owners of the subject property, Rasha Realty, LLC, by Ed Litchfield, Managing Member. The Petitioners originally requested variance relief from Sections 235, 409.4(A) and 409.8(A)(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

1 to permit a setback variance to allow for a 0 ft. setback from an easterly property line;

2 to permit a variance to allow the current parking lot to remain gravel instead of paved, which has been requested by the County Inspector when HARI received its towing license; and

3 in the alternative, if the parking arrangement illustrated on the site plan, which contemplates only 50% of the interior parking having direct access to the aisle since the parking of the vehicles will be done by an attendance, is not permissible, a variance to allow for the parking of the vehicles on the interior.

After a public hearing held on the matter (June 23, 2004), the variance request was denied by Order dated July 2, 2003.

On July 20, 2004, the Petitioners filed a Motion for Reconsideration requesting that the following items be reconsidered:

1. Rasha Realty, LLC's request for a variance to allow the 12 ft. wide entrance road for ingress and egress which has been in use prior to 1949.

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The Petitioner indicated that this request was included in the justification statement but was erroneously left off the first page of the variance petition. Attorney for Petitioner brought this to the attention of the County Zoning staff and the issue was listed in the newspaper and on the notice letter;

2. Rasha Realty, LLC's request for a variance to allow the property to continue to remain gravel instead of a paved surface

The Petitioner noted that the property is regularly inspected by Baltimore County because the business has a towing license and no objection has ever been made to the gravel lot; and

3. Rasha Realty, LLC's request for a variance to allow for a zero setback from the easterly (rear) property line in lieu of the twenty-foot setback.

Appendix G, Rule 4 K

K. **Motion for reconsideration**. A party may file a motion for reconsideration of an order issued by the Zoning Commissioner. Such a motion must be made in writing, within 30 days of the date of the original order. The motion must state, with specificity, the grounds and reasons for the request. The filing of a motion for reconsideration shall stay all further proceedings in the matter, including the time limits/deadlines for the filing of an appeal. The Zoning Commissioner shall rule on the motion within 30 days from the date which the motion is accepted for filing. A ruling by the Zoning Commissioner on the motion for reconsideration shall be considered the final decision in accordance with Section 26-209 or 26-132 of the Baltimore County Code. At his discretion, the Zoning Commissioner may convene a hearing to receive testimony and/or argument on the motion. Each party shall be limited to that which is the subject matter of the motion.

Findings of Fact and Conclusions of Law

I find that the Petitioner's request for reconsideration should be partially granted and partially denied. In regard to the first request for a variance to allow a 12 foot wide entrance road, the Petitioner asserts that the certificate of publication for the Jeffersonian newspaper reflected this request. While this is true as shown in the file, unfortunately for the Petitioner the certificate of posting contains a photograph of the sign which was posted on the property and which does not contain any such request. Since notice of this issue was not properly given the public, I am without power to consider the argument made that the September 7, 1954 deed shows a non conforming status. Consequently I will deny this request without prejudice.

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The second request is to allow portions of the property to continue to have gravel road surface in lieu of durable and dustless paving. In denying the Petitioner's request initially for the zero setback for the new building, I overlooked this matter thinking it included within the setback issue. I now realize the Petitioner was asking for this relief separately from the setback issue.

From the evidence presented, I find that the request should be granted, as the nature of the Petitioner's business is a very low number of vehicles moving at very low speeds. I would not expect in these circumstances that there would be any dust problem. The Petitioner asserts this is true in its Motion and I have no evidence to the contrary. Also depending on how compact the gravel becomes, there will be some rainfall, which will sink into the ground with gravel. This is compared with asphalt, which repels all rain causing increased storm water runoff.

Finally the Petitioner asks to reconsider the zero foot setback for the new building which is shown on the original plat as 50 feet deep. In its Motion, the Petitioner says that it can live with a 40 or 45 foot deep building. However the problem with any new building on this site is that the site is already woefully small as noted in the original Order. Any building will simply amplify an already overcrowded situation and for the reasons given in the original order, I will deny this request. Once again I recommend contacting the County Economic Development Office for assistance to find a larger, suitably zoned property which will be more suitable for the Petitioner's business.

THEREFORE, IT IS ORDERED, this 10 day of August, 2004, by the Deputy Zoning Commissioner for Baltimore County, that Petitioner's request in its Motion for Reconsideration for a variance to allow the 12 ft. wide entrance road for ingress and egress which has been in use prior to 1949 be and is hereby denied without prejudice; and

IT IS FURTHER ORDERED that the Petitioner's request for a variance to allow the property to continue to remain gravel instead of a paved surface as shown in Petitioner's exhibit 2 be and hereby is granted; and

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IT IS FURTHER ORDERED that the Petitioner's request for a variance to allow for a zero setback from the easterly (rear) property line in lieu of the twenty-foot setback hereby denied.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING
Date 8/10/04
By

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 7404 Windsor Mill Road, Baltimore,MD

which is presently zoned BM

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) 235, 409.4(A) and 409.8(A)(2), specifically to grant (1) a setback variance to allow for a zero setback from the easterly property line; (2) a variance to allow the current parking lot to remain gravel instead of paved, which has been requested by the County inspector when HARI received its towing license; and (4) in the alternative, if the parking arrangement illustrated on the site plan, which contemplates only 50% of the interior parking having direct access to the aisle since the parking of the vehicles will be done by an attendant, is not permissible, a variance to allow for the parking of the vehicles on the interior* 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 Justification Statement)

*of the building with only50% of the vehicles having direct access to an aisle; or (5) in the alternative, to allow for only 26 parking spaces on the property rather than the required 30 parking spaces.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Douglas S. Walker, Esquire

Name - Type or Print

D S Walker

Signature

Hoyston, Mueller, McLean & Reid, LLP

Company

102 W. Pennsylvania Avenue, Suite 600

Address — Telephone No.

Towson MD 21204 410-823-1800

City — State — Zip Code

Legal Owner(s):

Rasha Realty, LLC by Ed Litchfield, Managing Member

Name - Type or Print

Edward J. Litchfield

Signature

Edward J. Litchfield

Name - Type or Print

Signature

7404 Windsor Mill Road 410-655-0480

Address — Telephone No.

Baltimore MD 21244

City — State — Zip Code

Representative to be Contacted:

Name

Address — Telephone No.

City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 hrs

UNAVAILABLE FOR HEARING

Reviewed By JF/JP **Date** 4-28-04

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Date 7/2/04

By [illegible]

Case No. 04-491-A

Rev. 9/5/93

P.E.L.A.
DESIGN, INC.
Planners, Engineers
Landscape Architects

7400 York Road, Suite 403
Baltimore, MD 21204
TEL: 410-296-3990
FAX 410-296-3898

ZONING DESCRIPTION

Beginning at a point on the north side of Pine Avenue on which property fronts which is sixteen feet (16') wide at the distance of one hundred feet (160')± east of the center line of Windsor Mill Road which is fifty feet (50') wide. Thence the following courses and distances:

Metes and bounds:

N55°30'00"E 171.00', N51°25'00" 274.70', S54°30'00"W 171.50', and S51°25'00"E 275.45', to the place of beginning as recorded in Dee Liber 5455 Folio 122, dated June 3, 1974.

421

REVISED 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: #04-491-A
7404 Windsor Mill Road
North side Pine Avenue, 160-feet East of centerline of Windsor Mill Road.
2nd Election District — 4th Councilmanic District
Legal Owner(s): Rasha Realty, LLC Ed Litchfield, Managing Member

Variance: to permit a zero setback from an easterly property line, to allow the current parking lot to remain gravel instead of paved, and to allow for the parking of the vehicles on the interior, and to allow a 12-foot wide entrance road for ingress and egress which has been in use since prior to 1949.

Hearing: Wednesday, June 23, 2004 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 6/658 June 8 8120

CERTIFICATE OF PUBLICATION

6/9/, 2004

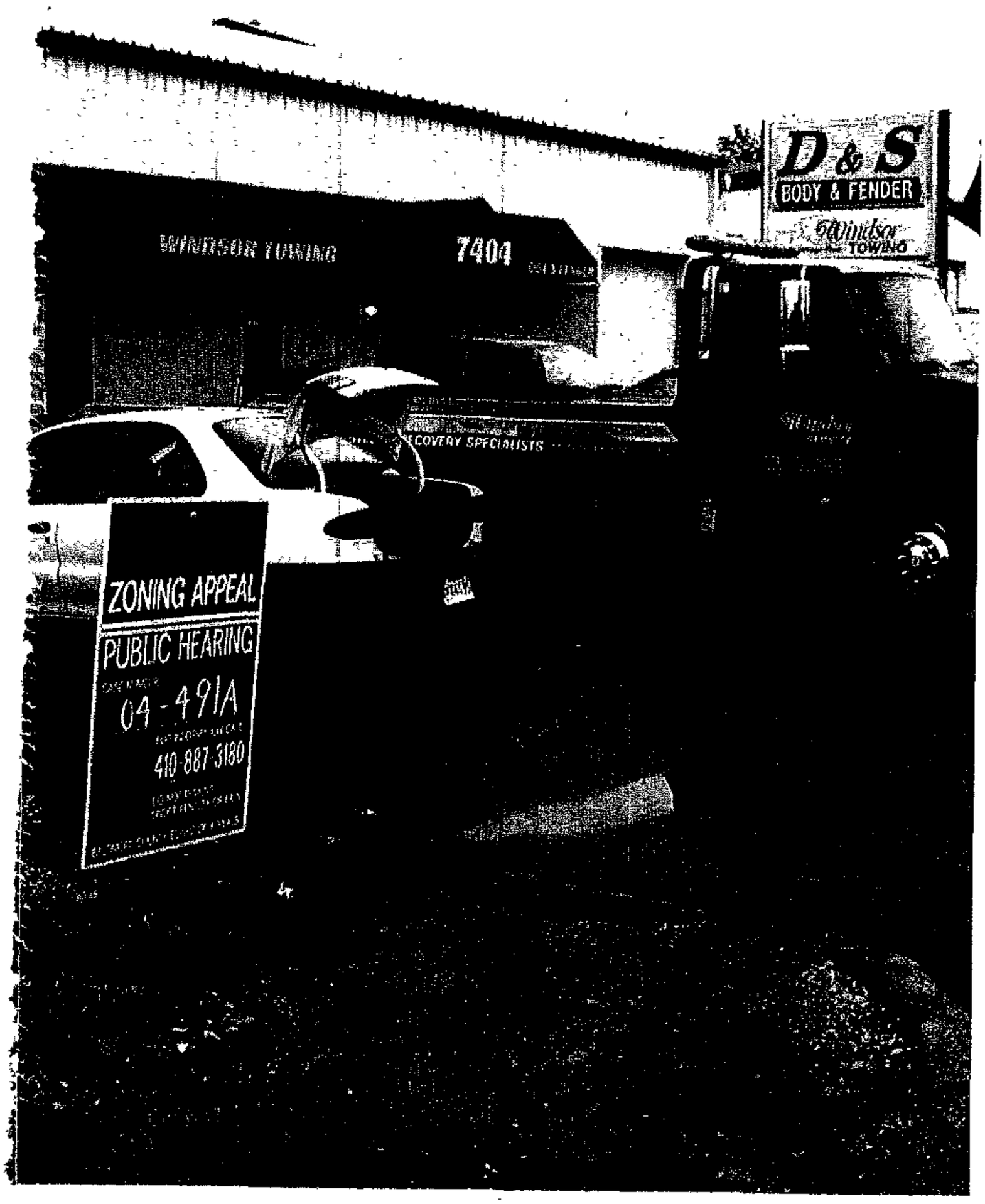
THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/8/, 2004.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

10/23/04


D & S
BODY & FENDER
Windsor TOWING
WINDSOR TOWING
7404
COVERY SPECIALISTS
ZONING APPEAL
PUBLIC HEARING
04-491A
410-887-3180

APPEAL SIGN POSTING REQUEST

CASE NO.: 04-491-A

Rasha Realty by Ed Litchfield – LEGAL OWNER

7404 Windsor Mill Road

2nd ELECTION DISTRICT APPEALED: 9/7/2004

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

CASE NO.: 04-491-A

Petitioner/Developer:

Rasha Realty by Ed Litchfield. – LEGAL OWNER

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

7404 Windsor Mill Road

The sign was posted on 10/29/4 12:34 p, 2004

By: CHEN
(Signature of Sign Poster)

Jerry CHEN
(Printed Name)

APPEAL SIGN POSTING REQUEST

CASE NO.: 04-491-A

Rasha Realty by Ed Litchfield – LEGAL OWNER

7404 Windsor Mill Road

2nd ELECTION DISTRICT APPEALED: 9/7/2004

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

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

CERTIFICATE OF POSTING

RE: Case No.: 04-491-A

Petitioner/Developer:

RASHA REALTY LLC, ED LITCHFIELD

Date of Hearing/Closing: 6/23/04

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

Attention: KRISTEN MATTHEWS

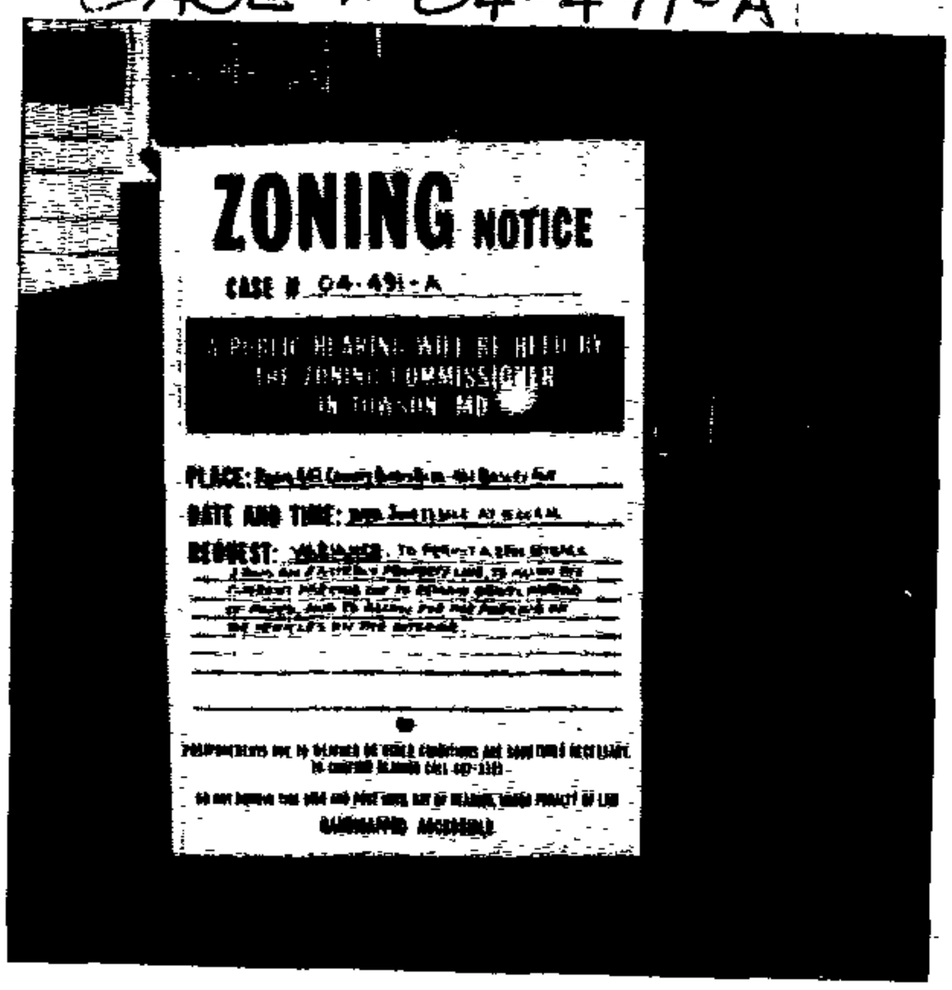
Ladies and Gentlemen:

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

7404 WINDSOR MILL RD

The sign(s) were posted on 6/8/04
(Month, Day, Year)

CASE # 04-491-A



7404 WINDSOR MILL RD
POSTED 6/8/04
6/8/04

Sincerely,

6/8/04
(Signature of Sign Poster and Date)

RICHARD E. HOFFMAN
(Printed Name)

904 DELLWOOD DR.
(Address)

FALLSTON, MD 21047
(City, State, Zip Code)

(410) 879-3122
(Telephone Number)

CERTIFICATE OF POSTING

RE: Case No.: 04-491-A

Petitioner/Developer:

RASHA REALTY LLC, ED LITCHFIELD

Date of Hearing/Closing: 6/23/04

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

Attention: KRISTEN MATTHEWS

Ladies and Gentlemen:

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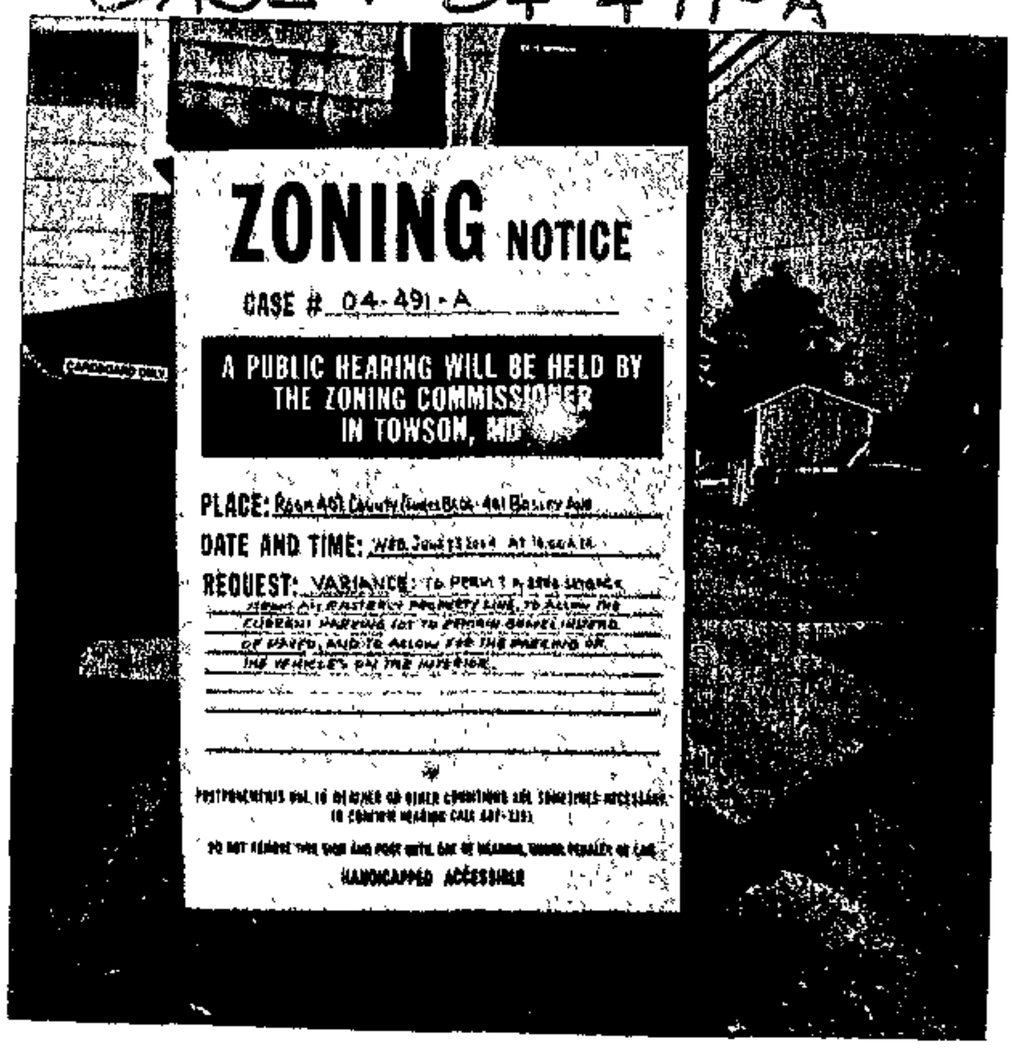
7404 WINDSOR MILL RD

The sign(s) were posted on 6/8/04
(Month, Day, Year)

CASE # 04-491-A



7404 WINDSOR MILL RD
POSTED 6/8/04
6/8/04

Sincerely,

6/8/04
(Signature of Sign Poster and Date)

RICHARD E. HOFFMAN
(Printed Name)

904 DELLWOOD DR.
(Address)

FALLSTON, MD 21047
(City, State, Zip Code)

(410) 879-3122
(Telephone Number)

Department of Perm. and Development Management

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

Baltimore County

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

May 13, 2004

REVISED 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: 04-491-A
7404 Windsor Mill Road
North side Pine Avenue, 160-feet East of centerline of Windsor Mill Road.
2nd Elelction District—4th Councilmanic District
Legal Owners: Rasha Realty, LLC Ed Litchfield, Managing Member

Variance: to permit a zero setback from an easterly property line, to allow the current parking lot to remain gravel instead of paved, and to allow for the parking of the vehicles on the interior, and to allow a 12-foot wide entrance road for ingress and egress which has been in use since prior to 1949.

Hearing: Wednesday, June 23, 2004 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

Timothy Kotroco

Timothy Kotroco
Director

TK: clb

C: Douglas S. Walker, Esquire Royston, Mueller, McLean, & Reid,LLP 102 W. Pennsylvania Avenue, Suite 600 Towson, Maryland 21204
Rasha Realty, LLC Ed Litchfield 7404 Windsor Mill Road Baltimore 21244

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY.TUESDAY, JUNE 8, 2004**
(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.

Printed on Recycled Paper

Department of Permits and Development Management

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

Baltimore County

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

May 7, 2004

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: 04-491-A
7404 Windsor Mill Road
North side Pine Avenue, 160-feet East of centerline of Windsor Mill Road.
2nd Elelction District—4th Councilmanic District
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Timothy Kotroco

Timothy Kotroco
Director

TK: clb

C: Douglas S. Walker, Esquire Royston, Mueller, McLean, & Reid,LLP 102 W. Pennsylvania Avenue, Suite 600 Towson, Maryland 21204
Rasha Realty, LLC Ed Litchfield 7404 Windsor Mill Road Baltimore 21244

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(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

May 13, 2004

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 8, 2004 Issue - Jeffersonian

Please forward billing to:
Rasha Realty, LLC
7404 Windsor Mill Road
Baltimore, Maryland 21244-2843

410-655-0480

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: 04-491-A
7404 Windsor Mill Road
North side Pine Avenue, 160-feet East of centerline of Windsor Mill Road.
2nd Elelction District—4th Councilmanic District
Legal Owners: Rasha Realty, LLC Ed Litchfield, Managing Member

Variance: to permit a zero setback from an easterly property line, to allow the current parking lot to remain gravel instead of paved, and to allow for the parking of the vehicles on the interior, and to allow a 12-foot wide entrance road for ingress and egress which has been in use since prior to 1949.

Hearing: Wednesday, June 23, 2004 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 9, 2004

NOTICE OF ASSIGNMENT

CASE #: 04-491-A

IN THE MATTER OF: RASHA REALTY, LLC by ED LITCHFIELD – Petitioners
7404 Windsor Mill Road
2nd Election District; 4th Councilmanic District

7/02/04 –D.Z.C.'s Order in which requested variance relief was DENIED.
8/10/04 – D.Z.C.'s Ruling on Motion for Reconsideration in which said Motion was DENIED.

ASSIGNED FOR: **TUESDAY, MARCH 15, 2005 at 10:00 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Douglas Walker, Esquire
Appellant /Petitioner : Rasha Realty, LLC by Ed Litchfield

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

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on Recycled Paper

Department of Perm)and
Development Management

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

Baltimore County

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

June 17, 2004

Douglas S. Walker
Royster, Mueller, McLean, & Reid
102 W. Pennsylvania Avenue, Ste. 600

Dear Mr. Walker:

RE: Case Number:04-491-A 7404 Windsor Mill Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 28, 2004.

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

WCR: clb

Enclosures

c: People's Counsel
Rasha Realty, LLC Ed Litchfield 7404 Windsor Mill Road Baltimore 21244

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 1, 2004

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

SUBJECT: 7404 Windsor Mill Road

INFORMATION:

Item Number: 4-491

Petitioner: Rasha Realty, LLC.

Zoning: BM/DR 5.5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

An inspection of the above referenced property revealed that it is accessed via a 12-foot use in common driveway that serves two other service garages that front on Windsor Mill Road. The petitioner is attempting to expand toward existing adjacent residential uses.

The Office of Planning is of the opinion that the petitioner's request for a 0-foot setback will be detrimental (due to noise and lights) to the adjacent residential uses. Failure to provide a durable and dustless surface for storage/parking vehicles on this site could also be detrimental to adjacent properties. The petitioner proposes an entrance to the site from Pine Avenue. The portion of the property fronting Pine Avenue is zoned DR 5.5. This office does not recommend an entrance to this site be installed on Pine Avenue.

Therefore, this office recommends that the petitioner's requests be **DENIED**.

Prepared by: Marl A Cunningham

Division Chief: Lyn Lanham
AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 13, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For May 17, 2004
Item No. 491

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

Recommend against setback variance. Landscape manual requires a minimum 10-foot setback against residential zone or use.

RWB:cab

cc: File

ZAC-05-17-2004-ITEM NO 491-05132004

Baltimore County
Fire Department

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

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

May 10, 2004

ATTENTION: Rebecca Hart

Distribution Meeting of: May 10, 2004

Item No.: 472, 488, 490-501 (491)

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.

6. 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

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: R. Bruce Seeley JDO/RBS

DATE: May 18, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of May 3, 2004

__X__ The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-472
04-488
04-489
04-490
04-491
04-493
04-494
04-496
04-496
04-497
04-498
04-499
04-500
04-501

Reviewers: Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

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

SHA
State Highway Administration
Driven to Excel

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 5·11·04

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

RE: Baltimore County
Item No. 491 JJS

Dear. Ms.Matthews:

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,

K. A. McDonald

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

RE:	PETITION FOR VARIANCE 7404 Windsor Mill Road; N/side Pine Avenue, 160' E c/line of Windsor Mill Road 2nd Election & 4th Councilmanic Districts Legal Owner(s): Rasha Realty, LLC, Ed Litchfield, Managing Member Petitioner(s)	* * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 04-491-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.

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

Carole S. Demilio
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 12th day of May, 2004, a copy of the foregoing Entry of Appearance was mailed to, Douglas S. Walker, Esquire, Royston, Mueller, McLean & Reid, LLP, 102 W Pennsylvania Avenue, Suite 600, Towson, Maryland 21204, Attorney for Petitioner(s).

RECEIVED
MAY 12 2004
Per.....

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

Department of Permits and Development Management

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

Baltimore County

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

September 23, 2004

Douglas S. Walker
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Avenue, Ste. 600
Towson, MD 21204

Dear Mr. Walker:

RE: Case: 04-491-A, 7404 Windsor Mill Road

Please be advised that we received your appeal of the above-referenced case was filed in this office on September 7, 2004. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Edward Litchfield, Rasha Realty, LLC, 7404 Windsor Mill Road, Baltimore 21244

Printed on Recycled Paper

APPEAL

Petition for Variance
7404 Windsor Mill Road
N/S Pine Ave., 160 ft. E c/l Windsor Mill Rd.
2nd Election District – 4th Council District
Rasha Realty, LLC by Ed Litchfield - Petitioners

Case No.: 04-491-A

✓ Petition for Variance (April 28, 2004)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (May 13, 2004)

✓ Certification of Publication (Jeffersonian – June 8, 2004)

✓ Certificate of Posting (June 8, 2004) by Richard E. Hoffman

✓ Entry of Appearance by People's Counsel (May 12, 2004)

✓ Petitioner(s) Sign-In Sheet – One Sheet

✓ Protestant(s) Sign-In Sheet - None

✓ Citizen(s) Sign-In Sheet – None

✓ Zoning Advisory Committee Comments 6-17-04

✓ Petitioners' Exhibit
- ✓1. Photos 1A – 1M
- ✓2. Plan to accompany Variance
- ✓3. Deed
- ✓4. Real Property Search

✓ Protestants' Exhibits - None

✓ Miscellaneous (Not Marked as Exhibit) - None

✓ Deputy Zoning Commissioner's Order (July 2, 2004 – DENIED)

✓ Motion for Reconsideration Request – (July 20, 2004)

✓ Order on Motion for Reconsideration – (August 10, 2004 – DENIED)

✓ Notice of Appeal received on September 7, 2004 from Douglas Walker on behalf of Rasha Realty

RECEIVED
SEP 7 2004
BALTIMORE COUNTY
BOARD OF APPEALS

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Douglas Walker, 102 W. Pennsylvania Ave., Ste. 600, Towson 21204
Edward Litchfield, Rasha Realty, LLC, 7404 Windsor Mill Road, Baltimore 21244

date sent September 24, 2004, klm

DOUGLAS WALKER ESQUIRE
102 W PENNSYLVANIA AVENUE
STE 600
TOWSON MD 21204
ATTORNEY FOR PETITIONER/ APPELLANT

EDWARD LITCHFIELD
RASHA REALTY LLC
7404 WINDSOR MILL ROAD
BALTIMORE, MD 21244
PETITIONER/APPELLANT

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Rasha Realty, Inc. Case No. CBA-04-140

DATE : April 7, 2005 at 9 :30 a.m.

BOARD/PANEL: Larry S. Wescott
Michael O. Ramsey
Margaret Brassil

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate whether variances seeking to change set back requirements and to pave parking lot.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- Petitioner has had a towing license since 1974.
- Petitioner would like changes made to the property which would allow him space to repair his own towing vehicles.
- Facts fail to meet standards under Cromwell.
- Not granting the variances would not hurt his towing business.
- Property is not unique in any way.
- Land locked property does not make it unique.

DECISION BY BOARD MEMBERS: Unanimous decision not to grant the requested variances.

FINAL DECISION: After a deliberation of the facts between the Board members it was decided that there was not substantial cause to grant the requested variances. The fact that these variances are not granted would have no direct impact on the Petitioner's towing business.

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

Respectfully Submitted

Linda B. Fliegel

Linda B. Fliegel
County Board of Appeals

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

R. TAYLOR McLEAN
E. HARRISON STONE
WILLIAM F. BLUE
THOMAS F. McDONOUGH
LAUREL PARETTA REESE*
KEITH R. TRUFFER*
ROBERT S. HANDZO*
JOHN W BROWNING
TIMOTHY J. OURSLER
ROBERT G. BLUE

CRAIG P WARD
KATHERINE S DREGIER
LEANNE M. SCHRECENGOST
DOUGLAS S. WALKER+

SUITE 600
THE ROYSTON BUILDING
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4575

TELEPHONE 410-823-1800
FACSIMILE 410-828-7859
www.rmmr.com

OF COUNSEL
RICHARD A. REID
EUGENE W. CUNNINGHAM, JR., P.A.
CHARLES F. STEIN, III, P.C.
H. EMSLIE PARKS*
BRADFORD G.Y. CARNEY
LISA J. McGRATH

CARROLL W. ROYSTON
1913-1991

H ANTHONY MUELLER
1913-2000

* ALSO ADMITTED IN D.C.
+ALSO ADMITTED IN PA.

April 27, 2004

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

Re: Variance Application Justification Statement for Hebbiville Auto Repair Building Addition, 7404 Windsor Mill Road, Baltimore, MD 21244.

Dear Sir/Ma'am:

Rasha Realty, LLC currently owns the property known as 7404 Windsor Mill Road in Baltimore County Maryland, which consists of 1.03 acres of land more or less (the "Property"). On the Property, Paul Farace and Ed Litchfield operate the a business known as Hebbville Auto Repair, Inc. ("HARI") which is currently accessed via a 12 foot wide right of way from Windsor Mill Road. HARI along with Rasha Realty, LLC (hereinafter "Petitioner") wish to construct a 50' x 96' (4,800 square feet) metal auto repair/storage building on the Property.

In connection therewith, Petitioner requests the following variances:

(1) a setback variance to allow for a zero setback from the easterly property line;
(2) a variance to allow a 12 foot wide entrance road for ingress and egress which has been in use since prior to 1949;
(3) a variance to allow the current parking lot to remain gravel instead of paved, which has been requested by the County inspector when HARI received its towing license; and
(4) in the alternative, if the parking arrangement illustrated on the site plan, which contemplates only 50% of the interior parking having direct access to the aisle since the parking of the vehicles will be done by an attendant, is not permissible, a variance to allow for the parking of the vehicles on the interior of the building with only 50% of the vehicles having direct access to an aisle; or
(5) in the alternative, to allow for only 26 parking spaces on the property rather than the required 30 parking spaces.

491

The sealed plats submitted in connection with this application contemplate the stacking of vehicles in the proposed building to comply with the minimum parking space requirements of the Baltimore County Zoning regulations. The vehicles that will be parked in the proposed and existing building will be parked by employees of HARI and therefore the Zoning Commissioner may approve of the parking arrangement pursuant to §409.4(B)(1). If the Zoning Commissioner finds this does not comply with the Baltimore County Zoning Regulations, Petitioner requests a variance to allow for 20 stacked parking spaces in the proposed building and 10 stacked parking spaces in the existing building or in the alternative a variance to allow 26 total parking spaces on the Property rather than the required 30 total parking spaces. (8 in the existing building, 16 in the new building, and 2 in the parking lot).

In support of this request, Petitioner states as follows:

A. HARI has a Baltimore County Towing license and is a unique property located off of Windsor Mill Road and has always been accessed by a 12-foot wide right of way from Windsor Mill Road. An auto repair facility has been operating on the Property and serving the general public since prior to 1949 (the existing building was built in 1940). Therefore the current zoning provisions have more impact on the HARI property than the surrounding properties.

B. Due to Baltimore County's decision to halt the issuance of all towing permits and a rapid increase in the auto repair business, HARI is in urgent need of an additional building for auto repair and storage. Without this building addition, HARI will not be able to operate the business properly and will suffer substantial financial hardship. Further, the size of the Property and current layout make it impossible to place an addition on the Property in any other location without Petitioner suffering a substantial financial hardship.

Currently, there is an existing dumpster pad with two dumpsters located along the southside of the property just east of the existing 12' wide entrance road and an electrical meter located in the middle of the property. In order to provide adequate maneuvering space for both towing vehicles and dumpster trucks, as well as for this towing and auto repair facility to function properly and efficiently, (i) the building addition must be located along the east property line with zero setback and (ii) all but two of the parking spaces must be located inside the buildings. Strict compliance with the BCZR regarding the rear yard setback requirement and parking space requirements will prohibit the efficient use of the property and therefore result in financial hardship and difficulty in the business operation.

Further, the existing twelve-foot entrance is a right of way that was granted years ago that the owners of the Property have consistently used for ingress and egress. Rasha Realty is unable to widen the access road to 22 feet to meet the requirements of the Baltimore County Code due to the placement of other buildings around the access road.

491

The parking lot is currently paved with gravel and has been so since prior to 1949. Baltimore County storm water management has previously denied attempts to pave the parking lot as it would have a detrimental effect on the surrounding properties. Further, when HARI obtained a towing license a Baltimore County Code enforcement officer approved of the composition of the parking lot.

C. As no residential structure is proposed, there will not be any increase in residential density.

D. The request for setback variance will continue to be in harmony with the spirit and intent of height, area, off-street parking, sign regulations.

E. Granting of the variance will not cause substantial injury to public health, safety, and general welfare.

In light of the foregoing, we respectfully request that Baltimore County grant the aforementioned variances to Petitioner. Should you have questions, or need additional information, please do not hesitate to contact me. Thank you.

Sincerely,

Douglas S. Walker

F:\COMMERCIAL\Dsw\Clients\Farace\Variancejustification.ltf

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

SUITE 600
THE ROYSTON BUILDING
102 WEST PENNSYLVANIA AVENUE

TOWSON, MARYLAND 21204-4575

TELEPHONE 410-823-1800
FACSIMILE 410-828-7859
www.rmmr.com

R. TAYLOR McLEAN
E. HARRISON STONE
WILLIAM F. BLUE
THOMAS F. McDONOUGH
LAUREL PARETTA REESE*
KEITH R. TRUFFER*
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TIMOTHY J. OURSLER
ROBERT G. BLUE

CRAIG P. WARD
LEANNE M. SCHRECENGOST
DOUGLAS S. WALKER+
DAVID F. LUBY

OF COUNSEL
RICHARD A. REID
EUGENE W. CUNNINGHAM, JR., P.A.
CHARLES F. STEIN, III, P.C.
H. EMSLIE PARKS*
BRADFORD G.Y. CARNEY
LISA J. McGRATH

CARROLL W. ROYSTON
1913-1991

H. ANTHONY MUELLER
1913-2000

* ALSO ADMITTED IN D.C.
+ALSO ADMITTED IN PA.

July 20, 2004

VIA HAND DELIVERY
John V. Murphy
Deputy Zoning Commissioner
Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RECEIVED
JUL 20 2004
ZONING COMMISSIONER

Re: Petition for Variance
Case No. 04-491-A
Property: 7404 Windsor Mill Road

Dear Deputy Commissioner Murphy:

Pursuant to our telephone conversation last week, I am writing to respectfully request your reconsideration of the order issued July 2, 2004 regarding the above referenced Petition for Varaince (the "Order"). Specifically, I request that the following requests contained in the Petition for Variance be reconsidered:

(1) Rasha Realty, LLC's request for a variance to allow the 12 foot wide entrance road for ingress and egress which has been in use prior to 1949 (this request was included in the justification statement but was erroneously left off the first page off the variance petition. I brought this to the attention of the Baltimore County Zoning staff and the issue was listed in the newspaper and on the notice letter);

(2) Rasha Realty, LLC's request for a variance to allow the Property to continue to remain gravel instead of a paved surface, as if the Property is paved the surrounding properties may be adversely affected by runoff (the Property is regularly inspected by Baltimore County because the business has a towing license and no objection has ever been made to the gravel lot); and

(3) Rasha Realty, LLC's request for a variance to allow for a zero setback from the easterly (rear) property line in lieu of the twenty-foot setback.

Evidence introduced at the hearing, specifically the deed dated September 7, 1954, which was marked as Plaintiff's Exhibit 3, establishes that the Property was serviced by the twelve-foot driveway previous to Baltimore County zoning regulations taking effect. Further, the parking lot on the Property has never been paved and has always been maintained with gravel.

As you know pursuant to our conversation after the hearing on the Petition for Variance, Rasha Realty, LLC also still desires to pursue the request for a zero setback on the easterly property line. Although my client desires that you grant it's request for a zero setback variance, it is feasible to place a smaller structure on the property with a five or ten foot setback. As testified at the hearing, the only downside of granting a five or ten foot setback would be the resulting size of the building (40 feet rather than 50 feet) which would not allow Hebbville Auto Repair, Inc. ("Hebbville") to service "rollbacks" in the new building, which they are unable to do now as well. However, allowing a five or ten foot setback in lieu of the required 20 foot setback would allow Hebbville to place a structure on the property to service vehicles, which is it's primary need at the present time.

Further, allowing a zero, five or ten foot setback will not result in increased traffic at the current location. Hebville is, and has been, very busy for some time to their various towing contracts and the purpose of the new building is to service the existing business as the only other enclosed service area on the Property can only accommodate four vehicles.

Rasha Realty, LLC and I thank you for your reconsideration of this matter, and if you have any questions please feel free to contact me at anytime.

Very truly yours,

Douglas S. Walker

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PLEASE PRINT CLEARLY

CASE NAME 7404 Windsor Mill
CASE NUMBER
DATE

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Edward J Lichtenfuss owner	7404 WINDSOR MILL RD	Balto, MD 21244	
Paul Harris	7404 WINDSOR MILL RD	BALTO MD 21244	
Doug Unger	102 W. Pennsylvania Ave. Suite 600	Towson, Md 21204	

PC 3

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 02 **Account Number** - 0204200210

Owner Information

Owner Name: BARD EDWARD
BARD CLAUDETTE

Use: RESIDENTIAL

Principal Residence: YES

Mailing Address: 2112 PINE AVE
BALTIMORE MD 21244-2826

Deed Reference: 1) /20674/ 89
2)

Location & Structure Information

Premises Address
2112 PINE AVE

Legal Description
2112 PINE AVE NWS
400 E WINDSOR MILL RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No: Plat Ref:
87	5	612						80	

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1925	1,736 SF	21,780.00 SF	04

Stories	Basement	Type	Exterior
1 1/2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	35,440	47,440		
Improvements:	80,760	86,620		
Total:	116,200	134,060	122,153	128,106
Preferential Land:	0	0	0	0

Transfer Information

Seller: BONILLA JOSE A	**Date:** 09/13/2004	**Price:** $210,000
Type: MULT ACCTS ARMS-LENGTH	**Deed1:** /20674/ 89	**Deed2:**
Seller: PINE AVENUE LLC	**Date:** 12/17/2003	**Price:** $175,000
Type: MULT ACCTS ARMS-LENGTH	**Deed1:** /19313/ 36	**Deed2:**
Seller: PARSON EDMUND L	**Date:** 09/01/1998	**Price:** $0
Type: NOT ARMS-LENGTH	**Deed1:** /13117/ 208	**Deed2:**

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO

Exempt Class:

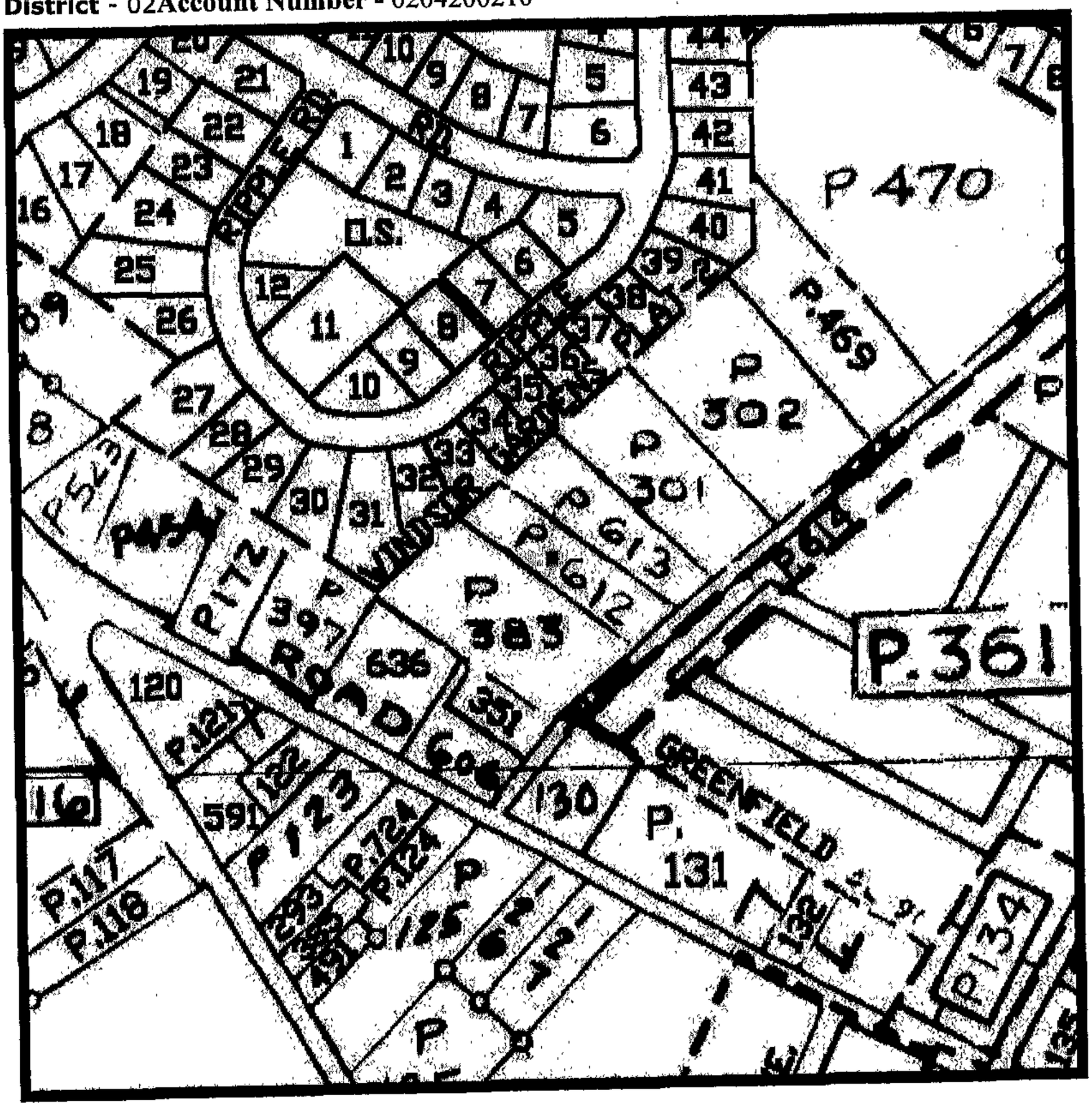
Special Tax Recapture:

* NONE *

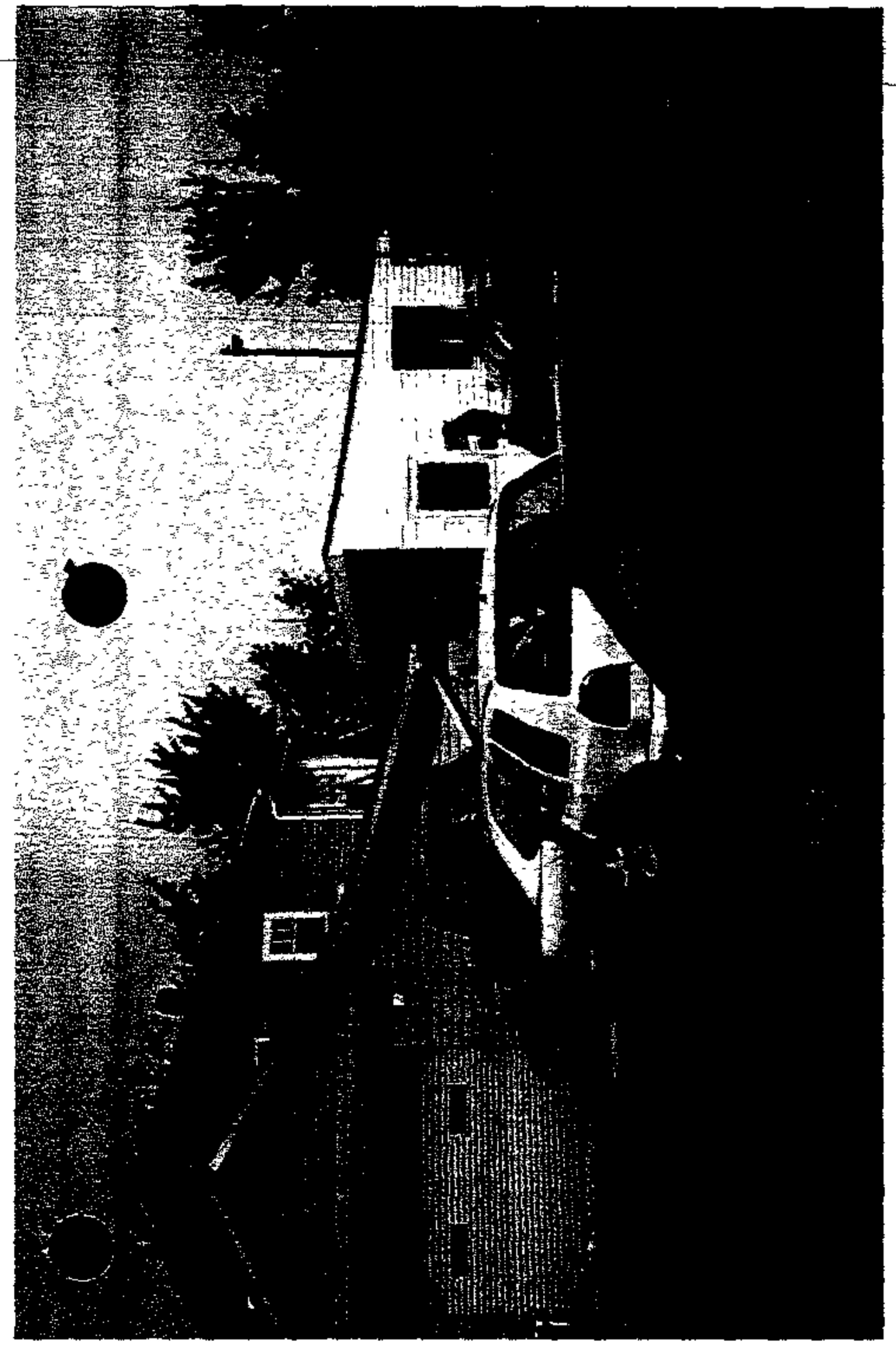
Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

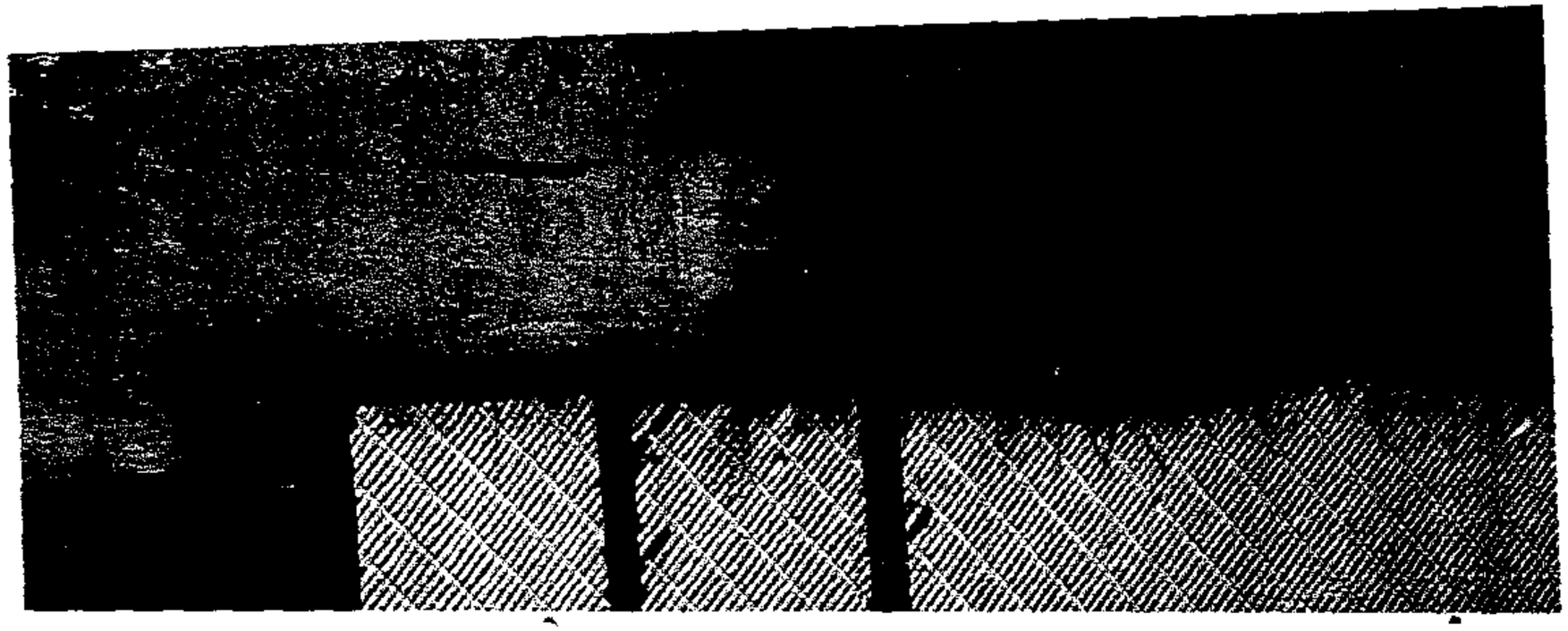
Go Back
View Map
New Search

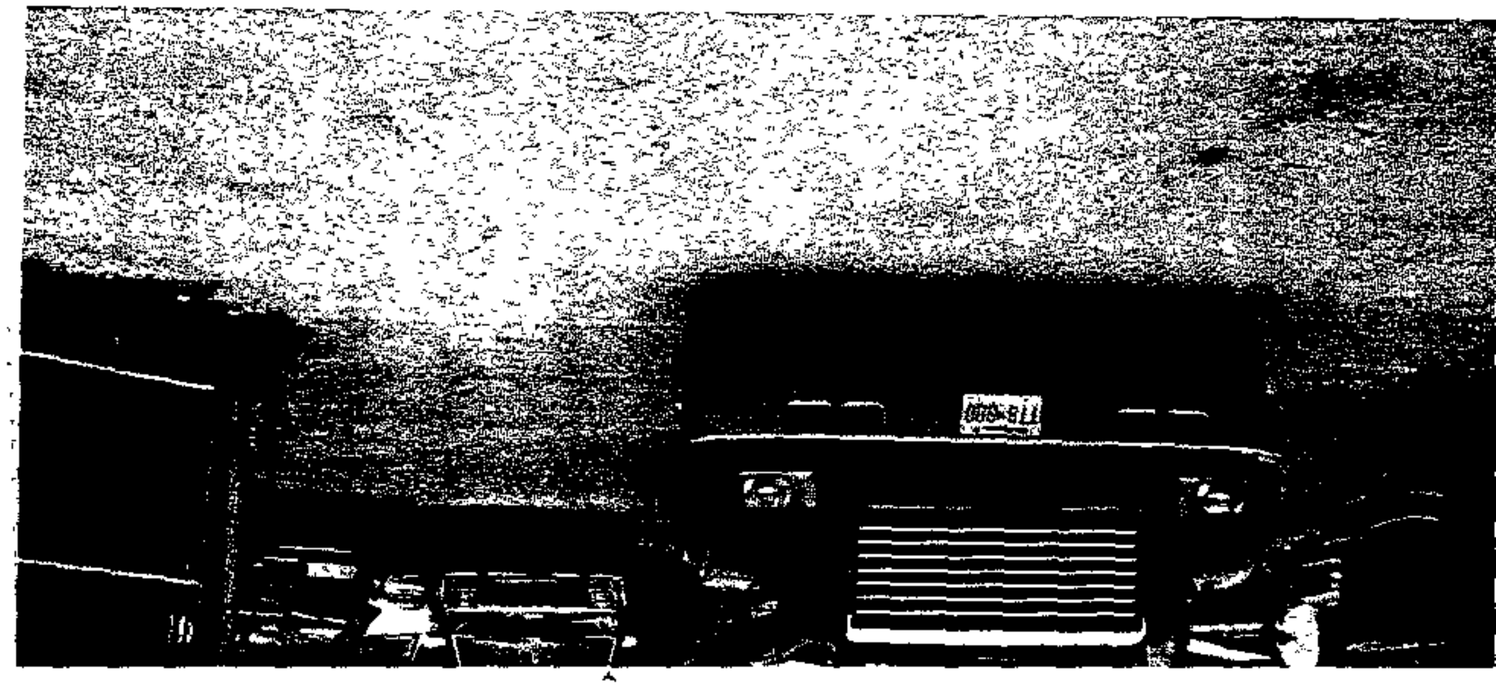
District - 02**Account Number** - 0204200210

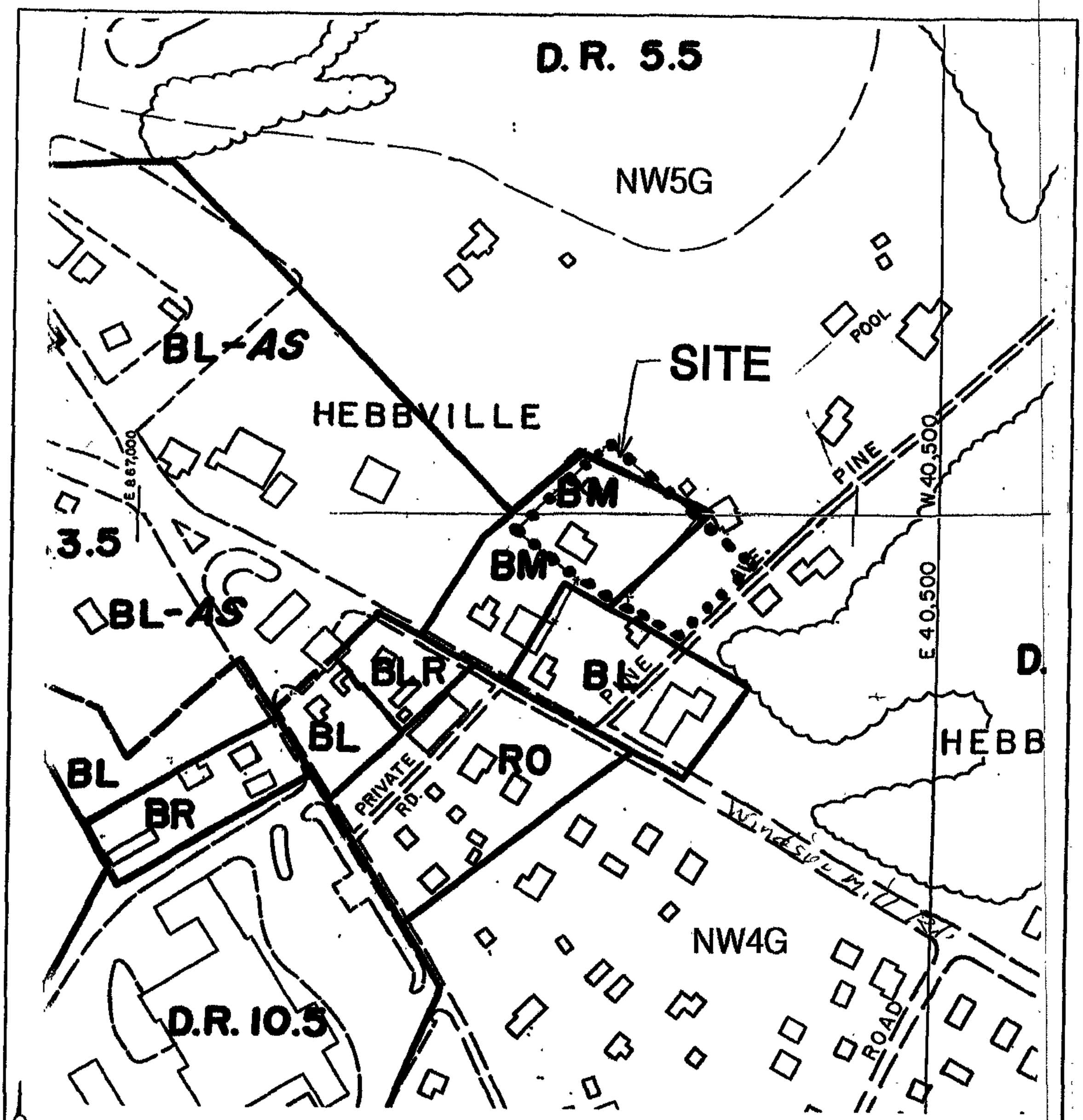


Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html









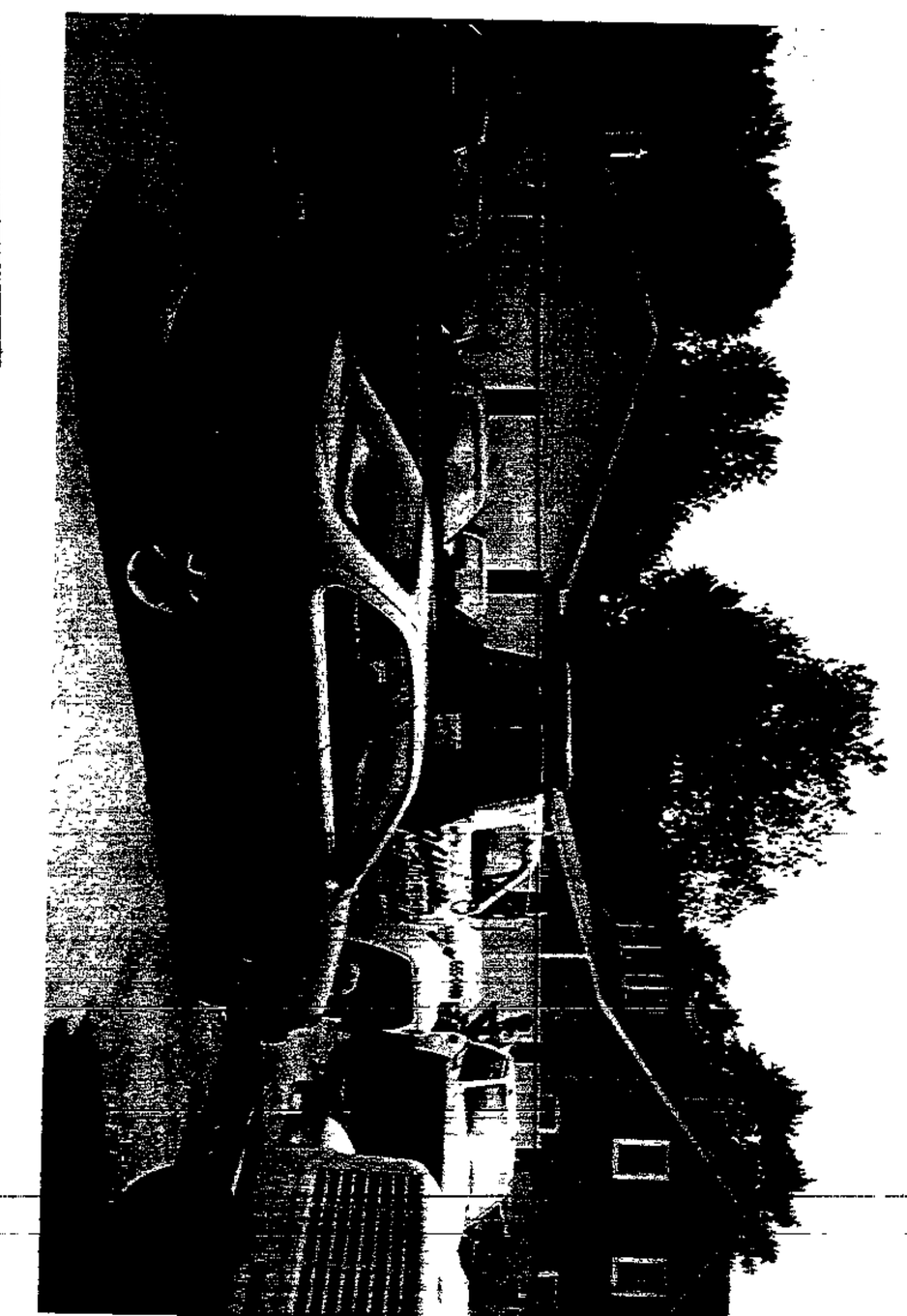
NOTE:
FOR POINT OF BEGINNING AND UTILITIES, SEE SITE PLAN FOR VARIANCE.

LEGEND

● ● ● ● ● ● PROPERTY LINE

#491

P.E.L.A. DESIGN, INC. ENGINEERING/LANDSCAPE ARCHITECTS 7400 YORK ROAD SUITE 403 BALTIMORE, MD 21204 PHONE: 410-296-3990 FAX: 410-296-3698	PROJECT NAME: HEBBVILLE AUTO REPAIR, INC. 7404 WINDSOR MILL ROAD, BALTIMORE, MD 21244-2843 DRAWING TITLE: ZONING MAP	PROJECT NO: PELA 03.061 SCALE: 1"=200' DATE: 02-05-04	SHEET NO: NW 4G & NW 5G



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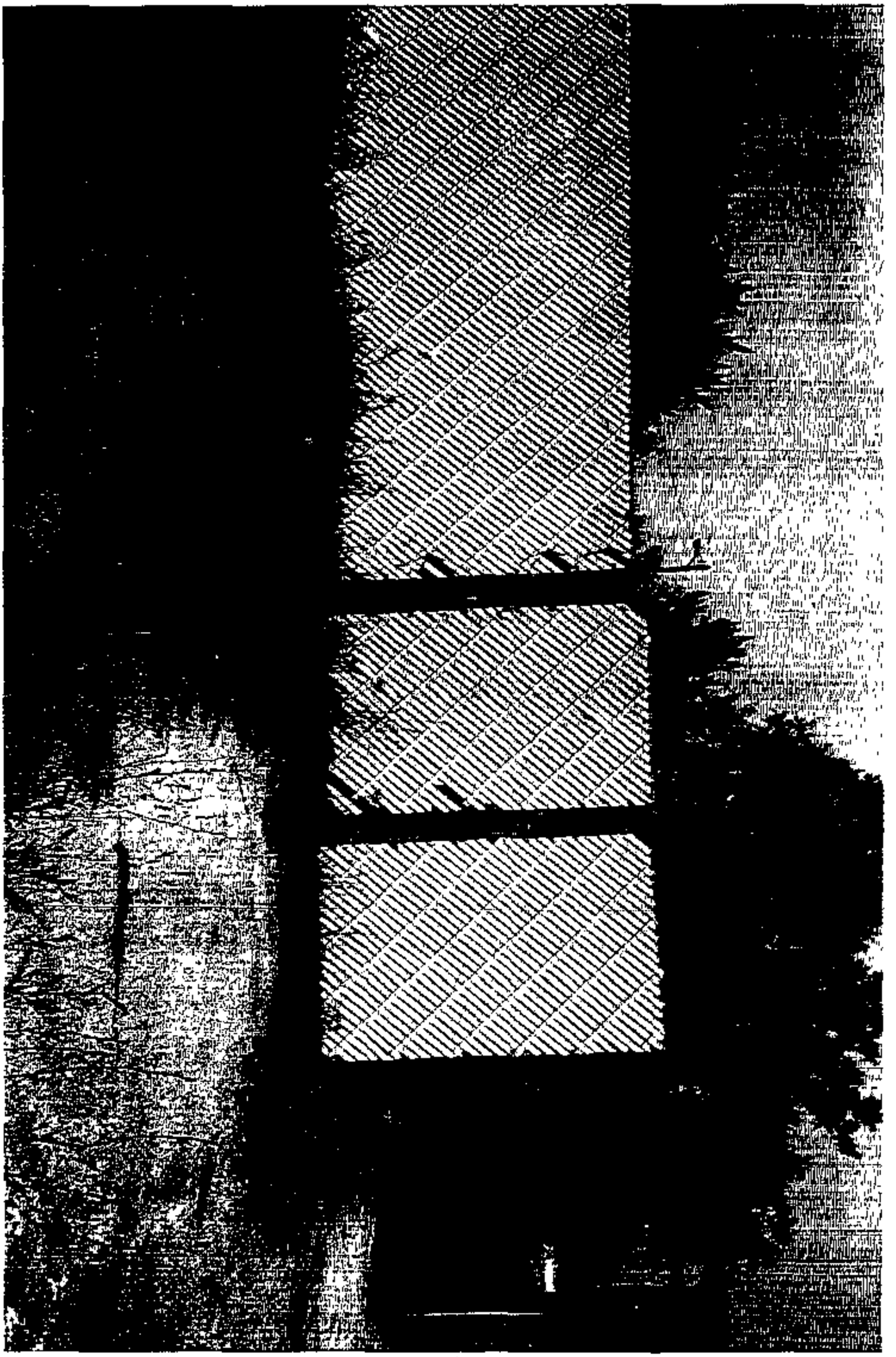
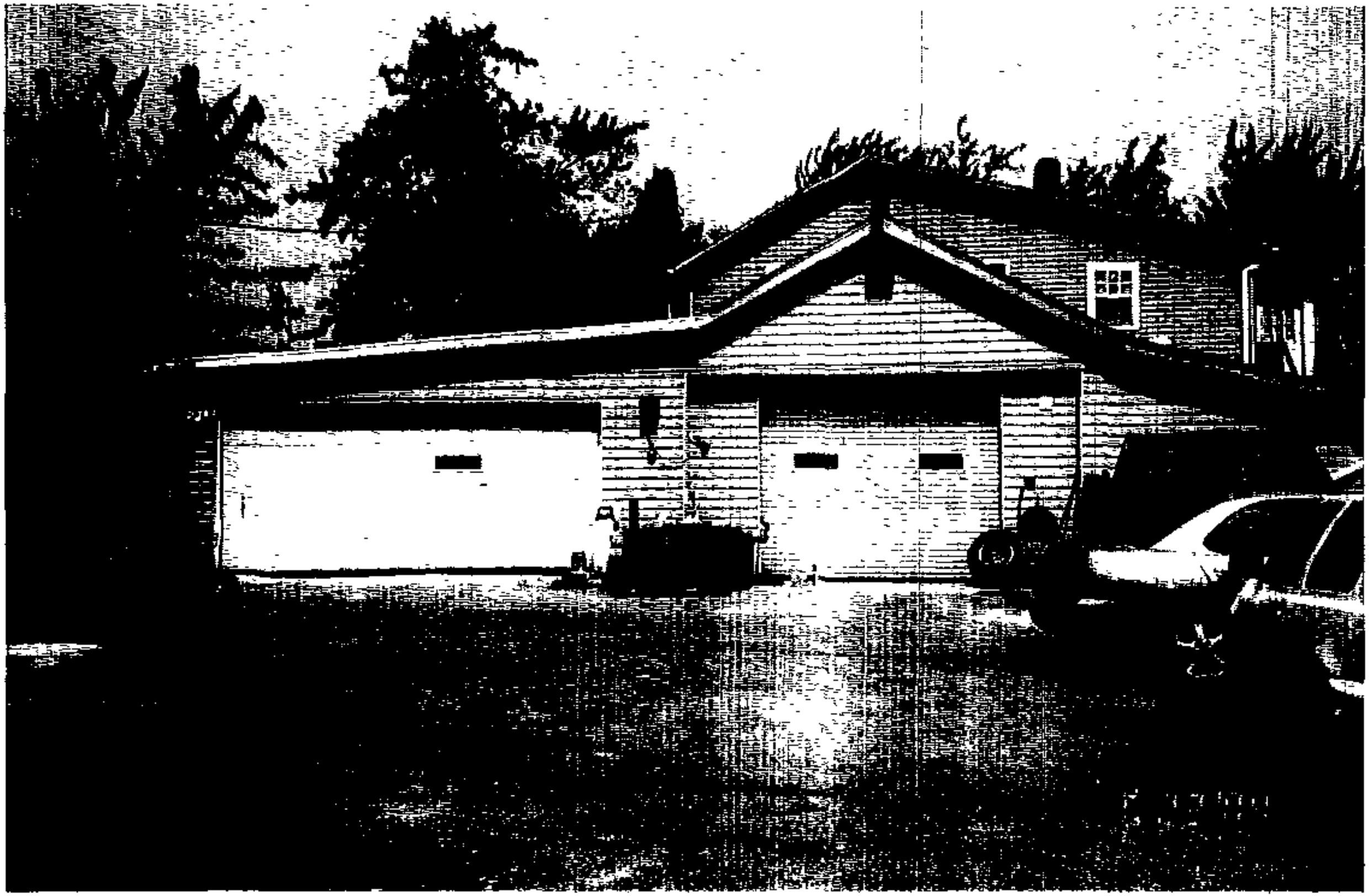
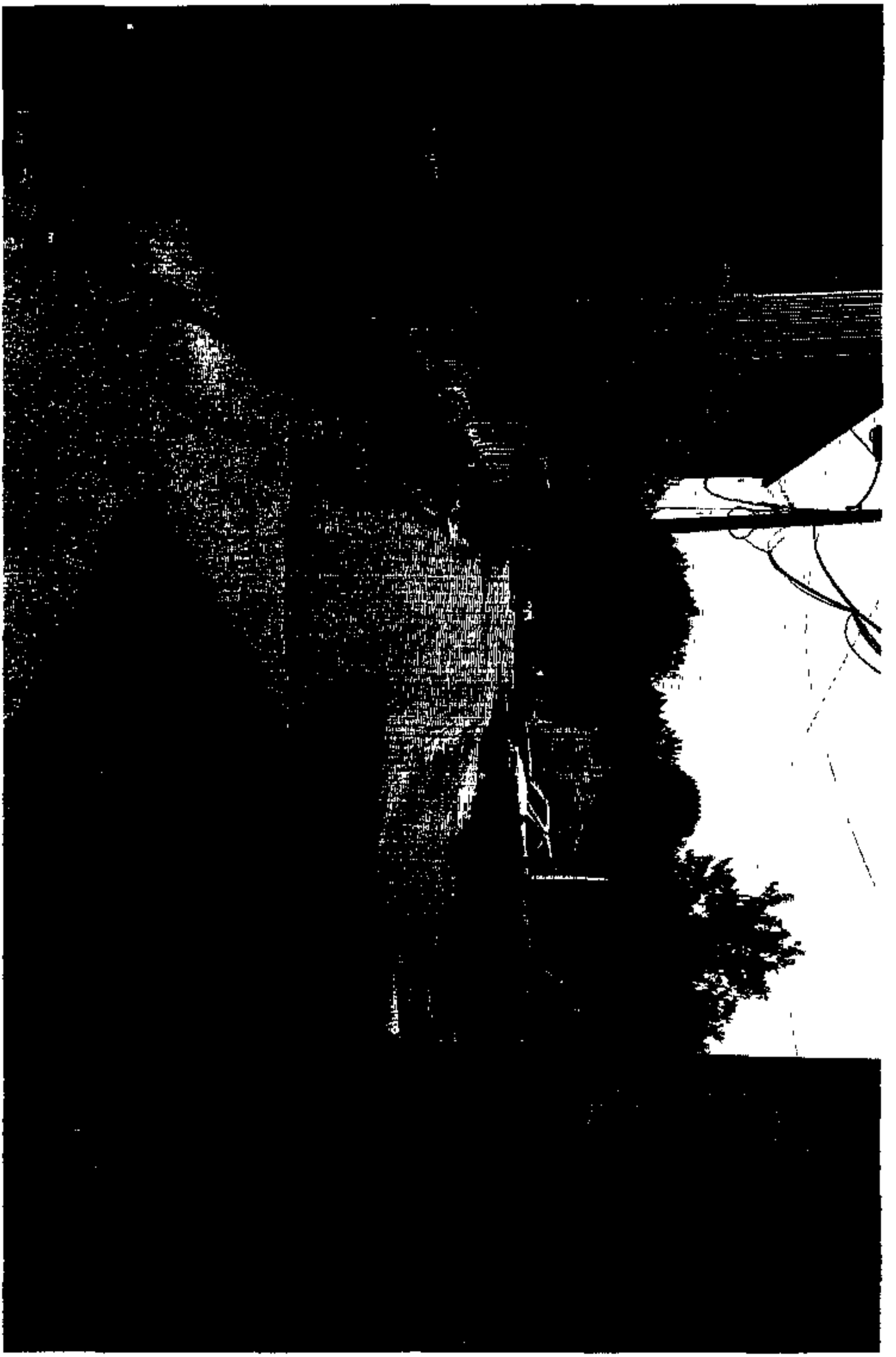




Baltimore County Zoning Commissioner
Office of Planning
Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204

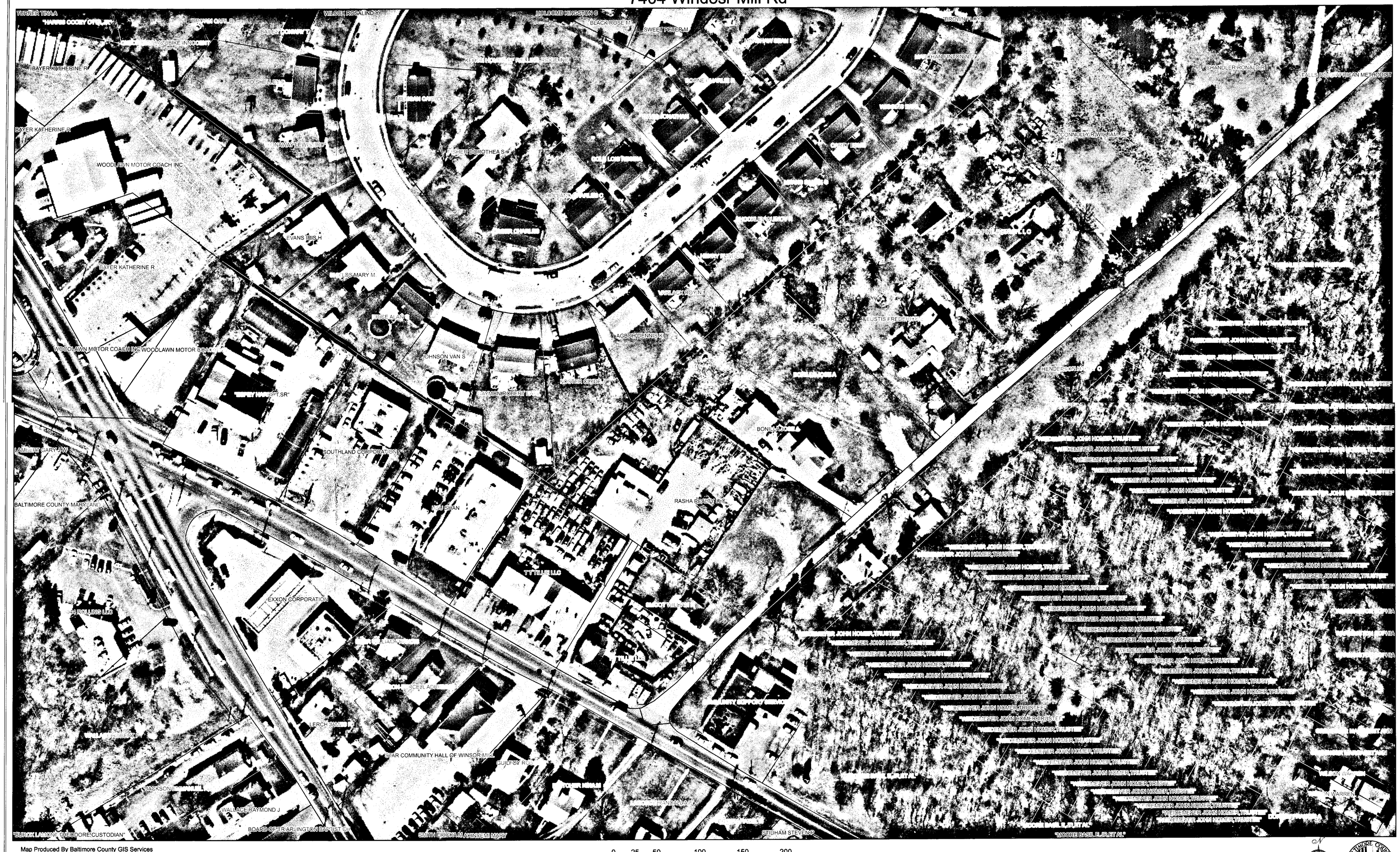
Photographs
Petitioner's Ex #5 IA-1M

PLAINTIFF'S
EXHIBIT
1-A



AUTO REPAIRS

7404 Windosr Mill Rd



Map Produced By Baltimore County GIS Services
Production Date: December 29, 2004

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04-491-A

PC1