



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item 4

06/06/02

MEMORANDUM

DATE: 5/31/2002
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning *HC*
Glenn Kreger, Team Leader, Takoma Park – Silver Spring *JK*
FROM: Joel A. Gallihue, AICP, Community-Based Planning *JG*
REVIEW TYPE: Special Exception
APPLYING FOR: Bed and Breakfast (3 Rooms)
APPLICANT: Douglas A. Harbit and Robert F. Patenaude
CASE NUMBER: S-2511 - Davis-Warner House
ZONE: R-60
LOCATION: 8114 Carroll Avenue
MASTER PLAN: East Silver Spring
FILING DATE: February 21, 2002
PLANNING BOARD: June 6, 2002
PUBLIC HEARING: June 11, 2002

STAFF RECOMMENDATION: Approval of the proposed special exception and waivers with the following conditions:

1. All evidence, testimony and exhibits of record shall bind the petitioners.
2. The bed and breakfast use is limited to three guest rooms.
3. The hours for checking into the bed and breakfast are 9 AM and 6 PM, daily.
4. Petitioner shall obtain adequate off-street parking for any open house activities or other special events.
5. Any modification to the sign must include the official house number assigned by the Commission.

6. A transient visitor must not remain in a bed-and-breakfast lodging for more than two weeks in any one visit.
7. The owner of the dwelling unit must maintain a record of all transient visitors who stay in the bed-and-breakfast lodging. If requested, the owner must give a copy of this record to the Department of Permitting Services or another County agency.
8. The owner must register the bed-and-breakfast lodging with the Department of Permitting Services.
9. The hours when any outdoor events may occur are 9 AM to 9 PM, daily.

PROPOSAL DESCRIPTION

The applicants, Douglas A. Harbit and Robert F. Patenaude, have requested a special exception for a Bed and Breakfast located at 8114 Carroll Avenue (MD 650), in East Silver Spring, and in the R-60 zone. The applicants seek to operate a bed and breakfast accommodation in their home, offering three bedrooms for rent at any one time.

8114 Carroll Avenue has been designated a historic site (#37/18) and is known as the Davis Warner House. The property is also on the National Register of Historic Places. Prior to 1990 the house stood approximately 200 feet north of its present location. For many years it was the primary building of the Cynthia Warner School (S-1120, BAS 554) a private school of approximately 150 students. The house was moved when the Church of Jesus Christ of Latter Day Saints redeveloped the property for their church site at 8116 Carroll Avenue.

The applicants have owned the property since 1997. They had been operating under a grant of special exception for an accessory apartment. A zoning inspection indicated that the petitioners had obtained the wrong special exception use, as the use of the property was consistent with a bed and breakfast. The petitioners have cooperated with DPS by vacating the accessory apartment use and petitioning for the bed and breakfast use. The zoning ordinance prohibits a bed-and-breakfast use in a dwelling unit that also has an accessory apartment.¹

This application was submitted prior to the adoption of ZTA 01-10, a major revision to special exceptions in residential zones. Under the zoning requirements in effect when the application was submitted, the five parking spaces would not have been considered a parking facility. Therefore, parking could have been accomplished without any waivers. ZTA 01-10 is now in effect and applies to this case. Any special exception use with three or more spaces must meet the parking facility requirements. Given the historic status, residential

¹ 59-G-2.09.2 (5)

context and limited scope of operations, staff is supporting the waivers discussed below, under "Elements of the Proposal."

Neighborhood Description – The site is located on and has access to Carroll Avenue. Properties adjacent to the site are also in the R-60 zone. It is located at a point where the land use transitions from residential to institutional.

Site Description – The subject site consists of one parcel: Parcel B of the Kilmarock subdivision (Plat # 18968). The parcel covers 12,681 sq. ft. in area and is rectangular in shape. The house once stood on Parcel A of the same recording, which is adjacent and to the north of the subject parcel. The house was moved in the early 1990 to facilitate the construction of the church.

The site is currently improved with the Davis Warner house, a driveway and five parking spaces. The petitioners have an agreement with the adjacent Church of Jesus Christ of Later Day Saints for use of their parking as needed.

Elements of the Proposal – The applicant summarizes the proposed use as follows:

1. Bed and Breakfast Use

"Applicants propose to operate a bed and breakfast accommodation in their home utilizing three bedrooms in addition to their own accommodations. Guests would be able to check into the bed and breakfast between 9 AM and 6 PM daily. No employees are anticipated for this use. Occupants would be visitors to Montgomery County. No additional special equipment is needed for this use." *The three rooms for rent are located on the second floor as identified in the floor plan diagrams (Attachment #6).*

2. Parking

Five parking spaces are depicted on the "Parking Area Dimensions" graphic (Attachment 5). Waivers are required of the parking facility requirements. See below.

3. Sign

The applicant proposes to modify the existing sign which currently only advertises the home address. The sign would be modified to include the words "Davis Warner Inn."

4. Events

The petitioners host periodic special events. These include an annual house party for the neighborhood. In this case, most of the

guests walk to the house. They have also represented that they host up to six weddings a year where there may be as many as 75 guests. Sometimes the common rooms are used for small meetings of historic preservationists or others. A condition is recommended that requires off street parking for these events, which the petitioners can obtain from the adjacent church. There are 96 spaces in the church lot and approximately 35 street parking spaces in the immediate vicinity.

10. Waivers

While the parking for this special exception is considered a parking facility a waiver of the parking standards may be requested under Section 59-E-4.5. This section permits the Board of Appeals to waive any requirement in the article not necessary to accomplish the objectives in Section 59-E-4.2, which are as follows:

- (a) The protection of the health, safety and welfare of those who use any adjoining land or public road that abuts a parking facility. Such protection shall include, but shall not be limited to, the reasonable control of noise, glare or reflection from automobiles, automobile lights, parking lot lighting and automobile fumes by use of perimeter landscaping, planting, walls, fences or other natural features or improvements.

A condition of approval limits the number of vehicles to six. Existing vegetation and a retaining wall screen the parking from the adjacent property. No lighting is proposed and arrival and departure activities will primarily occur during daylight hours.

- (b) The safety of pedestrians and motorists within a parking facility.

Pedestrians and motorists within the parking facility will be able to maneuver off street with a clear view.

- (c) The optimum safe circulation of traffic within the parking facility and the proper location of entrances and exits to public roads so as to reduce or prevent traffic congestion.

This objective is typically implemented through the provision of two-way entrances and spaces that meet the dimensional requirements of the parking standards. Given the low level of parking activity and the ability for cars to make turns or pull aside on the gravel adjacent to the driveway, this objective is met with the ten foot driveway

- (d) The provision of appropriate lighting, if the parking is to be used after dark.

This objective is not applicable as the parking lot operations will typically be in daylight and a condition of approval limits check-in to 9 AM – 6 PM.

The specific waivers requested are as follows:

a) 59-E-2.83 Parking and Loading Facilities for special exception uses in residential zones.

Parking and loading facilities must be setback a distance not less than the applicant front, rear yard and twice the building side yard required in the zone. *The applicant is seeking a reduction of the side parking setbacks from 16' (twice 8') to 6' 6". This will allow the existing driveway to be used without additional paving. Given the historic status of the property, residential context and the limited scope of operations, a waiver of this provision is recommended. The feature immediately adjacent to the reduced parking setback on the adjacent property is a church parking lot. (See "Parking Facility Objectives" above.)*

b) 59-E-2.21-Arrangement and marking of parking spaces.

This provision requires striping typically associated with parking facilities. *Given the historic status of the property, residential context and the limited scope of operations, a waiver of this provision is recommended. (See "Parking Facility Objectives" above.)*

c) 59-E-2.4- Access and circulation – This provision requires 20' wide combined entrance and exit driveways. *This would require unnecessary paving for the type of operations. Given the historic status of the property, residential context and the limited scope of operations, a waiver of this provision is recommended. Providing drive aisles would require significant expansion of the paved area. (See "Parking Facility Objectives" above.)*

ANALYSIS

Master Plan –The subject property is covered by the East Silver Spring Master Plan.² The Master Plan supports the R-60 Zone for the property and bed and breakfast facilities are allowed by special exception in that zone. The existing land use plan in the Master Plan identifies the property as residential and an historic site. Staff found no master plan issues with respect to the proposed special exception.

Historic Preservation

Staff supports the adaptive reuse of historic structures and recommends the proposed bed and breakfast use for this particular historic resource as it, "Closely mimics the original residential use of the property ...and provides an opportunity for the public to actually experience and enjoy the historic property." The applicant is aware that any exterior alterations must be done under the grant of a historic area work permit.

Design Issues – No exterior changes are proposed except enhancement of the sign. The applicant is aware of the Historic Area Work Permit process.

Development Standards- The special exception modification is in compliance with the development standards for the R-60 Zone. The parcel exceeds the minimum lot area requirement for the zone of 6,000 sq. ft. The building coverage is approximately 24%, below the district limitation of 35%. The minimum setbacks from the front, side and rear property lines are all exceeded. No construction is proposed. Conformance to relevant development is summarized in Table 1 on the following page.

| Table 1 – Conformance with Applicable Development Standards S-2511 | | |
|--|---------------------------------------|----------------|
| Development Standard | Requirement | Proposal |
| Minimum Area of Development | 6,000 sq. ft. (9,000 sq. ft. for use) | 12,681 sq. ft. |
| Front Yard Setback | 25 | 30 |
| Side Yard Setback | 8 | 20 |
| Sum of Both Sides | 18 | 40 |
| Rear Yard Setback | 20 | 50 |
| Lot Width @ Street | 25 | 90 |
| Lot Width @ Front Bldg Line | 60 | 90 |
| Building Coverage | 35% | Appx. 24% |
| Parking | 5 (3 B&B, 2 residence) | 5 |

² Approved and adopted in December 2000.

Parking

Five parking spaces are required for the proposed use, one for each rented bedroom and two for the residence. The required parking is provided on site as shown on the submitted parking diagram (Attachment 5). The plan also shows that the parking will not meet the required 16' residential side yard setback for the special exception use, as the new zoning text requires. As analyzed above, waivers are recommended. Under the previous zoning, the parking must simply meet the screening requirements of a parking facility if it is between three and five spaces in size. The parking is screened with landscaping, natural vegetation and an opaque fence in the rear.

Transportation

Transportation Planning staff has conducted an adequate public facilities review (APF) and recommends the following condition to support approval of the referenced petition:

- Limit the bed and breakfast operation to three rooms

Site Access and Circulation

The site has access to Carroll Avenue via an existing driveway. According to the East Silver Spring Master Plan, the adjacent portion of Carroll Avenue is a two-lane arterial roadway, A-89, with a 90-foot right-of-way. The State Highway Administration has a current neighborhood conservation project to improve safety and urban design along Carroll Avenue (Contract MO841A21), for which construction is anticipated to begin in fall 2002.

Local Area Transportation Review (LATR)

The proposed development generates less than 50 trips during the peak hour of the morning or evening weekday peak period. A Local Area Transportation Review traffic study is therefore not required.

Staff conservatively estimates that the bed and breakfast operation would generate up to one vehicle trip per room during the peak hour of the morning and evening weekday peak periods, or a total of three vehicle trips during those time periods. For comparison purposes, the peak hour trip generation rates for motels listed in the Sixth Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual are 0.44 and 0.56 vehicle trips per room for the morning and evening peak periods, respectively.

Policy Area Review/Staging Ceiling Analysis

The subject petition is located within the Silver Spring/Takoma Park policy area, which has a remaining capacity of 1,238 jobs and 2,326 housing units as of April 30, 2002. Staff notes that the application proposes no employees.

Environment – The Environmental Planning Unit has reviewed this application and a Forest Conservation Plan exemption has been granted because the special exception is proposed for an existing structure and will not result in clearing of any forest. No grading or construction is proposed.

Inherent/Non-Inherent Adverse Effects- The inherent and non-inherent adverse effects of a special exception must be considered on nearby properties and the surrounding neighborhood at the proposed location, regardless of the adverse effects the use might have if established elsewhere in the R-60 zone.

Section 59-G-1.2.1 of the Zoning Ordinance states

Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics that are not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.

Analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. Every special exception has some or all of these effects in varying degrees. What must be determined during the course of review is whether these effects are acceptable or will create adverse impacts sufficient to result in a denial. To that end, inherent adverse effects associated with the use must be determined. In the case of this proposal use, the inherent effects would include guest parking, events, which may include use of the yard, and parking for events at the residence.

From an operational perspective, resident parking will occur during daylight hours and will be off-street. Where there are events at the residence, a non-inherent adverse effect could result from excessive use of street parking. In this case the applicant has a verbal arrangement with the adjacent church to use their parking lot, which has 96 parking spaces. They have represented that these events would have no more than 75 guests therefore the parking arrangement will be adequate.

The applicant has represented that they may host up to six wedding ceremonies a year at the bed and breakfast. Bed and Breakfast facilities are only permitted

to serve breakfast and no other meals. For this reason the applicant has stipulated that the six weddings would not include any food service. The applicant has not stipulated that the events will be exclusively indoors. Where events include outdoor activities they could continue late into the evening and disturb the neighbors with noise. At this point, staff finds that the outdoor activities would become a non-inherent adverse effect. To prevent this situation, staff is recommending a condition of approval limiting events to the hours of 9 AM – 9 PM.

Staff concludes that there are no non-inherent adverse effects associated with this application that warrant denial.

Community Concerns – The staff has heard no concerns from any neighborhood residents.

Compliance with General and Specific Special Exception Provisions- Staff has reviewed the petition for compliance with the applicable special exception provisions. As noted in the Zoning Criteria Analysis attachment, all general and specific requirements for a bed and breakfast found in Sections 59-G-1.1.1 and 59-G-2.09.2 will be satisfied.

Conclusion – The staff finds that the special exception satisfies all of the applicable special exception provisions for a bed and breakfast found in the Zoning Ordinance. Therefore we recommend approval with the conditions stated in the beginning of the report.

Attachments

1. Zoning Criteria Analysis
2. Vicinity Map
3. Architectural drawing of building
4. Topographical map showing building location and dimensions
5. Parking diagram
6. Floor plans.
7. Sign.

Attachment 1.
Montgomery County Zoning Ordinance
Compliance with Specific and General Special Exception Provisions

59-G-1.21. General conditions.

- (a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

- (1) Is a permissible special exception in the zone.

The use is permissible in the R-60 Zone.

- (2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

The proposed Bed and Breakfast complies with the standards and requirements set forth in Division 59-G-2.

- (3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the commission. Any decision to grant or deny special exception must be consistent with any recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

The subject property is covered by the 2000 East Silver Spring Master Plan. Special exception uses are anticipated by the master plan. Staff finds that the proposed adaptive reuse of the historic property is consistent with the recommendations in the approved and adopted master plan.

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

Staff finds that the proposed development is in harmony with the existing neighborhood. The activities of the use will be residential in nature.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The special exception will not result in the use being detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed use will not cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare and physical activity.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

In the nearby vicinity there are two other special exceptions operating. BAS-990 is an accessory apartment at 3012 Carroll Avenue. BAS-1342 is a daycare facility for up to twenty children at 8121 Lockney. Considering the scope of the proposal at hand in relation to the limited scope of these other special exceptions and the residential nature of all three uses, staff does not find the proposal will alter the predominantly residential nature of the area.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed special exception will not cause any of these effects.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.

- (1) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.

Subdivision approval is not required since the lots are recorded.

- (2) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.

No change in access is proposed. When considering the scope of operations, staff does not find that the change in use will have a detrimental effect on vehicular or pedestrian traffic.

Sec. 59-G-2.09.2 Bed and Breakfast lodging.

A special exception may be granted for a bed-and-breakfast lodging in a one-family detached dwelling unit, subject to the following requirements:

1. The owner of the dwelling unit in which the bed-and-breakfast lodging is located must occupy the dwelling unit, and the bed-and-breakfast use must be subordinate to the residential use.

The petitioners currently reside at the location proposed for the use. Three of the seven bedrooms in the house are proposed for the use, making it subordinate.

2. The minimum lot area for the use must be 9,000 square feet but not less than the minimum lot or parcel area for the zone.

The 12,681 sq. ft lot exceeds both the use and zone minimums of 6,000 square feet and 9,000 square feet respectively.

3. The Board may deny a petition for a bed-and-breakfast lodging with frontage on and access to a road built to less than primary standards if it finds that road access will not be safe and adequate for the anticipated traffic to be generated or the level of traffic would have adverse impact on neighboring residences.

Carroll Avenue is classified an arterial road and staff finds it is functioning safely and adequately.

4. On a lot or parcel of less than 2 acres (87,120 square feet), a maximum of 3 bedrooms may be designated as guest rooms for transient visitors, for which compensation is charged. If the bed-and-breakfast lodging is located on a lot or parcel of 2 acres or more, 4 or 5 bedrooms may be designated as guest rooms.

The parcel is less than 2 acres and no more than three bedrooms will be used as guest rooms for transient visitors, for which compensation is charged. The petitioners intend to reside in the balance of the house.

5. A bed-and-breakfast lodging is not permitted in a dwelling unit that also provides guest rooms for roomers or in a dwelling that includes an accessory apartment.

The petitioner has coordinated with DPS to remove the accessory dwelling special exception.

6. Off-street parking must be provided in accordance with the requirements of Section 59-E-3.7 unless the Board finds that the use of on-street parking for the bed-and-breakfast lodging or the residential use will not have an adverse impact on neighboring residential uses. The off-street parking area must be screened in accordance with section 59-E-2.92. The required off-street parking spaces must be located in the rear yard, in the portion of a driveway traversing the side or rear yard, or in a driveway traversing the front yard if the Board has approved the location and design of the front-yard driveway if there is adequate space in the side or rear yard or if the Board finds that they cannot be adequately screened in accordance with Section 59-E-2.92.

Three spaces are provided for the three guest rooms. Two spaces are provided for the residence. All parking is located off-street.

7. The display of a sign must include the official house number assigned by the Commission.

The existing sign meets this requirement. The proposed modification to the sign will continue to meet this requirement by condition of approval.

8. Breakfast is the only meal that may be served to a transient visitor; and meals must not be provided for compensation to any other nonresident of the dwelling unit. Food service is subject to regulations of the Department of Health and Human Services.

The applicant has been notified of this requirement.

9. In order to precluded adverse neighborhood impact and assure that the residential use remains predominant; the Board may limit the number of transient visitors who may be accommodated at one time or the number of visits in a one-month period.

Given access to a State maintained road and the minor scale of the proposed modification, such a limitation has not been recommended.

10. A transient visitor must not remain in a bed-and-breakfast lodging for more than two weeks in any one visit.

A condition of approval has been made to this effect.

11. The owner of the dwelling unit must maintain a record of all transient visitors who stay in the bed-and-breakfast lodging. If requested, the owner must give a copy of this record to the Department or another County agency.

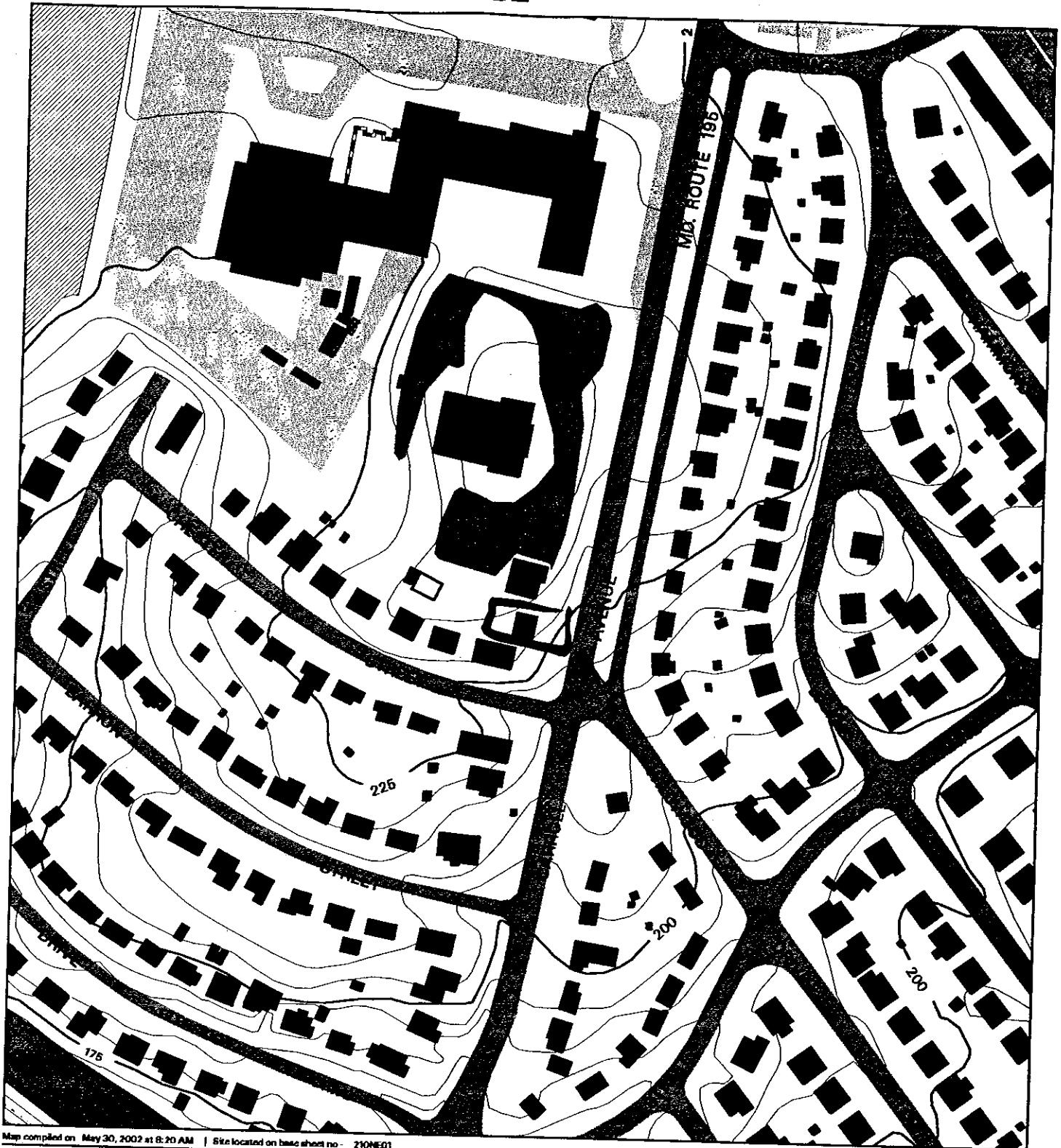
A condition of approval has been made to this effect.

12. The owner must register the bed-and-breakfast lodging with the Department.

A condition of approval has been made to this effect.

13. In the R-60 zone, an owner-occupied detached dwelling operated as a bed-and-breakfast lodging facility for not more than 2 individuals on or before November 14, 1988, is not a nonconforming use, and may be continued, structurally altered, reconstructed or repaired, so long as it remains an otherwise lawful use. The owner of such a lodging need not obtain a special exception under this Section meet the minimum lot or parcel size requirement of subsection (b). The owner of such a lodging must maintain a record of all transient visitors and register the lodging with the Department, as provided in subsection (k) and (l).

Not applicable as this is a new special exception application.

S-2511 DAVIS-WARNER HOUSE

Map compiled on May 30, 2002 at 8:20 AM | Site located on base sheet no. - 210NE01

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Key Map



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Research & Technology Center

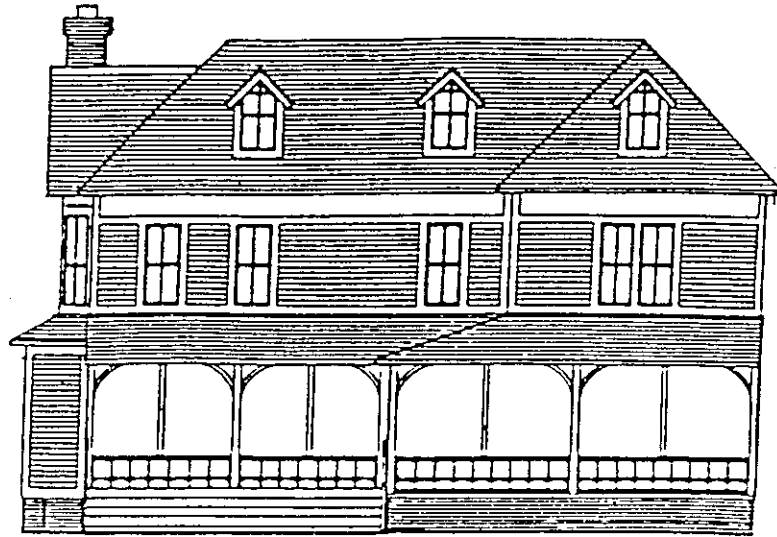


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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

ATTACHMENT 2

ATTACHMENT 2



Front of House

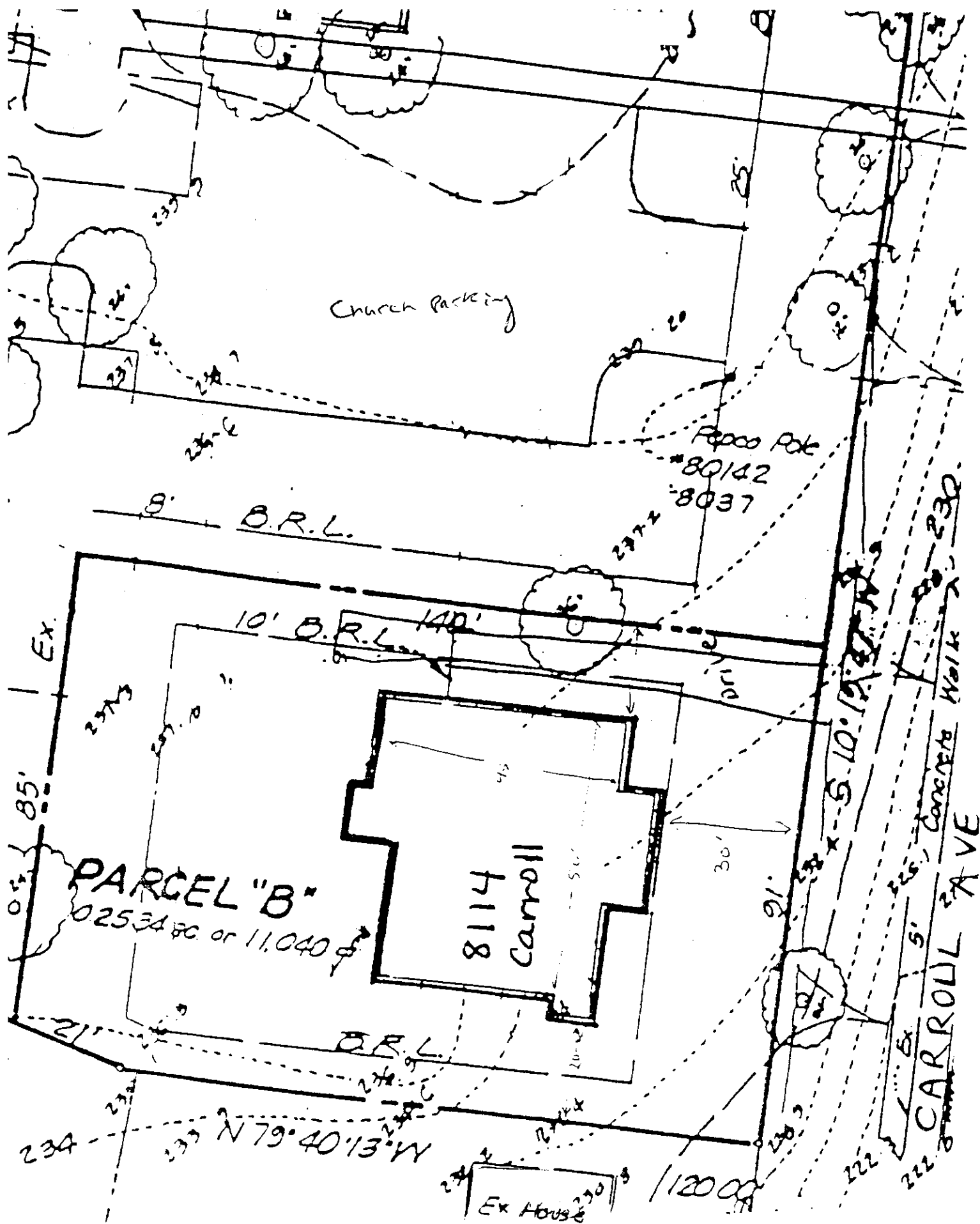


South Side of House

ATTACHMENT 2

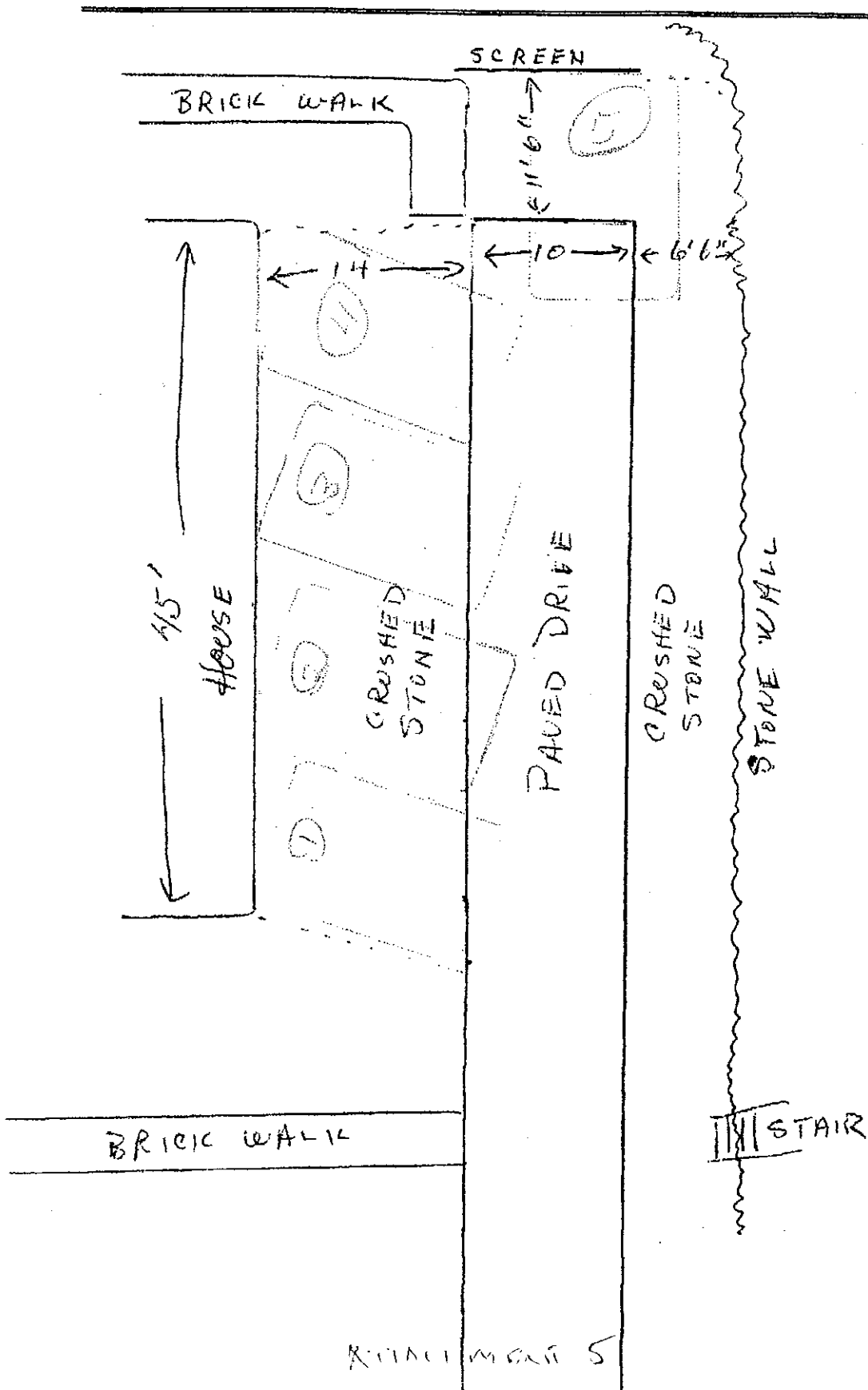


8114 Carroll Avenue
Takoma Park, MD



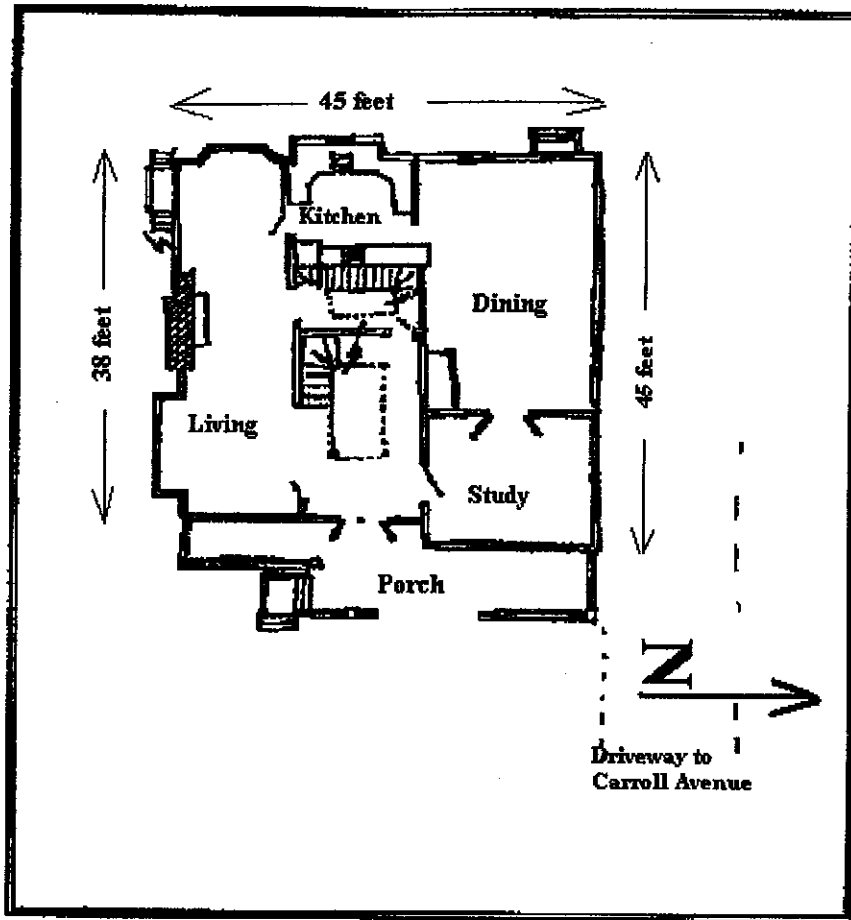
ATTACHMENT 4

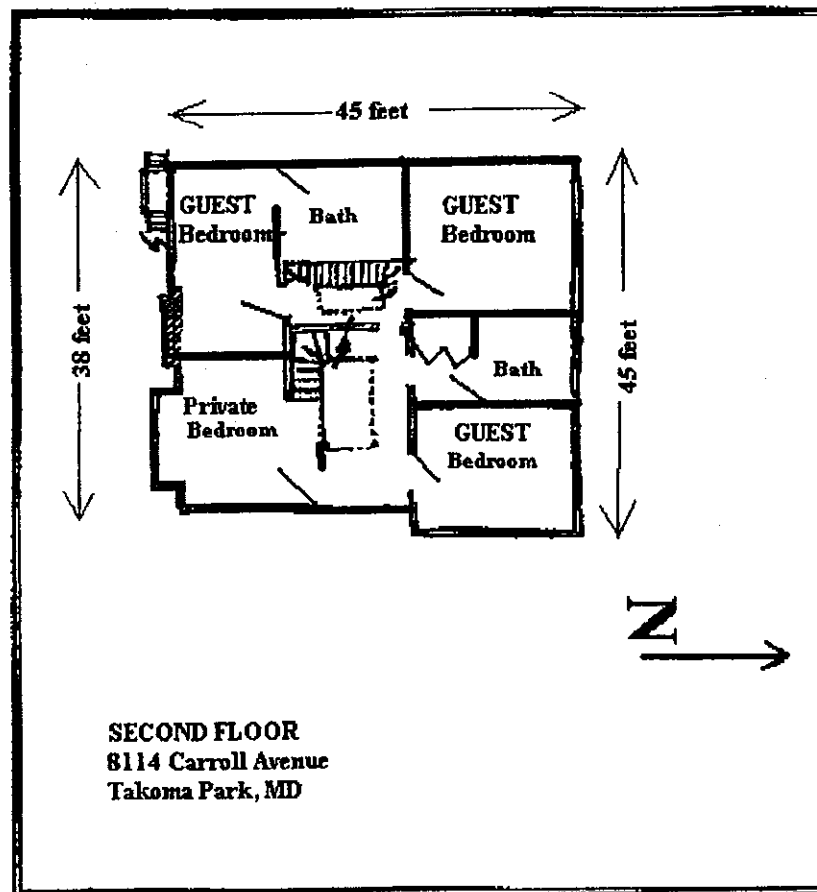
PARKING AREA DIMENSIONS
8114 Carroll Avenue



Special Exception Case S-2511
8114 Carroll Avenue
Takoma Park, MD

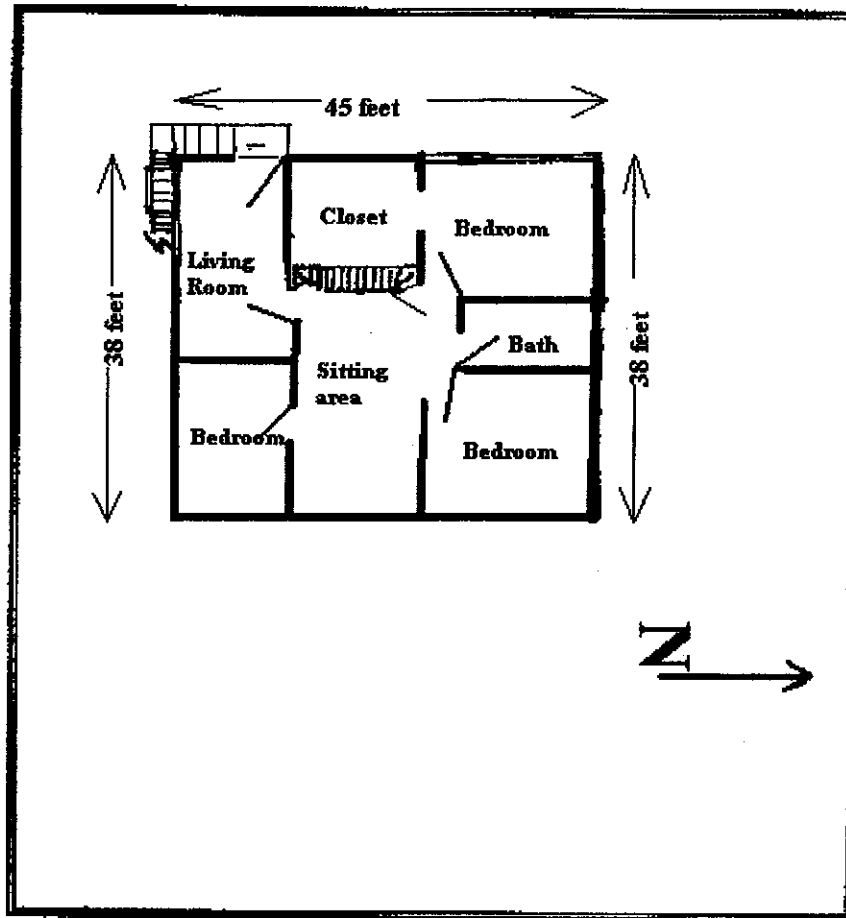
First Floor





Special Exception S-2511
8114 Carroll Avenue
Takoma Park, MD

Third Floor



Special Exception S-2511
Amendment

Proposed Sign

Dimensions of proposed sign panel are: 15 inches x 19 inches



ATTACHMENT 7