



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

October 18, 2024

Kalpana Rai & Raju Mothay – aitarai1982@gmail.com
1223 Neighbors Avenue
Rosedale, MD 21237

RE: Petition for Administrative Variance
Formal Demand from Judge Belt
Case No. 2024-0193-A
Property: 1223 Neighbors Avenue

Dear Petitioners:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order 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 Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Belt", is written over a horizontal line.

ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlw
Enclosure

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1223 Neighbors Avenue)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
7 th Council District		
Kalpana Rai & Raju Mothay	*	HEARINGS FOR
	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2024-0193-A
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Variance filed by the legal owners of the property, Kalpana Rai and Raju Mothay (“Petitioners”), for the property located at 1223 Neighbors Avenue, Rosedale (the “Property”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (“BCZR”), Section 1B02.3.B (Section V1.C.3-Vested Plat 1951 "D" Residence Zone), to permit a 4 ft. side yard setback in lieu of the required 10 ft. for a proposed addition.

A formal demand was filed by the Administrative Law Judge (“ALJ”) Andrew Belt.

A virtual hearing was conducted by WebEx on October 10, 2024. The Petition was properly advertised and posted. The Petitioners appeared *pro se*, along with family member, Danny Lamichhane. There were no interested participants or Protestants at this hearing.

There were no adverse Zoning Advisory Committee (“ZAC”) comments received from any of the County reviewing agencies.

The subject property is approximately 2,600 sq. ft., and is zoned DR 10.5. Mr. Lamichhane explained that the subject property is an end-of-group rowhouse. The Petitioners are proposing the construction of a single-story addition to the side and rear of the subject property that is to be used as a “sunroom.” He further explained that the Petitioners have two children and would like

to have the additional living space. (Pet. Ex. 1& 2). No further testimony was offered regarding any additional practical difficulty or any alleged uniqueness of the subject property.

A variance request involves a two-step process, summarized as follows:

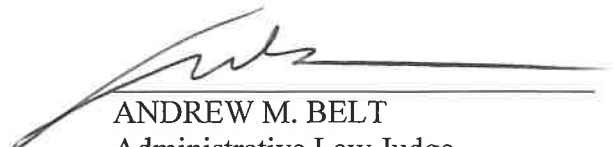
- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The testimony provided by the Petitioners is devoid of evidence that addresses either of the two factors in the *Cromwell* analysis. While it was asserted that the Petitioners would like to have more living space, no other details were offered. Additionally, based on the site plan provided by the Petitioners, there is no evidence presented that would differentiate the subject property from any other end-of -group rowhouse in the immediate area. Consequently, based on the limited testimony presented, the Petitioners' variance request must be denied.

THEREFORE, IT IS ORDERED, this 18th day of **October, 2024**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from the Baltimore County Zoning Regulations ("BCZR"), Section 1B02.3.B (Section V1.C.3-Vested Plat 1951 "D" Residence Zone), to permit a 4 ft. side yard setback in lieu of 10 ft. for a proposed addition, be and is hereby **DENIED**.

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



ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm



ADMINISTRATIVE ZONING PETITION
FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING

To be filed with the Department of Permits, Approvals and Inspections
To the Office of Administrative Hearings for Baltimore County for the property located at:

Address 1223 NEIGHBOURS AVE, ROSEDALE, MD Currently Zoned DR10-5
Deed Reference 45904 / 00364 10 Digit Tax Account # 1502852680
Owner(s) Printed Name(s) RAI KALPANA, MOTHAY RAJU

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. ☒ **ADMINISTRATIVE VARIANCE** from Section(s) IT302.3.B (Section VI.C.3. - Vested Plat 1951 - "D" Residence Zone) to permit a 4-foot side yard setback in lieu of 10 feet for a proposed addition.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

2. ☐ **ADMINISTRATIVE SPECIAL HEARING** to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

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

I/we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Owner(s)/Petitioner(s):

KALPANA RAI		RAJU MOTHAY	
Name #1 – Type or Print		Name #2 – Type or Print	
Signature #1		Signature #2	
1223 NEIGHBOURS AVE		ROSEDALE	MD
Mailing Address		City	State
21237	443-627-1070	aitarai1982@gmail.com	
Zip Code	Telephone #'s (Cell and Home)	Email Address	

Attorney for Owner(s)/Petitioner(s):

Name - Type or Print _____
Signature _____
Mailing Address _____ City _____ State _____
Zip Code _____ Telephone # _____ Email Address _____

Representative to be Contacted:

Above
Name - Type or Print _____
Signature _____
Mailing Address _____ City _____ State _____
Zip Code _____ Telephone # _____ Email Address _____

A PUBLIC HEARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore County, this _____ day of _____, _____ that the subject matter of this petition be set for a public hearing, advertised, and re-posted as required by the zoning regulations of Baltimore County.

Administrative Law Judge for Baltimore County

Case Number 2024-0193-A Filing Date 8/13/2024 Estimated Posting Date 8/25/24 Reviewer

Affidavit in Support of Administrative Variance
(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL

The undersigned hereby affirms under the penalties of perjury and upon personal knowledge to the Judge for Baltimore County, that the information herein given is true and correct and that the undersigned is competent to testify in the event that a public hearing is scheduled in the future with regard thereto. The undersigned hereby affirms that the property is not the subject of an active Code Enforcement case and that the residential property described below is owned and occupied by the undersigned.

Address: 1223 NEIGHBOURS AVE ROSEDALE MD
Print or Type Address of Property City State

Based upon personal knowledge, the following are the facts upon which I/we base the request for an **Variance** at the above address. **(Clearly state practical difficulty or hardship here)**

We hope this letter finds you well. We are writing to seek your kind consideration for a request that I and my family and me. We have been living at 1223 Neighbors Ave Rosedale, MD since 2017. During this time, our children have grown, and their needs have evolved. They now require extra space for a playroom and a sunroom, for their development and well-being.

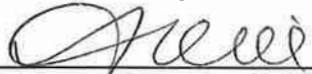
Unfortunately, due to financial hardship, we are unable to purchase a new house to accommodate the needs of the sole breadwinner in our family, as my husband is a kidney patient and unable to work due to his health situation has put a significant strain on our financial resources.

Given these circumstances, we are seeking permission to make the necessary modifications to our property to provide the additional space our children need. This would greatly improve our living conditions and provide for our family.

We would be immensely grateful for your support and approval of this request. It would be a great blessing to us during these challenging times.

TAMER A EL-MAGHRABI
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
My Commission Expires June 13, 2027

(If additional space for the petition request or the above statement is needed, label and attach additional pages to this document.)


Signature of Owner (Affiant)

Kalpana Rai
Name - Print or Type


Signature of Owner (Affiant)

Raju Mothay
Name - Print or Type

The following information is to be completed by a Notary Public of the State of Maryland

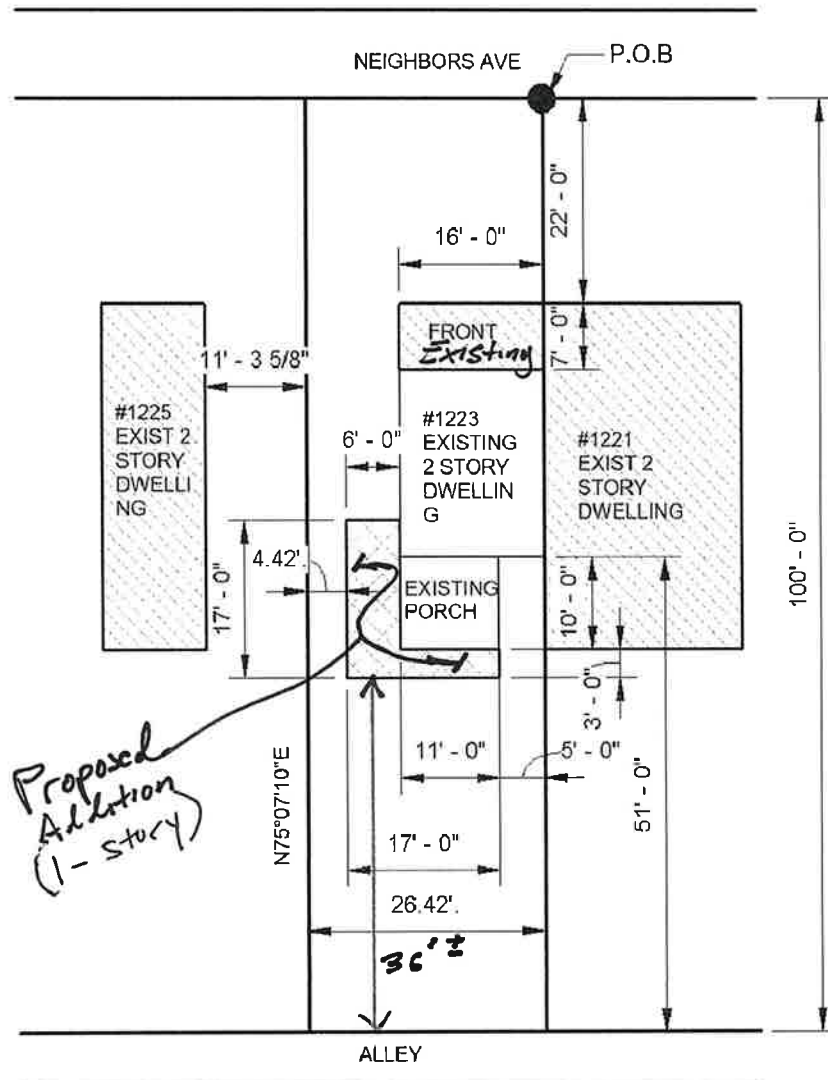
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 20th day of June, 2024, before me a Notary Public for the County aforesaid, personally appeared:

Print name(s) here: Kalpana Rai
Raju Mothay



Zoning Hearing Plan for Variance X for Special Hearing _____ Mark Type Requested with (X)
 Address 1223 Neighbors Ave. Rosedale, MD 21237 Owners(s) Name(s) Kalpna Rai And Raju Mothay
 Subdivision Name Philadelphia Heights Lot # 1223 Block # - Section # B
 Plat Book # 16 Folio # 107 10 Digit Tax # 1502852680 Deed Reference# 45904 / 00364



Site Vicinity Map



MAP IS NOT TO SCALE

Zoning Map # 089C3
 Zoning DR 10.5
 Election District 15
 Council District 7
 Lot Area Acreage .060
 Lot Square Footage 2600 SF
 Historic (Yes or No)
 CBCA (Yes or No)
 Flood Plain (Yes or No)
 Utilities – Mark with (X)
 Water is:
 Public ☒ Private _____
 Sewer is:
 Public ☒ Private _____
 Prior Hearing (Yes or No)
 If (Yes) list Case Number(s)
 and order result(s) below:
NA

Violation Case Number(s)
NA

Plan Drawn By KALPANA RAI Date 7-11-2024 Scale: 1 inch = 20 Feet

2024-0193-A

THE ZONING PETITION PROPERTY DESCRIPTION

Three (3) typed copies (separate pages) of the zoning description of the property is required. Standard 8-1/2" x 11" sheets are acceptable. Most property descriptions, as stated on a deed, are too wordy but some of the information must be used. (Note: Old deed information such as perches or a stone, etc. cannot be used as is.) Read your deed, your location survey and your State Assessment record to determine which of the three options you should use. DO NOT PHOTOCOPY THE DESCRIPTION IN THE DEED. The zoning property description must comply with Part A and Part B:

PART A (START DESCRIPTION WITH THE FOLLOWING):

ZONING PROPERTY DESCRIPTION FOR 1223 Neighbors Ave, Rosedale MD 21237
(address or location)

Beginning at point on ^{west} ~~south~~ side of Neighbors Ave which is 37.50' wide at the distance of 320' ~~west~~ of centerline of the nearest improved intersecting street Boaz Ave 32' wide.

South

PART B (CONTINUE DESCRIPTION WITH ONE OF THE FOLLOWING 3 OPTIONS):

OPTION 2: Being Lot #1223, Block , Section #B , in the subdivision of 0000 as recorded in Baltimore County Plat Book #, Folio #, containing 2600 SF. Located in the Election District 15, *Council District 7*

16 107

Philadelphia Heights

2024-0193-A



**Permits, Approvals and
Inspections**

111 W CHESAPEAKE AVE
TOWSON, MD 21204
4108873353
WWW.BALTIMORECOUNTYMD.GO
V

Cashier: Tyler C

Transaction 102427

Total	\$75.00
DEBIT CARD SALE	\$75.00
VISA 7285	

Retain this copy for statement
validation

Station: Permit Processing - Mini

15-Jul-2024 2:37:17P
\$75.00 | Method: CONTACTLESS
US DEBIT XXXXXXXXXXXX7285
VISA CARDHOLDER
Reference ID: 419700565821
Auth ID: 123979
MID: *****2995
AID: A0000000980840
AthNtwkNm: VISA
RtInd: CREDIT

ZB5PESH286XYG

Privacy Policy
Privacy

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number: 2024 - 0193-A Address 1223 Neighbors Avenue

Contact Person: Mitch Kellman Phone Number: _____
Planner, Please Print Your Name

Filing Date: 8/13/2024 Posting Date: 8/25/2024 Closing Date: 9/9/2024

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

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

Petitioner: This Part of the Form is for the Sign Poster Only (Detach Along Dotted Line)

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number: 2024 - 0193-A Address 1223 Neighbors Avenue

Petitioner's Name: Kalpana Rai & Raju Mothay Telephone (Cell) 443 - 627-1070

Posting Date: 8/25/2024 Closing Date: 9/9/2024

Wording for Sign: To Permit a 4-foot side yard setback in lieu
of the minimum 10 feet for a proposed addition.

Revised 1/2022

Baltimore County - My Neighborhood

2024-0193-A



Side Yard: Same as in "B" Residence Zone as set forth in Section IV, except in case of apartments, width of side yards shall be increased above 7 feet minimum by four inches for each foot of building height over forty feet.

Rear Yard: There shall be a rear yard having a minimum depth of twenty feet measured from the rear lot line, such depth to be increased by four inches for each foot of building height over forty feet.

5. Courts: Apartment building courts shall have a minimum width of fourteen feet plus four inches for each foot of building height over forty feet.

6. Automobile garage or parking space shall be provided adjacent to all apartment buildings sufficient in area to accommodate one car for each housekeeping unit; not more than 50% of the rear yard to be counted as any part of said parking space.

* SECTION VI—"D" RESIDENCE ZONE

A. Use Regulations: Except as hereinafter expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Any use permitted in the "C" Residence Zone; any such use to be subject to the same conditions and limitations as provided in Section V.

2. Group houses.

B. Height Regulations: Same as "B" Residence Zone.

C. Area Regulations: The minimum dimensions of yards and minimum lot area per dwelling unit, except as provided in Section IX, shall be as follows:

1. Lot Area: The minimum width of dwelling units shall be sixteen feet between centers of partition walls, and the minimum lot area per dwelling unit shall be fourteen hundred and forty square feet.

2. Front Yard: Minimum front yard shall be as hereinbefore specified in "B" Residence Zone.

* 3. Side Yard: There shall be a side yard of not less than ten feet along each side of each group of dwelling units.

4. Rear Yard: There shall be a rear yard having a minimum depth of twenty-five feet.

5. Accessory Buildings: Accessory buildings shall be permitted without restrictions as to setback from division line of dwelling units or rear property lines.

6. No group house shall contain more than seven single or two-family dwellings.

SECTION VII—"E" COMMERCIAL ZONE

A. Use Regulations: Except as expressly provided in subsequent sections, any building or structure or land may be used and any building or structure may be hereafter erected, altered, repaired or used for any use or uses except the following:

1. Arsenal.

2. Automobile dismantling or storage of motor vehicles not in running order.

3. Brick, tile, terra cotta, concrete and cinder block manufacturing.

4. Coke Ovens.

5. Cooperage.

BROOK PLAT
OF
PHILADELPHIA HEIGHTS
15TH DISTRICT, BALTIMORE COUNTY, MD.

BROOK HOMES, INC.
220 S. HIGHLAND AVE.
BALTIMORE 24, MD.
JOHN W. ISAAC, PRES.

APPROVED

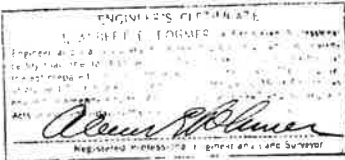
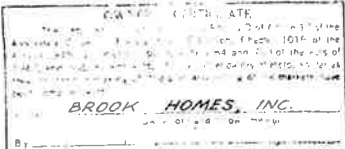
January 13, 1951
DATE

J. H. [Signature]
COUNTY ENGINEER

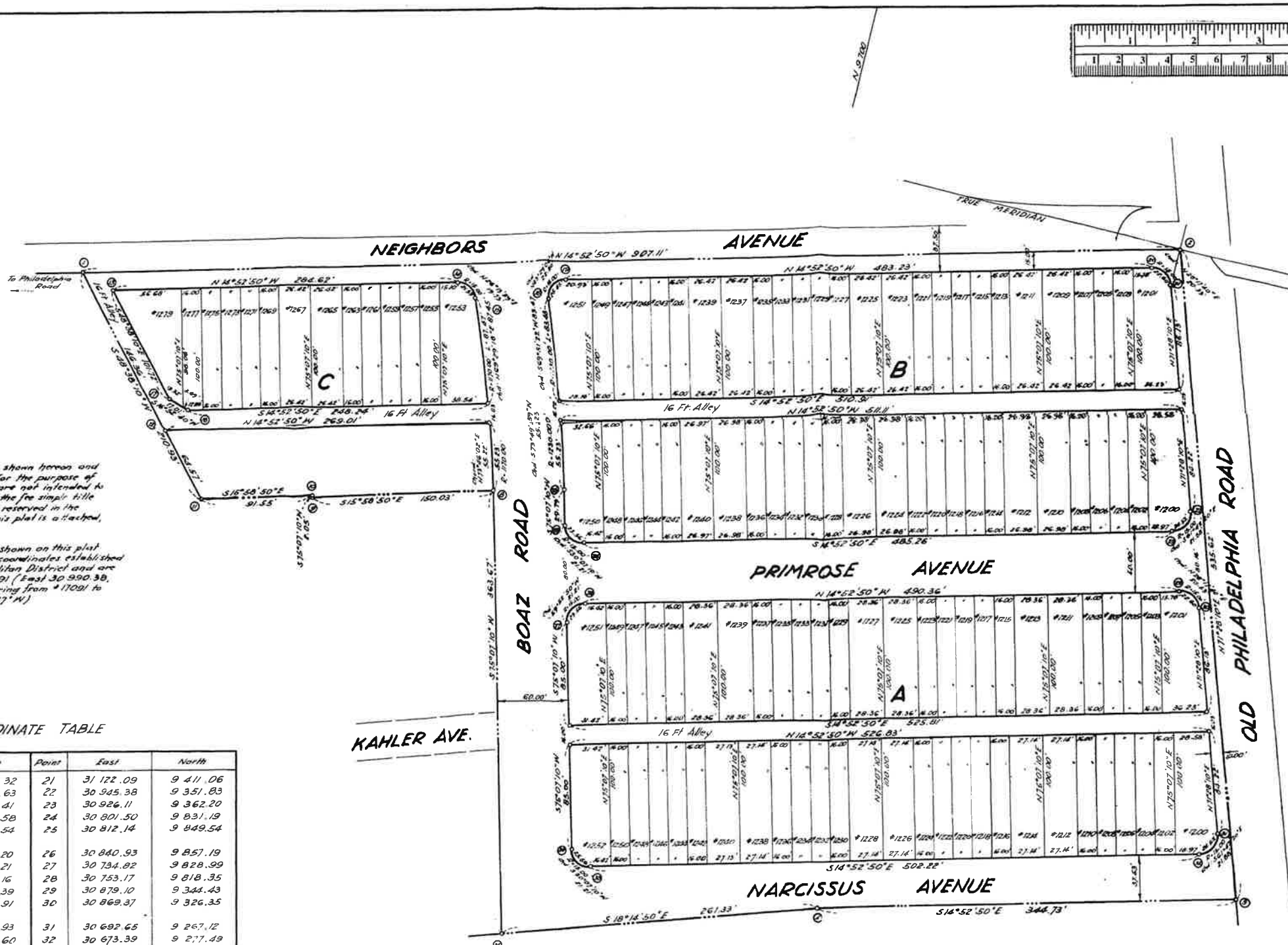
APPROVED

1/13/1951
DATE

William D. [Signature]
CHAIRMAN OR SECRETARY
OF THE PLANNING COMMISSION



ALBERT E. POLIMER
REGISTERED ENGINEER & LAND SURVEYOR
OFFICE: 633 PARK AVE. BALTO., MD.
SCALE: 1"=50' ISSUED OCT. 27, 1950



The streets and roads shown hereon and the location thereof in deeds are for the purpose of description only and the same are not intended to be dedicated to public use; the fee simple title to the beds thereof is expressly reserved in the grants of the deed to which this plat is attached, their heirs and assigns.

Coordinates and bearings shown on this plat are referred to the system of coordinates established in the Baltimore County Metropolitan District and are based on traverse station #17091 (East 30 990.38, North 9345.80) and the bearing from #17091 to Matheson Building (S 67° 55' 27" N).

COORDINATE TABLE

Point	East	North	Point	East	North
1	30 919.31	10 287.32	21	31 122.09	9 411.06
2	31 152.26	9 410.63	22	30 905.38	9 351.83
3	30 644.41	9 240.41	23	30 926.11	9 362.20
4	30 555.98	9 573.58	24	30 801.50	9 831.19
5	30 486.99	9 782.54	25	30 812.14	9 849.54
6	30 643.69	9 834.20	26	30 840.93	9 857.19
7	30 633.79	9 864.21	27	30 734.82	9 828.99
8	30 825.13	9 915.16	28	30 753.17	9 818.35
9	30 784.12	10 059.39	29	30 879.10	9 344.43
10	30 786.12	10 059.91	30	30 869.37	9 326.35
11	30 761.13	10 147.93	31	30 692.65	9 267.12
12	30 809.11	10 190.60	32	30 673.39	9 277.49
13	30 911.31	10 258.97	33	30 544.42	9 762.88
14	30 984.41	9 983.89	34	30 555.06	9 781.23
15	30 975.69	9 966.20	35	30 474.05	9 821.77
16	30 830.04	10 175.47			
17	30 834.97	10 191.75			
18	30 987.59	9 906.21			
19	31 007.72	9 896.16			
20	31 131.82	9 423.14			

Drawn by: H.M.
Checked by: J.M.C.
Date: SEPT. 1, 1950

2024-0193-A

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: September 3, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0193-A
Address: 1223 NEIGHBORS AVE.
Legal Owner: Kalpana Rai, Raju Mothay

Zoning Advisory Committee Meeting of September 3, 2024.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Earl D. Wrenn

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: August 27, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0193-A

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPR: No comment.

DPW-T: No exception taken.

Landscaping: No comment.

Recreations & Parks: No comment.

CERTIFICATE OF POSTING

2024-0193-A

RE: Case No.: _____

Petitioner/Developer: _____

Kalpana Rai, Raju Mothay

October 10, 2024

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Jeff Perlow:

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:

1223 Neighbors Avenue ***SIGN 1A & 1B***

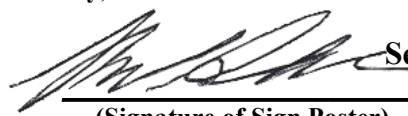
September 19, 2024

The sign(s) were posted on _____

(Month, Day, Year)



Sincerely,

 **September 19, 2024**

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2024-0193-A

RE: Case No.: _____

Petitioner/Developer: _____

Kalpane Rai & Raju Mothay

September 9, 2024

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Jeff Perlow:

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: _____

1223 Neighbors Avenue ***SIGN 1***

August 25, 2024

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,



August 25, 2024

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



2024-0193-A



2024-0193-A



2024-0193-A

2024-0193-4

