

PETITION FOR ZONING AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY.

THELMA A. PERRY & JOSEPH E. PERRY, V.F.W. Post, No. 751, Inc. legal owner 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 (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an _____ zone to an _____ zone for the following reasons:

see attached description

73-142-X
73-143-X

DATE: 10/11/72
FILED: 10/11/72
BY: [Signature]
COUNTY CLERK

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for a community building, land devoted to civic and social activities and for a shooting range to conduct no more than four turkey shoots in any one year.

Property is to be posted and advertised as prescribed by Zoning Regulations.

or we, agree to pay expenses of above reclassification and/or Special Exception advertising, etc. upon filing of this petition, and further agree to and are to be bound by the zoning laws and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract purchaser

Thelma A. Perry
Joseph E. Perry, V.F.W. Post, No. 751.
Legal Owner

Address: 3208 Windsor Mill Road
Baltimore, Maryland 21207

William S. Baldwin
Address: 24 West Pennsylvania Avenue
Towson, Maryland 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 10th day of November, 1972, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 13th day of November, 1972, at 10:00 o'clock.

12/13/72
108P
12/13/72

(over)

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

December 8, 1972

COUNTY CLERK REG.
111 N. CHARLES ST.
TOWSON, MARYLAND 21204

William S. Baldwin, Esq.,
24 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Special Exception
Item 71
Thelma A. Perry & Joseph E. Perry,
V.F.W. Post, No. 751, Inc. - Petitioners

Dear Mr. Baldwin:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject property is located off a 20 foot right of way that intersects Rices Lane, 3158' south of Windsor Mill Road, in the Second District of Baltimore County. This ROP property is currently improved with a one story frame club house and an abandoned bus, the type used by the Trailways or Greyhound Charter Services. This is apparently being used as a shelter or storage area of some type. This property was submitted for a Special Exception in 1971 and was reviewed by the Zoning Advisory Committee as Item 43. This petition was subsequently withdrawn for the primary reason that the Police Department could not approve the use of a shooting range with only 2.2 acres of land because it did not have the minimum distance of 200 yards required for fall out of shot. The petitioners have now acquired an additional amount of land that they feel would accomplish this end.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30, nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

John J. Dillon, Jr.
Chairman,
Zoning Advisory Committee

JJD:JD
Enclosure

Baltimore County, Maryland Department of Public Works COUNTY OFFICE BUILDING TOWSON, MARYLAND 21204

November 8, 1972

Chief of Engineering
ELLSWORTH N. DIVER, P.E. CHIEF

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #71 (1972-1973)
Property Owner: Thelma and Joseph Perry
W/S Rices Lane, 3158' from Windsor Mill Rd.
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for community building, land devoted to civic and social activities and for a shooting range
District: 2nd No. Acres: 7.5 acres

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

The comments supplied by this office, dated September 22, 1971, in connection with Item #43 (1971-1972) remain valid and applicable to this Item #71 (1972-1973). A copy of those comments is attached for your consideration.

Very truly yours,

Ellsworth N. Diver, P.E.
Chief, Bureau of Engineering

END:RAM:FW:ms

1-W Key Sheet
15 NW 32 Position Sheet
NW & H Topo
87 Tax Map

Attachments

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. S. Eric DiNenna
FROM: Mr. S. Eric DiNenna
SUBJECT: Item #71 (1972-1973)
Property Owner: Thelma & Joseph Perry
W/S Rices Lane, 3158' S. of Windsor Mill Road
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for Comm. Bldg. and Shooting Range
District: 2nd
No. Acres: 2.90

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

No public highways or utilities are involved. Neither public water supply or sanitary sewers are available to serve this property, which is utilizing private onsite facilities.

A subdivision plat appears to be required in connection with the overall "Perry" property, of which this site is a part.

Ellsworth N. Diver
Ellsworth N. Diver, P.E.
Chief, Bureau of Engineering

END:RAM:FW:ms
1-W Key Sheet
15 NW 32 Position Sheet
NW & H Topo
87 Tax Map

BALTIMORE COUNTY, MARYLAND JEFFERSON BUILDING TOWSON, MARYLAND 21204

DEPARTMENT OF TRAFFIC ENGINEERING

EUGENE J. CLIFFORD, P.E. W. T. M. A.
DIRECTOR DEPUTY TRAFFIC ENGINEER

November 9, 1972

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 71 - ZAC - October 17, 1972
Property Owner: Thelma & Joseph Perry
Rices Lane 3158' from Windsor Mill Road
Special exception for community building, land devoted to civic and social activities and for a shooting range - District 2

Dear Mr. DiNenna:

No major traffic problems are expected from the requested special exception.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate

MSF:nc

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF HEALTH

JEFFERSON BUILDING
TOWSON, MARYLAND 21204

September 25, 1972

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item 71, Zoning Advisory Committee Meeting, October 24, 1972, are as follows:

Property Owner: Thelma and Joseph Perry
Location: W/S Rices Lane, 3158' from Windsor Mill Rd.
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for Community Building, land devoted to civic and social activities, and for a shooting range.
District: 2
No. Acres: 7.5

Complete soil evaluation must be conducted and an approved water well drilled prior to issuance of building permit.

Food Service Comments: If a food service facility is proposed, complete plans and specifications must be submitted to the Division of Food Protection, Baltimore County Department of Health, for review and approval.

Very truly yours,

Thomas H. Davlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

HVB:msc

cc: L.A. Schuppert

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

A. V. Quimby
Acting Director
111 N. CHARLES AVE.
TOWSON, MD. 21204
476-2311

November 10, 1972

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #71, Zoning Advisory Committee Meeting, October 17, 1972, are as follows:

Property Owner: Thelma and Joseph Perry
Location: W/S Rices Lane, 3158' from Windsor Mill Road
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for Community Building, land devoted to civic and social activities, and for a shooting range.
District: 2
No. Acres: 7.5 acres

The transfer of this property to the V.F.W. Post was in violation of the Baltimore County Subdivision Regulations. In the event that the Perry property is further subdivided, adequate provisions must be made for proper access and utilities if available.

Very truly yours,
John L. Wimbley
Planner I
Project Planning Division
Office of Planning and Zoning

Baltimore County, Maryland
OFFICE OF THE BUILDINGS ENGINEER
DEPARTMENT OF PERMITS AND LICENSES

TOWSON, MARYLAND 21204

November 3, 1972

C. Elmer Hoppert, Jr.
Acting

Mr. J. Eric DiMenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiMenna:

Comments on Item #71, Zoning Advisory Committee Meeting, October 17, 1972 are as follows:

Property Owner: Thelma and Joseph Perry
Location: W/S Rices Lane, 3158' from Windsor Mill Road
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for Community Building, 2nd devoted to civic and social activities, and for a shooting range.

District: 2
No. Acres: 7.5 acres

"When any structure is to be constructed, the Petitioner shall comply with all applicable requirements of Baltimore County Building Code and Regulations".

Sincerely,

C. Elmer Hoppert, Jr.

C. Elmer Hoppert, Jr.
Buildings Engineer, (Acting)

Baltimore County Fire Department



Towson, Maryland 21204
912-7318

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Mr. Jack Dillon, Acting
Zoning Advisory Committee

Re: Property Owner: Thelma and Joseph Perry

Location: W/S Rices Lane, 3158' from Windsor Mill Road

Item No. 71 Zoning Agenda (uesday, October 17, 1972

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

- (x) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead-end condition shown at EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
- (x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "The Life Safety Code", 1970 Edition prior to occupancy.
- () 6. Site plans are approved as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

Reviewed: [Signature] Noted and Approved: [Signature]
Planning Bureau Special Inspection Division Deputy Chief
Fire Prevention Bureau

mls
4/25/72

RE: PETITION FOR SPECIAL EXCEPTION : BE:OK:
for a Community Building :
and Shooting Range : COUNTY BOARD OF APPEALS
W/S of Rices Lane 3158' SW :
of Windsor Mill Road : OF
2nd District : BALTIMORE COUNTY
Thelma A. and Joseph E. Perry :
V.F.W. Post No. 751, Inc. : No. 73-143-X
Petitioners :
and : AND
Re: ALLEGED ZONING VIOLATION :
on property located on the : No. 71-55-V
E/S of Rices Lane 3/4 of a mile : (2V-70-352)
S. of Windsor Mill Road :
2nd District :
Thelma Perry :
Defendant :

MEMORANDUM AND AMENDED ORDER

The above entitled case having been heard on appeal before the Honorable John E. Raine, and remanded to this Board for further action, with suggestions that the Board impose clarifying "conditions, restrictions or regulations", and the Board having heard further arguments in accordance with the suggestions made by the Circuit Court, and therefore amend its previous Order as follows:

1. The Order granting the special exception for a community building is to be amended by adding at the end thereof the words "and specifically including the issuance of an 'occupancy permit' by Baltimore County."
2. It is further Ordered that the special exception heretofore granted for a shooting range be amended as follows:
 - a. As to provision number 1 that no more than two turkey shoots in any one year shall be held at the subject property, shall be extended to read "and such turkey shoots shall be confined to the hours between noon and 6:00 p.m."
 - b. Paragraph 3 providing that the shooting range shall consist of no more than four shooting stands shall be amended by adding the following words: "all to be located on the portion of the land described as Parcel B on Exhibit No. 1, and that all targets for

Perry - No. 73-143-X and No. 71-55-V

shooting shall be located to the west thereof."

Any appeal from this decision must be in accordance with Rules B-1 through B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

Walter A. Reiser, Jr., Chairman

W. Giles Barker

Robert L. Gifford

Dated: December 23, 1975

FROM THE DESK OF
WILLIAM S. BALDWIN

DATE: April 10, 1975

TO: Mrs. Edith Eisenhart
Board of Appeals

RE: Joseph E. Perry, V.F.W. Post 751, Inc.

Edie:

Enclosed is a copy of the Order which I left today with Judge Raine's secretary to be signed concerning the above case.

W.S.B.

ATTORNEY AT LAW

RE: PETITION FOR SPECIAL EXCEPTION
FOR A COMMUNITY BUILDING
SHOOTING RANGE W/S OF RICES
LANE 3158' SW OF WINDSOR MILL
ROAD, 2nd DIST.
THELMA A. and JOSEPH E. PERRY,
V.F.W. POST, NO. 751, INC.
Petitioners
AND
RE: ALLEGED ZONING VIOLATION
ON THE PROPERTY LOCATED ON
THE E/S OF RICES LANE, 3/4
OF A MILE, 2nd DIST.
THELMA PERRY
Defendant
MR. WILLIAM M. BARNETT, SR., et al
Protestants
Zoning Case # 73-143 X
71-55 V
(2V70-352)

ORDER

The Order for Appeal, Petition on Appeal and Answers thereto by the parties protestant and the County Board of Appeals from the Opinion and Order of the County Board of Appeals dated October 17, 1974, having come on hearing, argument of counsel having been heard, and the record, including the transcript of testimony and exhibits from the Board having been reviewed by the Court, a Memorandum having been also considered by the Court, and an Oral Opinion having been rendered by the Court therein, it is this 10th day of APRIL, 1975, by the Circuit Court for Baltimore County,

ORDERED that the Opinion and Order of the County Board of Appeals dated October 17, 1974 granting the requested special exception be, and is hereby affirmed, and it is further:

ORDERED that these proceedings be, and they are hereby remanded to the County Board of Appeals for Baltimore County for further action granting the petitioned special exception in

accordance with the Oral Opinion herein, including the taking of further testimony if required by the said Board, as may be necessary or helpful to the Board in imposing such "conditions, restrictions or regulations" pursuant to the Baltimore County Zoning Regulations as the Board may deem "necessary or advisable for the protection of surrounding and neighboring properties"; and with regard to such further proceedings, the attention of the Board is respectfully directed to the suggested points raised by the Court in its Oral Opinion concerning an occupancy permit for the existing building, the availability of water and sewerage facilities before the building can be occupied, hours for the turkey shoots and location of shooting stands and targets with costs to be paid by the Appellants.

Judge

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: 10/23/75
Posted for: SPECIAL EXECUTION
Petitioner: JOSEPH E. PERRY
Location of property: W/S OF RICES LANE, 3158' SW OF WINDSOR MILL ROAD, 2ND DIST.
Location of Sign: W/S OF RICES LANE, 3158' SW OF WINDSOR MILL ROAD, 2ND DIST.
Remarks: As per petition, 2nd order of appeal
Posted by: [Signature] Date of return: 10/23/75

WILLIAM S. BALDWIN
ATTORNEY AT LAW
TOWSON, MARYLAND
912-7318

WILLIAM S. BALDWIN
ATTORNEY AT LAW
TOWSON, MARYLAND
912-7318

NOV 30 1976

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
for a Community Building and : COUNTY BOARD OF APPEALS
Shooting Range : OF
W/S of Rices Lane, 3158' :
SW of Windsor Mill Road, :
2nd District : BALTIMORE COUNTY
Thelma A. and Joseph E. Perry, :
V.F.W. Post No. 751, Inc., :
Petitioners : No. 73-143-X
and :
RE: ALLEGED ZONING VIOLATION : and
on property located on the :
E/S of Rices Lane, 3/4 of a Mile :
S. of Windsor Mill Road, : No. 71-58-V
2nd District : (ZV-70-352)
Thelma Perry, Defendant :

OPINION

At hand before this Board are two cases identified as #71-58-V and #73-143-X. These cases involve lands located in the Second Election District, same being on the west side of Rices Lane approximately 3158 feet southwest of Windsor Mill Road. The properties involved are twofold, namely, a 2.2 acre tract owned in fee simple by V.F.W. Post No. 751 and an area of some 7.5 acres owned by Thelma A. Perry and currently leased to V.F.W. Post No. 751. These two separate parcels of land are set out on Petitioner's Exhibit #1, the fee simple land being marked Parcel A and B, and the Thelma Perry land under lease being indicated westerly of the fee simple holdings of the V.F.W. Post.

Case #71-58-V involves three alleged zoning violations, the Defendant in this instance being the V.F.W. Post. The County alleged that the V.F.W. Post violated the County regulations by operating a shooting range without a special exception up until 1971. The V.F.W. Post admits having so used these lands in violation of the County regulations. It is stipulated by all parties that these shooting operations ceased in 1971. Secondly, the County has charged the V.F.W. with the utilization of a community building without a special exception. The V.F.W. Post does not deny this allegation. Thirdly, the V.F.W. Post is charged with storage of junked vehicles. This too the V.F.W. admits that there was at one time such a violation existent on their lands, however, the V.F.W. Post has since removed these junked vehicles so that while this violation was admitted, same has apparently been terminated. The issues in the violations have been basically

Perry - #73-143-X and #71-58-V

resolved in that these violations have been technically admitted by the Defendant.

Case #73-143-X is a petition for a special exception for a community building and land devoted to civic and social activities, and for a shooting range to conduct no more than four turkey shoots in any one year. The sole question to be decided by the Board in this instance is whether or not the Petitioner can satisfy the provisions of Section 502.1 as same relate to the special exceptions petitioned in this instance. Section 502.1 is as follows:

"Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets or alleys therein;
- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, convenience, or improvement;
- f. Interfere with adequate light and air."

On three separate hearing days the Board heard testimony and was presented evidence by the Petitioner and by Protestants to the granting of this petition. Basically at issue in the mind of this Board is whether or not there are any lands remaining in Baltimore County upon which a utilization of this type might be activated and the provisions of Section 502.1 might be satisfied. The underlying zoning in the subject instance is R.D.F., and the neighborhood as described by the witnesses can be characterized as rural in nature. The Petitioner offered a series of witnesses who described the history, functions and activities of the V.F.W. Post as well as its history at the subject property, including a description of the lands (2.2 acres) that have been purchased by the V.F.W. and the lands (7.5 acres) that have been leased by the V.F.W.

The Petitioner presented several expert witnesses that testified concerning the noise aspect of shooting that is proposed at the subject property, as well as the physical capabilities of the type of firearms that would be used if the special exception would be granted.

Perry - #73-143-X and #71-58-V

FURTHER ORDERED that the special exception for a community building petitioned for, be and the same is hereby GRANTED, subject to the following restrictions:

1. Only the existing improvements shall be utilized. The Petitioner shall be allowed to renovate and rehabilitate the existing improvements, but said improvements may not be enlarged or extended. No new structures shall be permitted. Upon completion, these improvements may be used for V.F.W. Post meetings, however, no more than one such Post meeting per month may be held in these structures or on these premises. These improvements may be used in conjunction with the organization and operation of the turkey shoots. However, neither these improvements nor this property shall be used for any function in the nature of a Crab Feast, Bull Roast, Oyster Roast, etc. The renovation, rehabilitation and use of the improvements shall be subject to the approval of the various regulatory agencies of Baltimore County, including particularly the Department of Health, the Office of Planning and Zoning, and the Department of Permits and Licenses.

IT IS FURTHER ORDERED that the special exception for a shooting range petitioned for, be and the same is hereby GRANTED, subject to the following restrictions:

1. No more than two turkey shoots in any one year shall be held at the subject property.
2. Notice of said turkey shoots shall be provided to residents that gain access to their properties via Rices Lane. This notice shall be via registered mail and at least three weeks prior to the date of the turkey shoot.
3. The shooting range shall consist of no more than four shooting stations.
4. There shall be no more than two hundred people on these grounds at any one time.
5. Any single turkey shoot shall be restricted to no more than 300 target shots.
6. All shooting shall be limited to use of no heavier than a 12 gauge shotgun, and the shot target load shall be no heavier than #2-1/2 shot.

Perry - #73-143-X and #71-58-V

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland's Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert L. Gilland
Robert L. Gilland
W. Giles Parker
W. Giles Parker
W. Giles Parker
W. Giles Parker

Perry - #73-143-X and #71-58-V

The Protestants to the granting of this special exception were residents of the immediate neighborhood. These residents pointed out the rural nature of the roads leading to the subject property and also cited the past history of V.F.W. activities on the subject property. These apparently have caused traffic headaches to the nearby residents, as well as having presented the community with noise problems at certain times in the past. Most of these Protestants were concerned about the noise factor emanating from the shooting although this was not an unanimous opinion.

The Board will not further detail the testimony and evidence presented in this case, but suffice it to say that same was sufficient on each side of the issue to bring to the Board a debatable issue. On one hand we have the petition of a long time established community oriented entity in the V.F.W. Post petitioning for the right to organize and hold turkey shoots. On the other hand, we are faced with the considerations of the immediately surrounding community which may at times be directly affected by such functions. The Board is sympathetic with both sides. It would seem sad to think that this County has reached the point where a long tradition of such activities could no longer be a part of our scene. Has our County so urbanized that such activities must cease forever?

Certainly, if the answer to this question is no, the rural nature of the subject site must be recognized as that sort of location where if turkey shoots are to be allowed at all, such a site is before the Board. On the other hand, Section 502.1 requires that this Board be totally satisfied that the general welfare of the property owners and residents of the affected area not be violated. Faced with this question, the Board has carefully reviewed the testimony and evidence in this case and will issue Orders hopefully resolving said issue. In all likelihood the conclusion and Orders issued in this case will make no one happy, but the Board will make a sincere effort to compromise in this issue with the hopeful thought that the neighbors involved on both sides of this issue can live with each other and in keeping with the full spirit and intent of Section 502.1, and utilize their own lands in harmony with those of their neighbors. To that end the Board will limit the Petitioner's request for a community building. There were no specific plans presented to the Board concerning such a community building, and the Board is not inclined to grant a carte blanche special

Perry - #73-143-X and #71-58-V

exception for a community building in this instance. However, considering that the V.F.W. Post has purchased the 2.2 acres with existing improvements, the Board will allow the Post to renovate and rehabilitate the existing structure. No extension of this building will be allowed. The use of the structure will be limited only to Post meetings and to no more than one such meeting per month. This building may also be used in conjunction with the organization and operation of the turkey shoots. The Board will grant a special exception for the shooting range, but will place a series of restrictions upon this special exception. The turkey shoots will be limited to no more than two per year. While the Petitioner seeks four shoots per year, the Board feels that the Post's goals can be partially achieved with the limited use, and the potential inconvenience and annoyance of the neighbors will be minimized.

The violations have been discussed above and the Board, as indicated, finds the Defendant guilty of all three of the violations. Two of the three are resolved by the special exceptions requested herein, and it is the understanding of the Board that the third violation involving the junked vehicles has subsequently been eliminated and, in fact, a violation of this character does not now exist upon the lands of the subject property.

As reasoning for the granting of the special exception concerning the shooting range, the Board feels that the fairly strict restrictions which have been placed upon this particular special exception will enable the petitioned use to function well within the requirements of Section 502.1. Orders in keeping with the above findings are set out below.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 17th day of October, 1974, by the County Board of Appeals, ORDERED that the Defendant do violate the Zoning Regulations of Baltimore County in using the subject properties for a community building, a shooting range and for the storage of junked vehicles, and it is

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE
W/S of Rices Lane, 3158' SW of : ZONING COMMISSIONER
Windsor Mill Road - 2nd District :
Joseph E. Perry V.F.W. - Petitioners : OF
NO. 73-143-X (Item No. 71) : BALTIMORE COUNTY

The Petitioners are requesting a Special Exception for a Community Building, land devoted to Civic and Social Activities, and in additionally, a Special Exception for a Shooting Range on the property located on the west side of Rices Lane, 3,158 feet southwest of Windsor Mill Road in the Second Election District of Baltimore County, containing 7.5 acres of land, more or less.

Evidence on behalf of the Petitioners indicated that the Joseph E. Perry, V.F.W. Post No. 751, Inc. wishes to place its post home on the subject property. The subject property is now presently improved with a frame structure approximately 30 feet wide and 41 feet long. The subject property is served by a 20 foot right of way strip to Rices Lane. Said right of way is not improved at this time.

Witnesses on behalf of the Petitioners indicated that they only wished to have four turkey shoots per year and the funds from these shoots would help support the various activities of the V.F.W. organization. Testimony indicated that the turkey shoots would be well policed and all safety precautions would be enacted. Presently there is a shooting range on the subject property, and the V.F.W. has been holding turkey shoots thereon for the past five to six years.

Residents of the area, in protest of the subject Petition, testified that Rices Lane, being the access to the subject property from Windsor Mill Road, is a narrow street approximately 16 feet in width with no sidewalks, guttering, etc. There was general concern for the safety of their children as Rices Lane is strictly a residential individual cottage area. In the past, they cited the speeding automobile when the V.F.W. was holding affairs. They questioned

the future type of affairs, hours of operation, and so forth.

Without reviewing the evidence further in detail but based on all the evidence presented at the hearing, in the judgement of the Zoning Commissioner, the prerequisites of Section 502.1 have not been met. More specifically, the burden is borne by the Petitioners to prove that the safety and general welfare of the community would not be adversely affected if the Special Exception is granted. The Petitioners did not meet this burden.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 15th day of June 1973, that the Special Exception for a Community Building, land devoted to civic and social activities and for a shooting range to conduct no more than four turkey shoots in any one year, be and the same is hereby DENIED.

Thomas J. H. H.
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING

DATE June 6, 1973

BY *John A. H. H.*

ORDER RECEIVED FOR FILING

DATE June 6, 1973

BY *John A. H. H.*

July 19, 1972

Description for a parcel of land to be leased by the Veterans of Foreign Wars of the United States...

Beginning for the same at a pipe set at the end of the first line of the land described in a deed from Thelma A. Perry, widow to the Veterans of Foreign Wars Post, dated Jan. 25, 1971 and recorded among the Land Records of Balto. Co. in Liber O.L.R. No. 5161 folio 10 etc., thence running and binding on the second line of said deed and on a prolongation thereof South 09 degrees 24 minutes West 700 ft. to intersect the sixth line of the land described in a deed from Lorenzo Kirk to Joseph E. Perry and wife, dated August 11, 1936 and recorded among the Land Records of Balto. Co. in Liber 479 folio 153 to; thence running and binding on a part of said sixth line and referring the courses to said deed South 88 degrees West 165 ft. to the end thereof; thence running and binding on the seventh and a part of the eighth lines of the last mentioned deed North 32 degrees 00 minutes West 945 ft. to the end thereof of the seventh line and North 37 degrees 34 minutes East 107 ft. to a point in line with the first line of the deed first mentioned herein; thence running on a prolongation of said first line in a reverse direction South 31 degrees 41 minutes East 670 ft. to the point of beginning.

Containing 7.5 acres more or less and being a part of the land conveyed in the deed secondly mentioned above.

Robert C. Morris, Reg. Surveyor



CERTIFICATE OF PUBLICATION

Pikesville, Md., November 23, 1972

THIS IS TO CERTIFY, that the annexed advertisement was published in THE NORTHWEST STAR, a weekly newspaper printed and published in Pikesville, Baltimore County, Maryland, once in each of one time before the 13th day of December, 1972, the first publication appearing on the 22nd day of November, 1972.

THE NORTHWEST STAR

Wm. H. Henshaw
Manager

Cost of Advertisement, \$

Description for a parcel "A" of land for the Jos. E. Perry, V.F.W. Post. Beginning for the same at a point on the West side of Rice Lane, Southwesterly 3158 ft. from the Windsor Mill Road, thence running on the West side of a 20 foot road, South 11 degrees 01 minutes West 71.0 ft. and South 17 degrees 26 minutes West 51.0 ft. and South 23 degrees 19 minutes West 195.0 ft.; thence running on the outline of the parcel of land owned by the Jos. E. Perry, V.F.W. Post, No. 751 of Randallstown, North 31 degrees 41 minutes West 280.28 ft. and South 09 degrees 24 minutes West 110.0 ft.; thence running for a line of division South 81 degrees 41 minutes East 275.0 ft.; thence running on the outline of the above parcel North 11 degrees 57 minutes East 110.0 ft. to the point of beginning. Containing 0.70 acres more or less and being designated as parcel "A" on the plat to be filed herewith.



Robert C. Morris

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 23, 1972

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of one time before the 13th day of December, 1972, the first publication appearing on the 23rd day of November, 1972.

THE JEFFERSONIAN

A. Frank Smith
Manager

Cost of Advertisement, \$

Description for parcel "B" of land for the Jos. E. Perry, V.F.W. Post. Beginning for the same at a point on the West side of Rice Lane, Southwesterly 3158 ft. from the Windsor Mill Road and thence running on the West side of a 20 foot road, South 11 degrees 01 minutes West 71.0 ft. and South 17 degrees 26 minutes West 51.0 ft. and South 23 degrees 19 minutes West 195.0 ft.; thence running along a part of the outline of the land owned by the Jos. E. Perry Post (V.F.W. No. 751), South 11 degrees 57 minutes West 110.0 ft. to the beginning of parcel "A", thence running North 81 degrees 41 minutes West 275.0 ft. to the outline of the land owned by the Jos. E. Perry Post, V.F.W. No. 751; thence running along said outline South 09 degrees 24 minutes West 235 feet and South 74 degrees 20 minutes East 264.97 ft. and North 11 degrees 57 minutes East 269.75 ft. to the point of beginning. Containing 1.50 acres more or less and being designated as parcel "B" on the plat to be filed herewith.



Robert C. Morris

CERTIFICATE OF PUBLICATION

TOWSON, MD., December 14, 1972

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Balto. County, Md., once in each of one time before the 13th day of December, 1972, the first publication appearing on the 14th day of December, 1972.

THE JEFFERSONIAN

A. Frank Smith
Manager

Cost of Advertisement, \$

BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 7015

DATE Jan. 24, 1973 ACCOUNT \$199.65

AMOUNT \$199.65

WHITE - CASHIER

DISTRIBUTION

YELLOW - CUSTOMER

Veterans of Foreign Wars
Joseph E. Perry Post 751, Inc.
7205 Windsor Mill Road
Baltimore, Md. 21207

Advertising and postage of property - #73-113-X

LEGALS

PETITION FOR SPECIAL EXCEPTION

Sub DISTRICT

ZONING: Petition for Special Exception for a Community Building, land developed Civic and Social Activities and for a shopping range to conduct no more than four family shops in any one year.

LOCATION: West side of Rice Lane, 1115 East South of Windsor Mill Road.

DATE & TIME: THURSDAY, JANUARY 19, 1973 at 1:00 P.M.

PUBLIC: In Public Hearing, before the County Planning Board, Room 146, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing.

Purpose: For a Community Building for a Community Building, land developed Civic and Social Activities and for a shopping range to conduct no more than four family shops in any one year.

All that parcel of land in the Second District of Baltimore County, Maryland, being the same as a part of the first line of the land described in a deed from Thelma A. Perry, widow to the Veterans of Foreign Wars Post, dated Jan. 25, 1971 and recorded among the Land Records of Balto. Co. in Liber O.L.R. No. 5161 folio 10 etc., thence running and binding on the second line of said deed and on a prolongation thereof South 09 degrees 24 minutes West 700 ft. to the end thereof; thence running and binding on the seventh and a part of the eighth lines of the last mentioned deed North 32 degrees 00 minutes West 945 ft. to the end thereof of the seventh line and North 37 degrees 34 minutes East 107 ft. to a point in line with the first line of the deed first mentioned herein; thence running on a prolongation of said first line in a reverse direction South 31 degrees 41 minutes East 670 ft. to the point of beginning. Containing 7.5 acres more or less.

LEGALS

PETITION FOR SPECIAL EXCEPTION Sub DISTRICT

ZONING: Petition for Special Exception for a Community Building, land developed Civic and Social Activities and for a shopping range to conduct no more than four family shops in any one year.

LOCATION: West side of Rice Lane, 1115 East South of Windsor Mill Road.

DATE & TIME: THURSDAY, JANUARY 19, 1973 at 1:00 P.M.

PUBLIC: In Public Hearing, before the County Planning Board, Room 146, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing.

Purpose: For a Community Building for a Community Building, land developed Civic and Social Activities and for a shopping range to conduct no more than four family shops in any one year.

All that parcel of land in the Second District of Baltimore County, Maryland, being the same as a part of the first line of the land described in a deed from Thelma A. Perry, widow to the Veterans of Foreign Wars Post, dated Jan. 25, 1971 and recorded among the Land Records of Balto. Co. in Liber O.L.R. No. 5161 folio 10 etc., thence running and binding on the second line of said deed and on a prolongation thereof South 09 degrees 24 minutes West 700 ft. to the end thereof; thence running and binding on the seventh and a part of the eighth lines of the last mentioned deed North 32 degrees 00 minutes West 945 ft. to the end thereof of the seventh line and North 37 degrees 34 minutes East 107 ft. to a point in line with the first line of the deed first mentioned herein; thence running on a prolongation of said first line in a reverse direction South 31 degrees 41 minutes East 670 ft. to the point of beginning. Containing 7.5 acres more or less.

CERTIFICATE OF PUBLICATION

Pikesville, Md., November 19, 1972

THIS IS TO CERTIFY, that the annexed advertisement was published in THE NORTHWEST STAR, a weekly newspaper printed and published in Pikesville, Baltimore County, Maryland, once in each of one time before the 13th day of December, 1972, the first publication appearing on the 22nd day of November, 1972.

THE NORTHWEST STAR

Wm. H. Henshaw
Manager

Cost of Advertisement, \$

ZONING COMMISSIONER'S

EXHIBITS

WOODLAWN DEMOCRATIC CLUB, INC.
Baltimore County's Leading Democratic Club
Woodlawn, Maryland 21207

FEBRUARY 6, 1973

MR. ERIC DINENBA
ZONING COMMISSIONER BALTIMORE COUNTY
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND

DEAR MR. DINENBA:
THE WOODLAWN DEMOCRATIC CLUB AT ITS REGULAR MEETING HELD TUESDAY, JANUARY 9, 1973, HAS UNANIMOUSLY GONE ON RECORD IN SUPPORT OF THE REQUEST OF THE JOSEPH P. PERRY POST #751, VETERANS OF FOREIGN WARS, FOR SPECIAL EXCEPTION TO USE THEIR SAID PROPERTY OFF RICE'S LANE FOR COMMUNITY PURPOSES AND CONDUCTING NO MORE THAN FOUR TURKEY SHOTS PER YEAR.

THE WOODLAWN DEMOCRATIC CLUB, COMPRISED OF APPROXIMATELY 220 MEMBERS IS LOCATED IN THE SECOND CONGRESSIONAL DISTRICT OF BALTIMORE COUNTY.

RESPECTFULLY,
Alfred P. Truher
ALFRED P. TRUHER
PRESIDENT

Seen before me 6 February, 1974
William E. Sklar
My commission expires 1 July 1974

The Second District Democratic Club Inc.

FEBRUARY 6, 1973

MR. ERIC DINENBA
ZONING COMMISSIONER BALTIMORE COUNTY
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND

DEAR MR. DINENBA:

THE SECOND DISTRICT DEMOCRATIC CLUB, INC. AT ITS REGULAR MEETING HELD WEDNESDAY, JANUARY 17, 1973, HAS UNANIMOUSLY GONE ON RECORD IN SUPPORT OF THE REQUEST OF THE JOSEPH P. PERRY POST #751, VETERANS OF FOREIGN WARS, FOR SPECIAL EXCEPTION TO USE THEIR SAID PROPERTY OFF RICE'S LANE FOR COMMUNITY PURPOSES AND CONDUCTING NO MORE THAN FOUR TURKEY SHOTS PER YEAR.

THE SECOND DISTRICT DEMOCRATIC CLUB, COMPRISED OF APPROXIMATELY 54 MEMBERS IS LOCATED IN THE SECOND CONGRESSIONAL DISTRICT OF BALTIMORE COUNTY.

RESPECTFULLY,
Catherine M. Burns
CATHERINE M. BURNS
SECRETARY

Seen before me this date 6 February, 1973
William E. Sklar
My commission expires 1 July 1974

SOCIAL SECURITY POST 142, INC.
DEPARTMENT OF MARYLAND



FEBRUARY 6, 1973

MR. ERIC DINENBA
ZONING COMMISSIONER BALTIMORE COUNTY
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND

DEAR MR. DINENBA:

THE SOCIAL SECURITY POST #142 AMERICAN LEGION, AT ITS REGULAR MEETING HELD FRIDAY, JANUARY 12, 1973, HAS UNANIMOUSLY GONE ON RECORD IN SUPPORT OF THE REQUEST OF THE JOSEPH P. PERRY POST #751, VETERANS OF FOREIGN WARS, FOR SPECIAL EXCEPTION TO USE THEIR SAID PROPERTY OFF RICE'S LANE FOR COMMUNITY PURPOSES AND CONDUCTING NO MORE THAN FOUR TURKEY SHOTS PER YEAR.

THE SOCIAL SECURITY POST #142, AMERICAN LEGION, COMPRISED OF APPROXIMATELY 232 MEMBERS IS LOCATED IN THE SECOND CONGRESSIONAL DISTRICT OF BALTIMORE COUNTY.

RESPECTFULLY,
Patrick Thron
PATRICK THRON
COMMANDER

Seen before me 6 February, 1973
William E. Sklar
My commission expires 1 July 1974

JOSEPH E. PERRY POST #751 VFW

Since February 1969:

Purchased - 5,000 Targets
On Hand - Approx. 1,500 - 1,600.

We usually purchase 1 case of shell for regular shoots - leftovers held until next shoot or passed on to members or used to shoot Raffle targets.

Purchased 1 case for last shoot. Have on hand 12 boxes & 2 boxes were given to Range Master to replay use of shells at another time.

Grounds Wardens - Names listed have at one time or another served as Grounds Warden at a VFW Shoot.

C.W. Lanni
3116 North Rolling Rd.
Baltimore, Md. 21207

W.L. Kelly
Windsor Hill Rd.

Woodrow B. Swift
Jeffrey Rd.

George Hoffman
Richmond Avenue

Roger Poddicord
Church Lane

C.W. Lanni
Commander

BALTIMORE COUNTY MARYLAND
OFFICE OF THE BUILDINGS ENGINEER
COUNTY OFFICE BUILDING
TOWSON, MARYLAND

3041 2
MR 129 10-18-68

1. FAMILY DWELLING
ADD TO EXISTING GARAGE STORAGE AND WORK AREA. NO PLUMBING. 2 P.P.

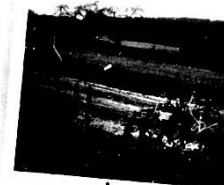
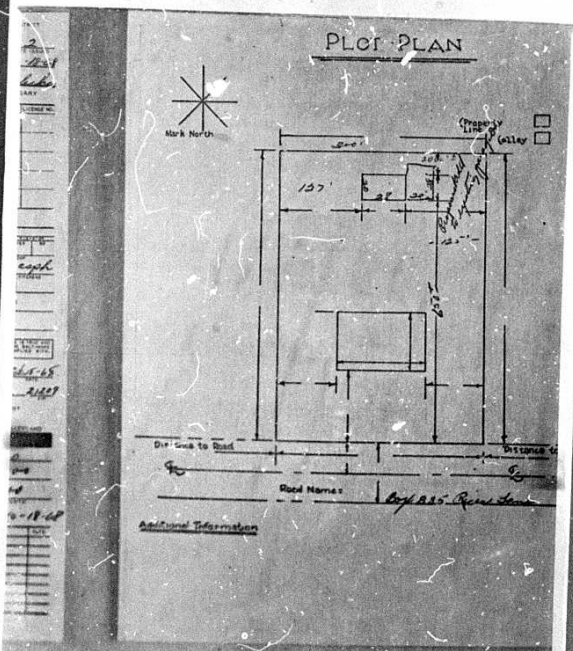
OWNER: MAJOR H. FRY RICES LANE BOX 835 BALTO., MD. 21207 W.L. 3910
CONTRACTOR: SAME
SHEET NO. 1
DATE: 10-18-68

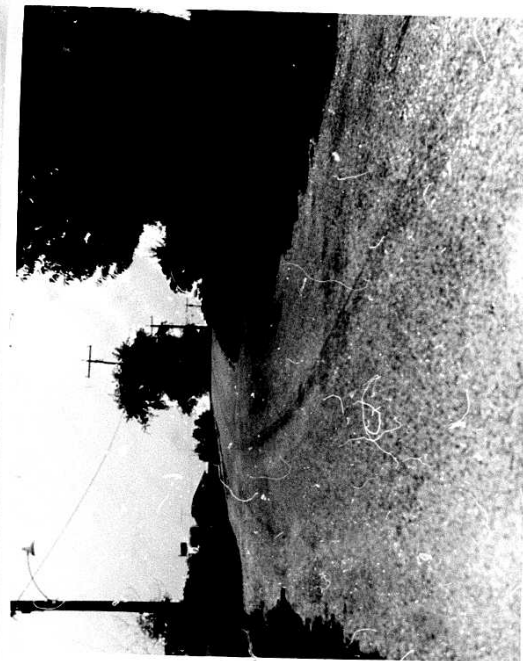
1. IN LINE WITH EXISTING BUILDING
2. TOTAL LOT OF IMPROVEMENTS: 500.00
3. TOTAL LOT OF IMPROVEMENTS: 500.00
4. TOTAL LOT OF IMPROVEMENTS: 500.00

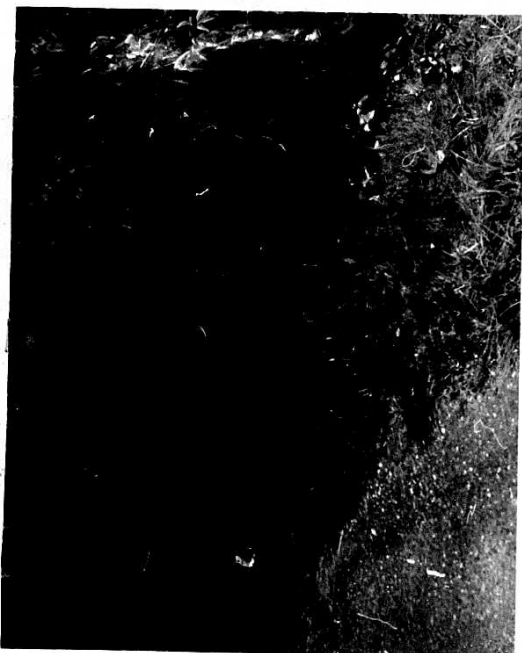
OWNER: MAJOR H. FRY
10-18-68

1. IN LINE WITH EXISTING BUILDING
2. TOTAL LOT OF IMPROVEMENTS: 500.00
3. TOTAL LOT OF IMPROVEMENTS: 500.00
4. TOTAL LOT OF IMPROVEMENTS: 500.00

OWNER: MAJOR H. FRY
10-18-68







RE: PETITION FOR SPECIAL EXCEPTION
for a Community Building
and Shooting Range
W/S of Rices Lane, 3150'
SW of Windsor Mill Road
2nd District
Thelma A. and Joseph E. Perry
Petitioners
Case No. 73-143-X
and
RE: ALLEGED ZONING VIOLATION
on property located on the
E/S of Rices Lane, 3/4 of a mile
S. of Windsor Mill Road
2nd District
Thelma Perry, Defendant
Case No. 71-58-V (ZV-70-352)
William M. Barnett, Sr., et al
Protestants-Appellants

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 9
Folio No. 487
File No. 5419

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Walter A. Reiter, Jr., W. Giles Parker and Robert L. Gifford, constituting the County Board of Appeals of Baltimore County, and in answer to the Order to Remand directed against them in this case, herewith return the additional record of proceedings had in the above entitled matter:

No. 73-143-X
and
No. 71-58-V

Apr. 10, 1975 Order of Judge John E. Rains, Jr. " . . . that the Opinion and Order of the County Board of Appeals dated October 17, 1974 granting the requested special exception . . . is, and is hereby affirmed, and it is further ORDERED that these proceedings be, and they are hereby remanded to the County Board of Appeals for Baltimore County for further action granting the petitioned special exception in accordance with the Oral Opinion herein, including the taking of further testimony if required by said Board, as may be necessary or helpful to the Board in imposing such 'conditions, restrictions or regulations' pursuant to the Baltimore County Zoning Regulations as the Board may deem 'necessary or advisable for the protection of surrounding and neighboring properties' and with regard to such further proceedings, the attention of the Board is respectfully directed to the suggested points raised by the Court in its Oral Opinion concerning an occupancy permit for the existing building, the availability of water and sewerage facilities before the building can be occupied, hours for the turkey shoots and location of shooting stands and targets. . . ."

Sept. 23 Hearing held before the County Board of Appeals

Dec. 23 Memorandum and Amended Order of the County Board of Appeals clarifying "conditions, restrictions or regulations"

Perry - 9/487/5419

Feb. 23, 1976 No further appeal having been taken, a certified copy of the Board's Memorandum and Amended Order filed in the Circuit Court for Baltimore County

Respectfully submitted

Edith F. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: William S. Baldwin, Esquire
Thomas L. Hennessey, Esquire
Hessard

LAW OFFICES
Thomas L. Hennessey, P.C.
THOMAS L. HENNESSEY
CLEVELAND HOWELL, JR.
LARRY W. ARMSTRONG, JR.
ROBERT S. ARMSTRONG
STANLEY M. MCCARTHY, III
JOHN P. HOWLAND
TOWSON, MARYLAND 21204
JANUARY 2, 1976
RE: File No. 73-143-X - Thelma A. Perry V.F.W.
File No. 71-58-V - Thelma A. Perry

Dear Mr. Reiter:

I have received your Order in the above entitled case. A review of this Order shows that it does not incorporate the agreed restrictions proffered and signed by the V.F.W. through its attorney, Mr. Baldwin, and accepted by the residents through me at the Board re-hearing. Specifically not included are items (a), (b), and (c) and items (d), (e), (f), and (g). Since this was an agreed situation, I feel that perhaps a revised Order would more properly describe the restrictions and agreements of the parties which I believe had been accepted by the Board. Please let me have your comments in connection with this Memorandum and Amended Order prior to the expiration of any appellate time. Thank you very much.

Yours very truly,
Thomas L. Hennessey

TLH/gd
cc: William S. Baldwin, Esq.
John W. Hession, III, Esq.
Peter M. Zimmerman, Esq.
Mr. S. E. DiNenna
Mr. W. D. Fromm
Mr. A. A. Raphael
Mr. James Howell
Board of Education
Rices Lane Group

Rec'd 1-3-76
J.A.M.

WILLIAM S. BALDWIN
ATTORNEY AT LAW
16 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
V.L. 5-0280
May 10, 1975

Thomas L. Hennessey, Esquire
Hennessey, Fleury & Subert
407 West Pennsylvania Avenue
Towson, Maryland 21204
RE: Joseph Perry V.F.W.
Special Exception
Dear Tom:

As you know, the time for appeal from Judge Raine's Decision in the above case has expired.

We discussed getting together to agree on a set of restrictions to be imposed on the special exception by the Board of Appeals in accordance with Judge Raine's Remand Order. I have discussed this briefly with Walt Reiter and he does not see any reason for the Board to hold a further hearing if we can agree on a set of restrictions to be submitted to the Board and adopted by it.

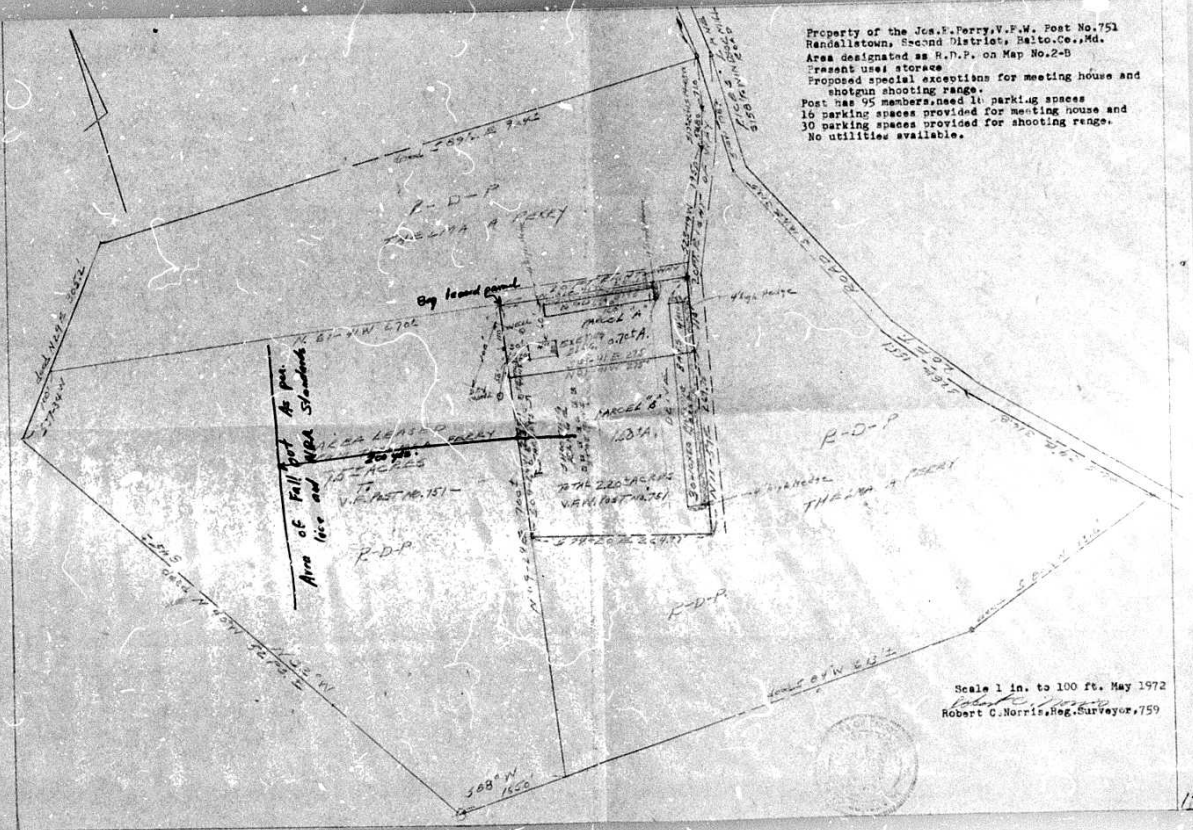
I would appreciate it if you would contact me within the next few days regarding this as my clients are most anxious to start cleaning up the property.

Best personal regards,
William S. Baldwin

NSB/dj
cc: Theodore J. Storm
Walter Reiter

Rec'd 5-4-75
9:30am

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 5313
DATE 1/13/75 ACCOUNT 01.712
Thomas L. Hennessey, Esq.
407 W. Pennsylvania Ave. \$40.00
Towson, Md. 21204
WHITE CASHIER PINK AGENCY YELLOW - CUSTOMER
Case #73-143-X - Thelma A. & Jos. E. Perry and
Case #71-58-V - Thelma Perry
Cost of certified documents



STIPULATION OF AGREED
RESTRICTIONS ON USE OF V.F.W. POST PROPERTY

The Petitioners, THELMA A. PENNY and JOSEPH E. PENNY, V.F.W. Post #751, Inc., its successors and assigns do hereby stipulate and agree to the following restrictions on the use of the property and improvements thereon located on the west side of Rice's Lane, 3158, southwest of Windsor Mill Road, 2nd District, Baltimore County, Maryland, as set out in Petitioners' Exhibit #1 dated June 1, 1975, respectively;

I As to the building thereon:

A. Only the existing improvements shall be utilized. The Petitioner shall be allowed to renovate and rehabilitate the existing improvements, but said improvements may not be enlarged or extended. No new structures shall be permitted. Upon completion, these improvements may be used only for One (1) monthly V.F.W. Post Meeting on the premises and in the building as the sole permitted use of the premises and the improvements except as noted in II.

B. No meetings or other use of the land is permitted until the Petitioners locate and develop an adequate water supply and adequate sewage disposal facilities sufficient to properly obtain an occupancy permit from the applicable Baltimore County licensing authorities. Only after such facilities are properly functioning and necessary permits obtained shall the Petitioners begin to hold their monthly meeting or any turkey shoots.

C. Neither these improvements nor this property shall be used for any function in the nature of a Crab Feast, Bull Roast, Oyster Roast, or the like at any time, not even as a part of the sole monthly V.F.W. Post Meeting.

II As to the land itself:

A. There shall be no more than 200 people on these grounds at any one time.

B. The following restrictions apply particularly to turkey shoots.

1. Restriction IB is incorporated herein by reference.

2. No more than two turkey shoots per calendar year shall be held at the subject property.

3. Said turkey shoots must be restricted to the period of noon to 6 p.m. on the notice date scheduled for said turkey shoot.

4. Notice of said turkey shoots shall be provided to residents who gain access to their properties via Rice's Lane. This notice shall be via registered mail and must be given at least three weeks prior to the date of the turkey shoot. Separate notice shall be given for each shoot to the residents. The name of the person responsible for the running of each shoot and a telephone number where he may be reached during the shoot shall be included in the notice.

5. The shooting range shall consist of no more than four shooting stations.

6. The targets must be located due West of the shooting stations.

7. Any turkey shoot shall be restricted to no more than 300 target shoots.

8. All shooting shall be limited to use of no heavier than 12 gauge shotgun, and the shot target loads shall be no heavier than #7 1/2 shot.

9. No alcoholic beverages shall be sold on the grounds on the scheduled day of any turkey shoot without a license from the Board of License Commissioners.

10. Photocopies of all permits issued in conjunction with any turkey shoot for whatever purpose shall be posted at the entrance to the subject property from Rice's Lane no later than 24 hours prior to any turkey shoot as to be clearly visible to any citizen standing on Rice's Lane.

I/We have read the foregoing restrictions and agree to make use of the subject property in accordance therewith.

IN WITNESS WHEREOF I/We hereby sign and seal on this day of , 1975.

WITNESS:

title

title

title

In consideration therefore and with the mutual understanding that the Petitioners have promised to abide with both the spirit and letter of these restrictions, we, the Protestants, stipulate and agree to the foregoing restrictions as an agreed stipulation of restrictions on the subject property.

IN WITNESS WHEREOF I/We hereby sign and seal on this day of , 1975.

WITNESS:

THOMAS L. HENNESSEY
Attorney for Protestants.

ZONING CASES #73-143-X and #71-52-V

IN RE: PETITION FOR SPECIAL EXCEPTION FOR A COMMUNITY BUILDING SHOOTING RANGE W/S 3158 RICES LANE 3158 SW 2ND WINDSOR MILL ROAD, 2ND DIST. THELMA A. JOSEPH E. PENNY, VFW POST NO. 751, INC.,
Petitioners * Misc. 5419/9/487
and * March 14, 1975

RE: ALLEGED ZONING VIOLATION ON THE PROPERTY LOCATED ON THE E/S OF RICES LANE, 3/4 OF A MILE 2ND DIST. THELMA PENNY
Defendant *
MR. WILLIAM M. BARNETT, SR., et al *
Protestants *

* * * * *
BEFORE: HONORABLE JOHN E. RAINE, JR., Judge

APPEARANCES:
WILLIAM S. BALDWIN, Esquire On behalf of Petitioners
THOMAS L. HENNESSEY, Esquire On behalf of Protestants

Reported by:
R. E. Royal, Jr.

Rec'd 4-1-75
10 AM

THE COURT: On November the 10th of 1972 there was a petition for a special exception filed by the Veterans of Foreign Wars Post No. 751, a corporation. At that time it was admitted that in the past years they had violated the zoning regulations. Their past violations are not condoned or forgiven by this Court. On the other hand, those past violations do not prohibit them from seeking relief before the zoning authorities. The Zoning Commissioner denied the special exception, an appeal was taken to the County Board of Appeals and on October the 17th of 1974 the Board of Appeals unanimously granted a special exception subject to certain restrictions, whereupon, the protestants who reside in the neighborhood have taken an appeal to this court and the matter is hotly contested.

Now, I've gone over this record and listened to counsel and we have engaged in discussions back and forth, the Court questioning counsel about various aspects of the matter and the case is now ready for decision. Now, there are quite a few judges who, I am sure, would hold the matter under advisement and in a month or so get around to writing a memorandum telling the people what the decision is, but, we've

got people here who are very interested in the matter and they have come here today to listen to the proceedings and I believe that they ought to be entitled to know just exactly how the Judge feels about it.
The point has been raised initially that when the V.F.W. post acquired their property of 2.2 acres that the conveyance constituted a violation of the County's regulations governing the subdivision of land. Whether that is so or not is not before the Court. All that the Court is concerned with is whether the land now owned by or leased by the V.F.W. can be given the treatment allowed by the zoning regulations relating to the grant of special exception.

The exception requested for this property, which lies on the east side of a narrow road known as Rices Lane about three quarters of a mile south of Windsor Mill Road, is for a community building or structure for social and/or recreational use and also for a shooting range.

Now, the county regulations single out those uses as being necessary or desirable and therefore they are given a preferred status in that by the grant of a special exception they can be allowed in areas where they are

otherwise prohibited, and that would be the case in this particular area, which is zoned R.D.P., which counsel agree is essentially the same as a D.R. 1 zone.

Now, the special exceptions that can be granted involve uses that very often have inherent qualities that adversely affect the neighborhood. The regulation that is the key is Regulation 502.1, and it provides that a special exception shouldn't be granted if it's going to be detrimental to the health, or safety, or general welfare of the locality involved or tend to create congestion in roads, create a potential hazard from fire, and other criteria which are not directly relevant in this case.

Now, the Court is going to remand the case to the Board of Zoning Appeals pursuant to Maryland Rule B12 for further proceedings, with the direction that their order passed on the 17th day of October, 1974 be modified. The Board might have meant in their order to require an occupancy permit for the existing structure in that they refer to approval by the Department of Permits and Licenses, but, this Court is going to direct the administrative agency to specifically require that the special exception for the use of the

building be conditioned upon the securing of an occupancy permit from Baltimore County. Before an occupancy permit can be granted there will have to be water available to the subject property and also there will have to be adequate sewage disposal facilities, all of which will be subject to the control and approval of the Baltimore County Health Department, so that this building will not be and cannot be used at all until the water and sewerage is in place. Now, if there is water and sewerage there then I do not believe there is anything to indicate any danger to the public health or safety of the people in the area.

The safety factor is also involved with the grant of a special exception for turkey shoots, and I equate a turkey shoot with the shooting range permitted as a special exception under the existing zoning regulations. The Board imposed what they believed to be adequate restrictions on the turkey shoots to prevent any detriment to the safety of persons in the locality. I do not believe that they went far enough. The restriction of two shoots per year is perfectly appropriate, notice to persons of the shoot is appropriate, the restriction as to the maximum number of people on the

property at any one time is appropriate, but, the Court believes that the Board should consider and adopt additional restrictions. The first is that the shoot should be limited, shoot should be limited in point of time to periods from noon until 6 p.m. The Court also directs the Board to consider the restriction of the four shooting stations to a location on the parcel owned by the V.F.W., to wit, the 2.2 acre tract referred to on Petitioner's Exhibit 1 as Parcel B, and that all targets for those shooting stations be located west of the shooting station, for, it seems to me quite clear that with the shot and gun controls that the Board has already set forth that if the shooting is west the distances are such as to confine the shots to the property now leased by the V.F.W. and, accordingly, no safety hazard will exist by virtue of the two shoots per year.

The question has already been raised as to the sale of alcohol on the premises. The Court takes notice of the fact that alcohol can only be sold in Baltimore County pursuant to a license issued by the Board of License Commissioners commonly referred to as the Liquor Board, and believing that alcohol and shooting is an undesirable

combination the Court feels that the Liquor Board should not issue licenses for the sale of liquor at the time of these turkey shoots, but, I'm mindful of the fact that that matter is not directly before me, because, no such license has been applied for. I suggest that the Court would have power to prevent the issuance of a one-day license for the day of the turkey shoot if that became necessary at a later date by virtue of an appeal from any action of the Liquor Board granting the license, an appeal to this Court and a stay of the license pending an adjudication of the matter, but, that is not before me at this time.

Now, it's also argued that the Board was inconsistent in that they provided that the V.F.W. should not be allowed to use the property for a crab feast, or bullroast, or oyster roast, or any affair of that nature, and the question is raised why should that be prohibited and a turkey shoot allowed. The short answer to that is that a applicant for the special exception in their testimony committed themselves to a position of neither wanting or intending to have such functions and that there was no point in the Board granting approval to the applicant for something that the applicant says

they don't want in the first place.

The approach to the subject property is a rather narrow rural road and this is, as described by the Board, or the Commissioner, essentially a rural area; unfortunately, one of the few rural areas located in that portion of Baltimore County. Obviously, a special exception like a shooting range has got to be located in a rural area, you cannot have it in a built-up, highly congested, urban type of area, and it's inevitable that when you get into that kind of area the access roads are going to be narrow and undoubtedly there will be congestion involved, but, I believe that congestion as mentioned in Section 502.1 is a relative matter and has to be so considered. Now, any use of any property causes an increase in traffic and tends to create congestion in roads, but, there are limitations on the applicability of subsection b of Section 502.1 and where, by the very nature of the use, you have a condition that is inherent, then the special exception can be properly granted. Now, the Board has limited the number of people that can occupy this property, they have limited the number of turkey shoots. The only congestion that is likely to occur, based on the evidence in this case,

seems to me to be confined to two periods a year for about six hours when somewhat significantly less than 200 cars will use this narrow road and I believe that it is fairly debatable that that is not an undue congestion. Now, it is perfectly true that photographs offered in evidence indicate that cars passing each other on Rices Lane do go over onto grass plots. On the other hand, if Rices Lane is in fact fifteen feet wide then two cars can pass and I believe that it's clear that the grass plots, being people's yards, have really encroached on what was originally the right of way.

The question has already been raised about the problem of hazard from fire. Now, regardless of how the property is used any property can catch fire, but, there is nothing to indicate that the existing storage building presents any less of a fire hazard than if that existing building is occupied by the V.F.W. for their one meeting per month that the zoning authorities have allowed in their order. The fire hazard now is probably greater than usual because of an absence of water in the area, whereas, if the use is to be made of the subject property by the V.F.W. it will be done after water is available, so that the use of this property by the

V.F.W. with water tend to diminish the fire hazard and certainly it can hardly be argued that the contemplated use would create a fire hazard that would justify a denial of this special exception.

So, I am going to send this case back to the Zoning Board for modification in conformity with the views here expressed.

Finally, I have been asked to specifically rule on whether there was sufficient compliance with the procedural rules adopted by the zoning authorities pursuant to the authority given them to adopt such rules by the regulations themselves, the contention being made that Petitioner's Exhibit 1, which is a survey of the property in question, is not in compliance with the rules. I think that the petition and the accompanying plat are sufficient to properly present the matter to the zoning authorities and to this Court. Where you have a special exception that does not involve any new construction it seems to me that the requirements for the type of plat that should be used is somewhat different than if you were asking the Zoning Board to actually reclassify property and change the zoning status of it. I think there has to be a

distinction drawn between a special exception case and a reclassification case.

In conclusion, the point I'm making is that all of these special exceptions do affect neighborhoods adversely, but, unless there is something over and above their adverse effect shown on the record then the special exception can properly be granted. The point that I'm trying to make is the same point that the Court of Appeals made in a case involving a funeral home. The case was recently reported in the Daily Record and I believe that counsel have a reference to it.

MR. HENNESSY: Anderson vs Sawyer, your Honor.

THE COURT: I'm not even sure.

MR. BALDWIN: That's correct, your Honor,

January 27, '75.

THE COURT: Anderson vs Sawyer, Daily Record of January 27.

MR. HENNESSY: It's in the February 7 Advance Sheets.

THE COURT: But, that case dealt with a funeral home. Everybody agreed that the presence of a funeral home right in the neighborhood is going to depress property values.

The Court of Appeals said, Sure, it's going to bring a lot more people in, but, the law looks on funeral homes with favor, considers them necessary or desirable, and just because they depress property values, just because they tend to bring more people into the area and tend to crowd up the streets, parking facilities, and things like that is not enough to justify the denial of a special exception, and my approach to this case is essentially the same. You're going to have noise in connection with a shooting range, but, noise isn't enough, because, when they said that you can get a special exception for a shooting range in a residential area the framers of the law had to know that every shooting range involves noise.

I believe that the Zoning Board did have a matter before them that was fairly debatable and I'm not permitted to substitute my judgment for theirs and I'm not really doing that, I'm merely sending it back to the Board for their consideration and possible modification by incorporating these additional restrictions, which I believe are eminently reasonable and which I believe the Zoning Board intended without specifically saying so. -- Hennessy.

MR. HENNESSY: If the Court please, I had hoped

that the Court would elaborate upon what was considered to be one meeting per month, because, the habitual use of the property, if you don't call it a meeting you can have a daily use of the property for repair, replacement, incidental check against this, or that, or the other, and gatherings can take place all month long. The order -- we objected to its vagueness, we're wondering if the Court would elaborate.

THE COURT: One meeting a month. I know what the Board meant, they meant an official regular meeting. I don't think that they did go into any detail and it might be best, so that at least everybody will know exactly where they stand in the future, to have that narrowed down, although, Mr. Hennessy, the Board was pretty clear in Page 4 of its opinion. "The use of the structure will be limited only to Post meetings...."

MR. HENNESSY: That's correct, your Honor.

THE COURT: So, isn't that enough? I mean, a Post meeting, in when the officers are there, the secretary is there, you know, and they transact some business. All lodges, clubs, organizations, do.

MR. HENNESSY: Your Honor, I just want to be

sure that it was considered by the Court, because, there can be a various interpretation. When you read it backwards it says they can have one Post meeting per month and that's what can be alluded to if you read it backwards, but, you see, if you say, Look, well, the property has got to be checked on, this is unrealistic, it's got to be maintained, and it's got to be cleaned, and what you do is you develop a whole scheme of use and I'm trying to avoid what's inherent in orders of those kind, that if it means one meeting a month that means physically upon the premises one meeting per month.

THE COURT: I think that if somebody goes up there to cut the grass and to take a look at it, or sweep it out, that that's not what is meant by using the property.

MR. BALDWIN: I think it's natural, your Honor, to assume that they would keep the club records there.

THE COURT: I think this language is a Post meeting. Mr. Hennessey, I'm going to invite all these people -- if I think that -- that language, Post meeting, is enough that other incidental contacts with the building don't involve use as that word is interpreted in the Board's order, but, if you believe that this V.F.W. is violating any

of the terms of the order as finally drafted by the Board of Appeals, if an application is made to this Court I can certainly stop it. I don't think I'd have any trouble interpreting and enforcing this order.

MR. BALDWIN: I think obviously, your Honor, if they go ahead -- they're going to have to be going into the property to do the renovation and have people dig the well. I mean, I think if we get too far --

MR. HENNESSEY: That's not the nature of my objection, your Honor. I think the Court knows what happens. Like the old Timonium Democratic Club ended up by being a poker club seven nights a week up on the York Road.

THE COURT: That's using the property, going there to dig a well, not -- or to fix the windows.

MR. BALDWIN: I think I understand.

THE COURT: Or cut the grass.

MR. HENNESSEY: Your Honor, is it possible that the Court could consider regulating a time of meeting, that perhaps -- let's say it would be unreasonable after 11 o'clock at night in a residential neighborhood to have a meeting that involves some noise, etcetera?

THE COURT: If they get, if that small a group gets that noisy too late at night I think they ought to be required to come in by application to this Court for some relief, but, I hate to put any curfew on it. They might have twenty people there legitimately and quietly deciding what charitable ventures they might get into and they might not be making any noise at all and I'd hate to say that everybody has got to be out of that building at 11:15 or 11:30. If they make that much noise then I think the Court can enjoin them, if they're really disturbing the neighborhood. Who is eligible for membership in the V.F.W.?

MR. BALDWIN: I don't think there's any -- I think you have to be a veteran, your Honor, I don't know.

MR. HENNESSEY: Other than the fact you're a veteran. I used to belong to the C. Markland Kelly Post, Judge. What they do, they gather people statewide and boil down to a neighborhood and then the members of this club would be from all over. The other thing I'd like the Court to be aware of -- everybody has been quoting Anderson vs Sawyer -- not so much here this afternoon, but, it's reported out at 23 Md. App. at 612 -- and the most significant part of that

case is the last paragraph that says, "This is precisely the situation here. The record is devoid of substantial supporting facts as to be incapable of raising a debatable issue." I think the facts in the case, had they been properly presented to the Court the ruling, by that paragraph, might have been somewhat different. That's the last paragraph.

THE COURT: What did they do in that case? MR. HENNESSEY: They upheld the grant of the special exception as given by Judge MacDaniel. They did it because they said the protestors hadn't furnished any evidence. That's the rule -- it says, "The protestors have shown nothing more than that they would suffer the same degree...."

THE COURT: Mr. Kuyal, don't take this. (Whereupon, the reporter discontinued taking.)

* * *

THELMA A. PERRY and
JOSEPH V. PERRY, VFW Post 751
Defendants
Case 73-143X and
RE: Alleged Zoning
3/4 of a mile south of
Windsor Hill Road
2nd District
Mrs. Thelma Perry,
Defendant
71-50-V, BY 70-152
V.F.W.
WILLIAM N. BARNETT, SR. et al.
Protestants
Appellants

MEMORANDUM OF LAW IN SUPPORT OF APPELLANT'S APPEAL

The Protestants, owner-residents of the Rice's Lane vicinity, complained to the Zoning Commissioner of Baltimore County in 1972 that Thelma Perry and Joseph V. Perry, VFW Post 751, violated Baltimore County Zoning Regulations. The gist of the action is short alleged the VFW was operating a community building in a Rural Deferred Planning Zone without benefit of a Special Exception. Additionally, Protestants argued against approval of Petitioner's after-the-fact request for Special Exception for a community building, land use for Civic and Social Activities and Special Exception for Shooting Range on the property located on the west side of Rice's Lane in the 2nd District of Baltimore County containing 7.5 acres ±.

Zoning Commissioner DiMenna on June 20, 1973, having found the VFW Post guilty as charged, ordered that use of the property as a community building cease within 30 days of his Order.

Earlier on June 6, 1973, the Zoning Commissioner had denied the Petitioner VFW Post's requests for Special Exceptions, finding on the basis of evidence presented that the requirements of § 502.1 Baltimore County Zoning Regulations had not been met. He further noted that Petitioner failed to meet its burden of proving

safety and general welfare of the community would not be adversely affected if the Special Exceptions were granted.

Petitioners appealed both of the Zoning Commissioner's Orders on June 20, 1973 to the Board of Appeals of Baltimore County. The Board of Appeals took testimony from both sides on March 26, May 21, and August 20, 1974 and issued its Opinion and Order on October 17, 1974. In its Opinion, the Board of Appeals found Petitioners guilty of three zoning violations noted heretofore. The Board of Appeals further granted the Special Exceptions to Petitioner subject to restrictions.

The present Appeal is from the Board of Appeals Opinion and Order of October 17, 1974.

ISSUES PRESENTED

- I Did the Board of Appeals err in granting the Special Exceptions?
- II Did the Board of Appeals' decision delegate the Zoning Commissioner's authority to enforce Zoning Regulations?
- III In Petitioner who violates Zoning Regulations precluded from the relief given?
- IV Does the use of VFW Post 751 property for turkey shoots and a community building constitute a proper use under § 502.1 Baltimore County Zoning Regulations?

I

THE BOARD OF APPEALS DID ERR IN GRANTING THE SPECIAL EXCEPTIONS TO THE VFW.

The Board of Appeals in its October 17, 1974 Opinion outlined the requirements of § 502.1 Zoning Regulations of Baltimore County pertinent to Special Exceptions as presented below:

502.1 - Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is will not:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets or alleys thereon;
- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of populations;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- f. Interfere with adequate light and air.

The Board of Appeals correctly stated on March 26, 1974 that the Petitioner bore the burden of meeting the requirements of § 502.1. Basically, these requirements mandate a showing by any Petitioner that his property is reasonably suitable for his own intended use, and most importantly, that his intended use will not be detrimental to the health, safety or general welfare of the neighborhood. (Quarles v. Board of Zoning Appeals of Baltimore County 204MD 397, 104A2d 568 (1954))

As to the suitability of the property for the requested use, testimony by Petitioner's witnesses acknowledged that the community building lacked sanitary facilities and water had not been located though numerous attempts had been made to locate water without success.

Therefore, under the Board's decision, Petitioners would be allowed to use the building existing on the property without demonstrating a usable water supply or sanitary hookups.

Granting a Special Exception before determining the property has an adequate water supply or can handle the sewerage places the cart before the horse in patent disharmony with § 502.1 (e) (e) as above noted. (Purman Branch Land Co. v. Board of County Commissioners of Anne Arundel Co. 232Md536, 194A 2d 640 (1963))

The more serious evidentiary test of which the Petitioners failed to offer proof was that the intended use would not satisfy

Petitioners obligation to its neighbors. First, the requested use as a shooting range and community building would increase the traffic on both Rice's Lane, a narrow residential lane and the narrower access lane to the property. (Northwest Merchants Terminal v. O'Rourke 191 Md 171, 60 A 2d 743 (1948)) It should be noted that a sharp turn in a narrow right of way is required to turn from Rice's Lane into the smaller access lane.

There was testimony from both sides as to the safety and congestion problems posed by Petitioners requested use. Petitioner's witnesses acknowledged that alcoholic beverages would be sold and consumed during turkey shoots and presumably during VFW meetings at the property. Petitioners also acknowledged that there had been traffic congestion when a fire occurred on the property several years past which consumed a barn on the property. The fire department was hampered not only by the narrowness of the access routes but also by the lack of a water source at the site.

Protestant's testimony emphasized that self-evident dangers to their children and themselves from the increased motor vehicle traffic on the narrow roads and the operation of a shooting range on the Perry property, Protestant's noting of earlier testimony that alcoholic beverages would be sold to shooters as well as onlookers, sagely emphasized the threat to their health and safety caused by the mixture of alcohol with shooters and drivers in such close quarters.

A measure of official concern over the narrowness of Rice's Lane lies in a letter to a Protestant from the Baltimore County Board of Education in which the Board claimed it would be subject to charges of malfeasance if it sent a school bus in Rice's Lane to pick up pupils due to the narrowness of Rice's Lane.

Protestants additionally provided eyewitness accounts of cars speeding on Rice's Lane to and from the Perry property during VFW affairs held there in the past.

The foregoing notes of testimony presented the Board of Appeals clearly show the dangers in the Petitioner's requested use and indicate the lack of a reasonable basis for the Board of Appeals Order of October 17, 1974.

The Baltimore County Charter §604 requires the Board's decision on matters to be heard "de novo" and to be based on the issues before the Board. (Dahl v. County Board of Appeals of Baltimore County 258 Md 157, 265 A2d 227 (1970)) The Board of Appeals acted on the opening of the hearing of this matter that the key issue was whether Petitioner could satisfy the requirements of §502.1 Zoning Regulations of Baltimore County. Based on the evidence presented, replete with Petitioner's admissions as to traffic congestion, potential fire hazard, lack of water and sewerage, etc., the Petitioner failed to meet the requirements of §502.1 and a Denial by the Board of Appeals solely on evidentiary grounds was mandated thereby. (Gerczak v. Todd 233 Md 25, 194 A2d 799 (1963))

II

The Board of Appeals Decision Abrogated the Zoning Commissioner's Power to Administer and Enforce Zoning Regulations.

This action originated in a zoning complaint by the Protestants to the Zoning Commissioner of Baltimore County that the VW Post was violating zoning laws by operating on the VW Post property a community building in a Rural Deferred Planning Zone without a Special Exception. As a result of that action, the VW Post petitioned the Zoning Department to allow them the requested use of the VW Post property.

After two full days of evidentiary hearing on both matters, Commissioner DiMenna denied the Petitioner's request for Special Exceptions on June 6, 1973 and found the Defendants guilty of operating a community building in a Rural Deferred Planning Zone without a Special Exception. The grounds for denial of Special Exceptions was Petitioner's failure to meet its burden under

- 5 -

§502.1 - specifically, its failure to prove that the safety and general welfare of the community would not be adversely affected if the Special Exceptions were granted. (Gerczak v. Todd (supra))

Under §501.7 - The decision and order of the County Board of Appeals may affirm or reverse in whole, or in part, any decision or order of the Zoning Commissioner, or may modify the Order appealed from and direct the issuance of a permit for such modified use as it may deem proper, subject, however, to zoning regulations and restrictions.

Within this scenario, the Petitioner is found guilty as to zoning violations by both the Zoning Commissioner and the Board of Appeals. However, while the Zoning Commissioner denied the Special Exception sought after a proper hearing based on Zoning Regulation §02.1, the Board of Appeals heard similar testimony and without commenting as to the sufficiency of water, adequate sewerage, safety and welfare of the surrounding neighbors, danger of panic from fire, or traffic congestion, grants the Special Exception.

The next step would properly lie against the Board of Appeals for granting a Special Exception to a building without sanitary facilities or adequate water supply in derogation of §501.7 if the mad cycle were to continue.

It is widely accepted as axiomatic that man seeks to order his life and his world. What kind of order results when the zoning regulations are abrogated by an appellate board which misconstrues the reasons for proper procedures in changing the lawful use of property to another use?

What sort of example is this to any other landowner who desires to change the use of his land to the detriment of the neighborhood?

To follow this chronicle, he need only build his building; get a building permit for storage building after it is up; aggravate the neighbors until they protest to Zoning; plead guilty to the violation; appeal Zoning's Order, and get his desired use from the Board of Appeals.

- 6 -

This must not be allowed for the obvious reason that the Board of Appeals did not address the issues head on but chose to "compromise" as they said, the rights of both parties. The Board of Appeals as an appellate body has the right to do whatever it chooses on a fair rehearing of an issue appealed, but it cannot operate in a vacuum. (Charter of Baltimore County §604)

Many groups in our community rely on Zoning Codes when they decide to purchase real property whether for residence, business, or whatever. Concurrently, they rely on the Zoning Commissioner to enforce the Zoning Code in case of violations and implicitly they rely on the Board of Appeals to modify the decision below with prescience of the applicable zoning law. Inconsistency is the hobgoblin of little minds. The Board of Appeals would have better replicated the decision it arrived at in the denial of a community center to the Carney VW on grounds that the poor highways in that area were detrimental to the safety, health, and welfare of the community.

III

PETITIONER WHO HAS HISTORICALLY VIOLATED ZONING LAWS SHOULD BE PRECLUDED FROM THE RELIEF HERE GRANTED.

The Petitioner, here, exhibits clear pattern of zoning violations which should preclude granting it the relief it sought i.e., a community building and a shooting range. Consider that in the summer of 1968, the VW Post 751 began construction of a building on the Perry Property before being stopped for failure to get a building permit. Two VW members on August 12, 1968, then got a building permit for a storage building. They were allegedly advised by an unnamed person working in the Permits Division to apply for a "storage" building after they had "explained what we were doing" to the clerk. Since the property was in Joseph V. Perry's name, the VW members, again on anonymous advice, signed as agents for Joseph V. Perry (deceased). Note well, a storage building is permitted as of right in Rural Deferred Planning

- 7 -

Zones while a community building is allowed only by special exception.

In November, 1970, the Zoning Commissioner of Baltimore County ordered Thelma Perry to cease and desist immediately the operation of a shooting range on her property following a complaint. The matter of the VW operating on the property without a Special Exception was held sub curia.

The VW Post 751 by admissions of its own members also sold food, alcoholic beverages, and splutter cards without getting the required licenses or permits.

Further, the VW Post 751 admits the road access to the property is miserable, and that they have not found water, and they do not have sanitary sewage disposal nor do they plan to do so unless their Special Exception is granted.

Every other Baltimore County property owner cannot play it as cheap as this crew. Anyone who has ever filed petitions with Zoning for changes in land use is required to present a preliminary site plan which details certain basics as property outline, improvements thereto, plumbing, sewer or water hookups or source located as well as any other modifications required based on the applicable regulations. (Baltimore County Zoning Regulations, Appendix 1)

But the VW Post 751, having constructed its storage building, declines to follow these procedures unless its Special Exception is granted.

The VW Post 751 was found guilty of zoning violations by the Zoning Commissioner again on June 20, 1973, for operating a VW Post in a Rural Deferred Planning Zone without the benefit of a Special Exception.

The Board of Appeals found the VW Post 751 guilty of three zoning violations on October 17, 1974. Baltimore County had alleged VW operated a shooting range without Special Exception up to 1971. Second, Baltimore County accused VW of utilizing a community building without a special exception.

- 8 -

Third, the VW was charged with storage of junked vehicles.

Surely, the history of the VW Post 751 can be characterized as less than candid. Yet the Board of Appeals, in its next breath, awards this same group a Special Exception for the Community "storage" building they had admitted as a zoning violation moments earlier. Very neat, indeed, this gives off to a casual observer the same notable fragrance as a recent presidential pardon.

The VW Post 751 as owners of land enjoy the same property rights as their neighbors. However, their modus operandi in achieving their present position cannot be tolerated by any Court operating under the law without making a laughingstock out of the majority who abide by the "full spirit and intent of §502.1" in seeking a peticular use for their land.

IV

THE USE OF THE VW POST 751 PROPERTY FOR TURKEY SHOOTS AND POST MEETINGS DOES NOT CONSTITUTE A PROPER USE UNDER §502.1 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

The requested use of the Petitioner's property is not reasonable for two reasons. First the Petitioners have yet to demonstrate an adequate source of water or to comply with site development requirements such as sewerage, subdivision plats, road improvements, and the like. (Purnace Branch Land Co. v. Board of County Commissioners for Anne Arundel Co. (supra)) The Petitioners refuse to recognize the reasons for these requirements. They have not shown that the land can support their purposes, even if given carte blanche. This unanswered question alone raises doubts as to the health, safety or welfare of the locality involved. Unless they hit an adequate water supply, the VW Post 751 stands in double danger from fire getting out of control with the specter of loss of human life in the ensuing panic to escape through the bottleneck exit.

- 9 -

Second, the requested use must be viewed as it affects the community as a whole. Here, the primary concern of the residents was for the safety of their children. (Malmar Associates v. Board of County Commissioners for Prince George's County 260 Md 292, 272 A 2d 6 (1971)) Their fears are grounded not in fantasies but in hard facts. They have seen cars speed in and out of the VW Post 751 property when the Post held activities there. The Post 751 members admitted that beer would be sold both to shooters and onlookers at the turkey shoots and to the residents this can mean nothing good. Regardless of its rustic trappings, Rice's Lane has been for some time a residential neighborhood replete with bicycling youngsters in the Lane itself. (Heath v. Mayor and City Council of Baltimore 187 Md 296, 49A2d 799 (1946)) This is perhaps a unique situation in which the horrors of Pandora's box have been revealed heretofore. These residents too are interested in enjoying their land to the fullest. They will be cheated out of their right to privacy and peaceful enjoyment of their properties if the Petitioner is rewarded for doing by the shadow of the back door what would not bear the light of day. (Huff v. Board of Zoning Appeals of Baltimore Co. 220 Md 449, 151 A2d 144 (1959))

Respectfully submitted:

THOMAS L. HENNESSEY, P.A.
Attorney for Protestants

I HEREBY CERTIFY that a copy of this Memorandum was hand delivered by Michael Paul Tanczyn to William S. Baldwin, Esquire, 24 West Pennsylvania Avenue, Towson, Maryland, 21204, on this 18th day of February, 1975, and mailed to the Board of Appeals of Baltimore County, County Office Bldg., Towson, Md 21204.

Thomas L. Hennessey

WILLIAM S. BALDWIN
ATTORNEY AT LAW
24 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND 21204
VALLEY 3-0200

September 3, 1974

Walter A. Reiter, Chairman
Baltimore County Board of Appeals
County Office Building
Towson, Maryland 21204

RE: JOSEPH E. PERRY VW POST 751
E/S of Rices Lane, 3/4 of a mile S of
Windsor Mill Road - 2nd District

Dear Mr. Reiter:

I have been advised by my clients that the old transit bus on the above captioned property has been removed.

Therefore, if any zoning violations did exist by reason of the bus being on the property, it is now removed.

Very truly yours,

William S. Baldwin

WSB/mjf

CC: Thomas L. Hennessey, Esquire

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd
Posted for: APPEAL
Petitioner: THELMA A. PERRY & JOSEPH E. PERRY, VW POST 751, INCORPORATED
Location of property: W/S of RICES LANE, 3/4 of a mile S of WINDSOR MILL ROAD
Remarks: Location of Sign: NEXT TO EXISTING SPRING EXHIBITION, E/S of RICES LANE, ENTRANCE, FRONT of WINDSOR MILL ROAD
Posted by: THOMAS L. HENNESSEY, P.A.
Signature: _____ Date of return: _____

BALTIMORE COUNTY, MARYLAND No. 13-83
OFFICE OF FINANCE & REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: February 7, 1974 ACCOUNT: 01-662

AMOUNT: \$5.00

DISTRIBUTION
WHITE CASHIER
WILLIAM S. BALDWIN, Esquire
Cost of Posting Property of Thelma A. Perry and Joseph E. Perry, V.E.W., Post, No. 751, Incorporated, for an Appeal Hearing
W/S of Rices Lane, 3/4 of a mile S of Windsor Mill Road - 2nd District
Case No. 71-143-X

NOV 20 1974

cc: William S. Baldwin, Esquire
Thomas L. Hennessey, Esquire

June 20, 1973 Order of Zoning Commission: "... that the Defendant is guilty of operating a V.F.W. Post (Community Building) in a R.D.P. (Rural Deferred Planning) Zone without the benefit of a Special Exception.

Nov. 13	Order for Appeal filed in the Circuit Court for Baltimore County
" 13	Petition to Accompany Order for Appeal filed in the Circuit Court for Baltimore County

" " G - (1 to 8) Series of Photos

LAW OFFICES OF
THOMAS L. HENNESSEY
408 BOSLEY AVENUE
TOWSON, MD. 21204

Thomas L. Hennessey

LAW OFFICES OF
THOMAS L. HENNESSEY
408 BOSLEY AVENUE
TOWSON, Md. 21204

NOV 30 1976

Protestants' Exhibit E - Aerial Photograph

Counsel for Protestants

Reviewed by John J. Hiller
Chairman,
Advisory Committee

William S. Balder

BALTIMORE COUNTY, MARYLAND
OFFICE OF TREASURY - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 10873

DATE June 28, 1973 ACCOUNT 01-662

AMOUNT \$70.00

DISTRIBUTION

WRITE CASHIER	WRITE AGENCY	YELLOW - CUSTOMER
William S. Baldwin, Esquire		
Cost of an Appeal for Case No. 73-143-X		
W/S of Rice Lane, 3158 ¹ / ₂ SW of Windsor Mill Road - 2nd		
District		
Thelma A. Perry and Joseph E. Perry, V.F.W. Post		
No. 731, Incorporated		

Gerald J. Daly
Box 838
Pice's Lane
Baltimore, Maryland 21203

8/17/69

11:00 A.M. Complaint about shooting by Herzitz to officer Rose

If the proofs of Sec. 502.1 are met any development can be conditioned to an approved site plan.

I am writing this letter in regard to a question of land use for some property on Rice's Lane in the Pandallstown area. It has come to my attention that a building used by the Virginia Forestry Society for social gatherings is the property of Mrs. Joseph Ferry. The sole user of this building is the Joseph Ferry Post of the Veterans of Foreign Wars, Headquarters No. 1000, 1001 and 1002, 1003, 1004 and 1005, 1006 and 1007, 1008 and 1009, 1010 and 1011, 1012 and 1013, 1014 and 1015, 1016 and 1017, 1018 and 1019, 1020 and 1021, 1022 and 1023, 1024 and 1025, 1026 and 1027, 1028 and 1029, 1030 and 1031, 1032 and 1033, 1034 and 1035, 1036 and 1037, 1038 and 1039, 1040 and 1041, 1042 and 1043, 1044 and 1045, 1046 and 1047, 1048 and 1049, 1050 and 1051, 1052 and 1053, 1054 and 1055, 1056 and 1057, 1058 and 1059, 1060 and 1061, 1062 and 1063, 1064 and 1065, 1066 and 1067, 1068 and 1069, 1070 and 1071, 1072 and 1073, 1074 and 1075, 1076 and 1077, 1078 and 1079, 1080 and 1081, 1082 and 1083, 1084 and 1085, 1086 and 1087, 1088 and 1089, 1090 and 1091, 1092 and 1093, 1094 and 1095, 1096 and 1097, 1098 and 1099, 1100 and 1101, 1102 and 1103, 1104 and 1105, 1106 and 1107, 1108 and 1109, 1110 and 1111, 1112 and 1113, 1114 and 1115, 1116 and 1117, 1118 and 1119, 1120 and 1121, 1122 and 1123, 1124 and 1125, 1126 and 1127, 1128 and 1129, 1130 and 1131, 1132 and 1133, 1134 and 1135, 1136 and 1137, 1138 and 1139, 1140 and 1141, 1142 and 1143, 1144 and 1145, 1146 and 1147, 1148 and 1149, 1150 and 1151, 1152 and 1153, 1154 and 1155, 1156 and 1157, 1158 and 1159, 1160 and 1161, 1162 and 1163, 1164 and 1165, 1166 and 1167, 1168 and 1169, 1170 and 1171, 1172 and 1173, 1174 and 1175, 1176 and 1177, 1178 and 1179, 1180 and 1181, 1182 and 1183, 1184 and 1185, 1186 and 1187, 1188 and 1189, 1190 and 1191, 1192 and 1193, 1194 and 1195, 1196 and 1197, 1198 and 1199, 1200 and 1201, 1202 and 1203, 1204 and 1205, 1206 and 1207, 1208 and 1209, 1210 and 1211, 1212 and 1213, 1214 and 1215, 1216 and 1217, 1218 and 1219, 1220 and 1221, 1222 and 1223, 1224 and 1225, 1226 and 1227, 1228 and 1229, 1230 and 1231, 1232 and 1233, 1234 and 1235, 1236 and 1237, 1238 and 1239, 1240 and 1241, 1242 and 1243, 1244 and 1245, 1246 and 1247, 1248 and 1249, 1250 and 1251, 1252 and 1253, 1254 and 1255, 1256 and 1257, 1258 and 1259, 1260 and 1261, 1262 and 1263, 1264 and 1265, 1266 and 1267, 1268 and 1269, 1270 and 1271, 1272 and 1273, 1274 and 1275, 1276 and 1277, 1278 and 1279, 1280 and 1281, 1282 and 1283, 1284 and 1285, 1286 and 1287, 1288 and 1289, 1290 and 1291, 1292 and 1293, 1294 and 1295, 1296 and 1297, 1298 and 1299, 1300 and 1301, 1302 and 1303, 1304 and 1305, 1306 and 1307, 1308 and 1309, 1310 and 1311, 1312 and 1313, 1314 and 1315, 1316 and 1317, 1318 and 1319, 1320 and 1321, 1322 and 1323, 1324 and 1325, 1326 and 1327, 1328 and 1329, 1330 and 1331, 1332 and 1333, 1334 and 1335, 1336 and 1337, 1338 and 1339, 1340 and 1341, 1342 and 1343, 1344 and 1345, 1346 and 1347, 1348 and 1349, 1350 and 1351, 1352 and 1353, 1354 and 1355, 1356 and 1357, 1358 and 1359, 1360 and 1361, 1362 and 1363, 1364 and 1365, 1366 and 1367, 1368 and 1369, 1370 and 1371, 1372 and 1373, 1374 and 1375, 1376 and 1377, 1378 and 1379, 1380 and 1381, 1382 and 1383, 1384 and 1385, 1386 and 1387, 1388 and 1389, 1390 and 1391, 1392 and 1393, 1394 and 1395, 1396 and 1397, 1398 and 1399, 1400 and 1401, 1402 and 1403, 1404 and 1405, 1406 and 1407, 1408 and 1409, 1410 and 1411, 1412 and 1413, 1414 and 1415, 1416 and 1417, 1418 and 1419, 1420 and 1421, 1422 and 1423, 1424 and 1425, 1426 and 1427, 1428 and 1429, 1430 and 1431, 1432 and 1433, 1434 and 1435, 1436 and 1437, 1438 and 1439, 1440 and 1441, 1442 and 1443, 1444 and 1445, 1446 and 1447, 1448 and 1449, 1450 and 1451, 1452 and 1453, 1454 and 1455, 1456 and 1457, 1458 and 1459, 1460 and 1461, 1462 and 1463, 1464 and 1465, 1466 and 1467, 1468 and 1469, 1470 and 1471, 1472 and 1473, 1474 and 1475, 1476 and 1477, 1478 and 1479, 1480 and 1481, 1482 and 1483, 1484 and 1485, 1486 and 1487, 1488 and 1489, 1490 and 1491, 1492 and 1493, 1494 and 1495, 1496 and 1497, 1498 and 1499, 1500 and 1501, 1502 and 1503, 1504 and 1505, 1506 and 1507, 1508 and 1509, 1510 and 1511, 1512 and 1513, 1514 and 1515, 1516 and 1517, 1518 and 1519, 1520 and 1521, 1522 and 1523, 1524 and 1525, 1526 and 1527, 1528 and 1529, 1530 and 1531, 1532 and 1533, 1534 and 1535, 1536 and 1537, 1538 and 1539, 1540 and 1541, 1542 and 1543, 1544 and 1545, 1546 and 1547, 1548 and 1549, 1550 and 1551, 1552 and 1553, 1554 and 1555, 1556 and 1557, 1558 and 1559, 1560 and 1561, 1562 and 1563, 1564 and 1565, 1566 and 1567, 1568 and 1569, 1570 and 1571, 1572 and 1573, 1574 and 1575, 1576 and 1577, 1578 and 1579, 1580 and 1581, 1582 and 1583, 1584 and 1585, 1586 and 1587, 1588 and 1589, 1590 and 1591, 1592 and 1593, 1594 and 1595, 1596 and 1597, 1598 and 1599, 1600 and 1601, 1602 and 1603, 1604 and 1605, 1606 and 1607, 1608 and 1609, 1610 and 1611, 1612 and 1613, 1614 and 1615, 1616 and 1617, 1618 and 1619, 1620 and 1621, 1622 and 1623, 1624 and 1625, 1626 and 1627, 1628 and 1629, 1630 and 1631, 1632 and 1633, 1634 and 1635, 1636 and 1637, 1638 and 1639, 1640 and 1641, 1642 and 1643, 1644 and 1645, 1646 and 1647, 1648 and 1649, 1650 and 1651, 1652 and 1653, 1654 and 1655, 1656 and 1657, 1658 and 1659, 1660 and 1661, 1662 and 1663, 1664 and 1665, 1666 and 1667, 1668 and 1669

NEG-DW

PLANS APPROVED
OFFICE OF PLANNING & ZONING

BY Don J. Hoffman
DATE 10/5/76

Property of the Joe E. Perry V.F.W. Post No. 751
Randallstown, Second District, Balto. Co., Md.
Area designated as R.O.P. on Map No. 2-B
Present uses: storage
Proposed special exceptions for meeting house and
shotgun shooting range.
Post has 95 members, need 16 parking spaces
15 parking spaces provided for meeting house and
30 parking spaces provided for shooting range.
No utilities available.

Only the existing improvements shall be utilized. The Petitioner shall be allowed to renovate and rehabilitate the existing improvements, but said improvement may not be enlarged or extended. No new structures shall be permitted. Upon completion, these improvements may be used for V.F.W. Post meetings, however, no more than one such Post meeting per month may be held in these structures or on these premises. These improvements may be used in conjunction with the organization and operation of the turkey shoots. However, neither these improvements nor this property shall be used for any function in the nature of a Crab Feast, Bull Roast, Coyote Roast, etc. The renovation, rehabilitation and use of the improvements shall be subject to the approval of the various regulatory agencies of Baltimore County, including particularly the Department of Health, the Office of Planning and Zoning, and the Department of Permits and Licenses.

No more than two turkey shoots in any one year shall be held at the subject property. An adult turkey shoot shall be held on the property between 10:00 a.m. and 6:00 p.m. Notice of said turkey shoots shall be provided to residents that gain access to their properties via Rices Lane. This notice shall be via registered mail and at least three weeks prior to the date of the turkey shoot.

The shooting range shall consist of no more than four shooting stations, all to be used on the portion of the land designated as R.O.P. on Map No. 2-B, and that all targets for these shall be no more than two hundred people on these grounds at any one time.

Any single turkey shoot shall be restricted to no more than 300 target shots.

All shooting shall be limited to use of no heavier than a 12 gauge shotgun, and the shot target loads shall be no heavier than #7-1/2 shot.

