

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, William Aston and
I, or we, Martha R. Aston, legal owners, of the property situate in Baltimore
County and which is described in the description and plat attached hereto and made a part hereof,
herby 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

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore
County, to use the herein described property, for _____ offices _____

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

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

County.
Contract purchaser
Address: 9333 Belair Rd.
Protestant's Attorney
Address: 424 Woodbine Avenue, Towson, Md. 21204
Zoning Commissioner of Baltimore County.

ORDERED By The Zoning Commissioner of Baltimore County, this, _____ day
of _____, 1977, that the subject matter of this petition be advertised, as
required by the Zoning Law of Baltimore County, in two newspapers of general circulation through-
out Baltimore County, that the public hearing be held before the Zoning
Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore
County, on the _____ day of February, 1977, at 1:00 o'clock
p.m.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE



PETITION AND SITE PLAN EVALUATION COMMENTS

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
116 W. Cross Street
Towson, Maryland 21204
Nicholas B. Commodari
Chairman
Acting Chairman

MEMBERS

BUREAU OF
ENGINEERING
DEPARTMENT OF
TRAFFIC ENGINEERING
STATE ROADS COMMISSION
BUREAU OF
FIRE PROTECTION
HEALTH DEPARTMENT
PROJECT PLANS &
BUILDING DEPARTMENT
BOARD OF EDUCATION
ZONING ADMINISTRATION
INDUSTRIAL
DEVELOPMENT

February 17, 1977

Lewis L. Fleury, Esq.
424 Woodbine Avenue
Towson, Maryland 21204

RE: Special Exception Petition
Item 117 and 118
J. William & Martha R. Aston -
Petitioners

Dear Mr. Fleury:

The Zoning Plans 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.

These comments are not intended to indicate the
appropriateness of the zoning action requested, but
to assure that all parties are made aware of plans or
problems with regard to the development plans that
may have a bearing on this case. The Director of
Planning may file a written report with the Zoning
Commissioner with recommendations as to the appropriate-
ness of the requested zoning.

Located on the southeast corner of Darnell Drive
and Belair Road, in the 11th Election District, these
properties known as 9333 and 9331 Belair Road, are
improved with a one-story masonry dwelling and a
two-story brick dwelling and building in the rear,
which is apparently being used as a playhouse, respectively.
Adjacent properties to the north and east along
Darnell Drive, and zoned D.R. 3.5, are improved with
single family dwellings, while a school exists to the
southwest along Belair Road.

This site was the subject of a previous zoning
Reclassification and Special Exception (Case No. 74-76-RX),
which was eventually denied.

Lewis L. Fleury, Esq.
Re: Item 117 and 118
February 17, 1977
Page 2

With the adoption of the new County wide zoning
maps, this property was rezoned D.R. 16, and it is
your client's proposal to request a Special Exception to
convert the existing dwellings into offices. Because
these two properties are under the same ownership, I
am forwarding only one set of comments.

Should this request be granted, the overall site plan
for both sites will be connected, as indicated in the
comments of the Department of Traffic Engineering and the
Project and Development Planning Office. In addition,
the apparent conflict concerning the driveway for the
property located on 9331 Belair Road must be resolved.
Any proposed sign on these properties must meet the
requirements of Section 411 of the Zoning Regulations.

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,

Nicholas B. Commodari
Nicholas B. Commodari,
Acting Chairman, Zoning
Plans Advisory Committee

NBC:JD

Enclosure

cc: E. P. Raphael & Assoc.
201 Courtland Avenue
Towson, Maryland 21204

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND 21204

Date: December 10, 1976

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

Z.A.C. Meeting of: December 13, 1976

Re: Item 117

Property Owner: J. William & Martha R. Aston
Location: S/C Belair Road and Darnell Dr.
Present Zoning: D.R. 16
Proposed Zoning: Special Exception for offices

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

Dear Mr. DiNenna:

Comments on Item 117, Zoning Advisory Committee Meeting, December
13, 1976, are as follows:

Property Owner: J. William & Martha R. Aston
Location: S/C Belair Rd. & Darnell Dr.
Existing Zoning: D.R. 16
Proposed Zoning: Special Exception for offices
Acre: 0.35
District: 11th

Comment: Since metropolitan water and sewer exist, no
health hazard is anticipated.

Very truly yours,

Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

TED/BJW/twh

Dear Mr. DiNenna:

No hearing on student population.

Very truly yours,

W. Nick Petrovich,
Field Representative.

NBP/ul

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

December 11, 1976

Dear Mr. DiNenna:

Comments on Item 118 Zoning Advisory Committee Meeting, December 13, 1976
are as follows:

Property Owner: J. William & Martha R. Aston
Location: S/C Belair Road - 70' S/C Darnell Dr.
Existing Zoning: D.R. 16
Proposed Zoning: Special Exception for offices

Acre: 0.35
District: 11th

The item checked below are applicable:

- ☒ A. Structures shall conform to Baltimore County Building Code (B.C.B.C.)
1970 Edition and the 1971 Supplement and other applicable codes.
- ☒ B. A building permit shall be required before construction can begin. On revised
changes, after a change of company will be required before occupancy.
- ☒ C. Three sets of construction drawings will be required to file an
application for a building permit.
- ☒ D. Three sets of construction drawings with a registered Maryland
Architect or Engineer's original seal will be required to file an
application for a building permit.
- ☐ E. Wood frame shall not be permitted within 30' of a property line.
Contact Building Department if distance is between 30' and 60' of
property line.
- ☐ F. No comment
- ☐ G. Requested setback will not conflict with the Baltimore County
Building Code. See Section _____.

Very truly yours,

Charles E. Durham
Charles E. Durham,
Planning Review Chief
Office

Maryland Department of Transportation
State Highway Administration

December 17, 1976

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Attention: Mr. N. Commodari

Re: Z.A.C. Meeting, Dec. 14, 1976
Item 117
Property Owner: J. William & Martha
Aston
Location: S/C Belair Rd. - (Rte. 1) &
Darnell Dr.
Existing Zoning: D.R. 16
Proposed Zoning: Special exception
for offices.
Acre: 0.32
District: 11th

Dear Mr. DiNenna:

The adjacent property to the south which is under the same
ownership is also being petitioned for offices (Item 118). Since
the entrance from Belair Rd. to the subject site is being eliminated,
it is recommended that the parking lots to both sites be connected.
The entrance elimination must be accomplished by replacement
with standard curb and sidewalk sections. The work must be per-
formed under permit from the State Highway Administration.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permit
By: John E. Meyers

CLJEM:aj

January 13, 1977

Mr. Eric S. DiNenna
Zoning Commissioner
2nd Floor, Courthouse
Towson, Maryland 21204

Re Item #117 - ZAC - December 13, 1976
Property Owner: J. William & Martha R. Anton
Location: S/C Belair Rd. & Darnell Dr.
Existing Zoning: D.R. 16
Proposed Zoning: Special Exception for offices.
Acres: 0.32
District: 11th

Re Item #118 - ZAC - December 13, 1976
Property Owner: J. William & Martha R. Anton
Location: SE/S Belair Rd. 70' SW Darnell Dr.
Existing Zoning: D.R. 16
Proposed Zoning: Special Exception for offices.
Acres: 0.34
District: 11th

Dear Mr. DiNenna:

Items # 117 & 118 should be considered as one site.

The requested special exceptions for offices are not expected to be major traffic generators.

The petitioner must provide a driveway twenty feet wide in its entirety and must provide for access between the parking lots.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate

MSF/hv

January 20, 1977

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

Re: Item #117 (1976-1977)
Property Owner: J. William & Martha R. Anton
S/C Belair Rd. & Darnell Dr.
Existing Zoning: DR 16
Proposed Zoning: Special Exception for offices.
Acres: 0.32 District: 11th

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 which were supplied in connection with the Zoning Advisory Committee review of the property, of which this site (known as 9335 Belair Road) is a part, for Zoning Cycle V, Item #28 (April 1973 - October 1973) No. 74-76-82, are referred to for your consideration. Subdivision Regulations may be applicable.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Sidewalks are required along Darnell Drive.

The entrance locations are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Standards.

The advantages possible by the cooperative, combined use of proposed parking areas, entrances, driveways, etc. for this site and this Petitioner's site (known as 9335 Belair Road) contiguous to the southwest side of this property should be considered.

The construction of concrete or reconstruction of concrete sidewalks, curbs and gutters, entrances, aprons, etc. will be the full responsibility of the Petitioner.

December 13, 1976

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

Dear Mr. DiNenna:

Comments on Item #117 Zoning Advisory Committee Meeting, December 13, 1976 are as follows:

Property Owner: J. William & Martha R. Anton
Location: S/C Belair Road & Darnell Drive
Existing Zoning: D.R. 16
Proposed Zoning: Special exception for offices

Acres: 0.39
District: 11th

The items checked below are applicable:

- ☒ A. Structure shall conform to Baltimore County Building Code (B.C.B.C.) 1970 Edition and the 1971 Supplement and other applicable codes.
- ☒ B. A building permit shall be required before construction can begin. On remittance charges, also a change of occupancy will be required before occupying.
- ☒ C. Three sets of construction drawings will be required to file an application for a building permit.
- ☒ D. Three sets of construction drawings with a registered Maryland Architect or Engineer's original seal must be required to file an application for a building permit.
- ☐ E. Wood frame walls are not permitted within 3'0" of a property line. Contact Building Department if distance is between 3'0" and 6'0" of property line.
- ☐ F. No comment.
- ☐ G. Requested setback variance conflicts with the Baltimore County Building Code. See Section _____.

Very truly yours,

Charles E. Burdum

Charles E. Burdum
Plans Review Chief
CDB:rrj

General: (Cont'd)

Additional fire hydrant protection is required in the vicinity.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this item #117 (1976-1977).

Very truly yours,

Ellsworth H. Dives, P.E.
Ellsworth H. Dives, P.E.
Chief, Bureau of Engineering

END/EM/PMB:es

cc: Jack Wimbly
William Munchel

M-W Key Sheet
40 NE 27 & 28 Pos. Sheets
NE 10 G Topo
72 The 9's

January 20, 1977

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

Re: Item #118 (1976-1977)
Property Owner: J. William & Martha R. Anton
S/S Belair Rd., 70' SW Darnell Dr.
Existing Zoning: DR 16
Proposed Zoning: Special Exception for offices.
Acres: 0.34 District: 11th

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 which were supplied in connection with the Zoning Advisory Committee review of the property, of which this site (known as 9335 Belair Road) is a part, for Zoning Cycle V, Item #28 (April 1973 - October 1973) No. 74-76-82, are referred to for your consideration. Subdivision Regulations may be applicable.

Highways:

Belair Road (U.S. 1) is a State Road; therefore, all improvements, intersections, entrances and drainage requirements as they affect the road come under the jurisdiction of the Maryland State Highway Administration. Any utility construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State in addition to those of Baltimore County.

Again, as stated in the comments for the immediately previous item #117 (1976-1977), the advantages possible by the cooperative, combined use of proposed parking areas, entrances, driveways, etc. for this site and this Petitioner's site (known as 9335 Belair Road) contiguous to the northeast side of this property should be considered.

The construction, reconstruction of concrete sidewalks, curbs and gutters, entrances, aprons, etc. will be the full responsibility of the Petitioner.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the plans submitted for Item #117 or Item #118.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Water:

Public water supply is serving this property. Additional fire hydrant protection is required in the vicinity.

Sanitary Sewer:

The means of providing connection to public sanitary sewerage for this property, whether such connection exists or is proposed, has not been indicated on the submitted plan. It also appears that a right-of-way is required for such a connection.

The means of sewerage this property must be clarified by the Petitioner.

Very truly yours,

Ellsworth H. Dives, P.E.
Ellsworth H. Dives, P.E.
Chief, Bureau of Engineering

END/EM/PMB:es

cc: Jack Wimbly
William Munchel

M-W Key Sheet
40 NE 27 & 28 Pos. Sheets
NE 10 G Topo
72 The 9's

Harry R. Hughes
Director
Edward M. Evans
Assistant Director

December 17, 1976

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Attention: Mr. R. Commodari

Re: Z.A.C. Meeting, Dec. 16, 1976
Item: 118
Property Owner: J. William & Martha R. Anton
Location: SE/S Belair Rd. (Rte. 1)
70' SW Darnell Dr.
Existing Zoning: D.R. 16
Proposed Zoning: Special exception for offices.
Acres: 0.34
District: 11th

Dear Mr. DiNenna:

The adjacent property to the north, which is under the same ownership, is also being petitioned for offices (Item #117). Since the entrance from Belair Rd. to that site is being eliminated, we recommend that the parking lots of both sites be connected.

The transition of the entrance from the proposed widened section, to the existing width, should be done more gradually on a longer taper. The entrance widening must be done under permit from the State Highway Administration.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

John E. Neyers
By: John E. Neyers

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

Dear Mr. DiNenna:

Comments on Item #117 Zoning Advisory Committee Meeting, December 13, 1976, are as follows:

Property Owner: J. William & Martha R. Anton
Location: S/C Belair Road and Darnell Drive
Existing Zoning: D.R. 16
Proposed Zoning: Special Exception for offices
Acres: 0.32
District: 11th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

The driveways between 9335 and 9335 should be connected and no driveway on Belair Road.

Very truly yours,

John L. Wimbly
John L. Wimbly
Planner III
Project and Development Planning

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: December 10, 1976

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

Z.A.C. Meeting of: December 13, 1976

Re: Item 118
Property Owner: J. William & Martha R. Aston
Location: SE/S Belair Road 70' SW Darnell Dr.
Present Zoning: D.R. 16
Proposed Zoning: Special exception for offices.

District: 11th
No. Acres: 0.34

Dear Mr. DiNenna:

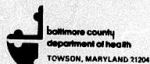
No bearing on student population.

Very truly yours,

W. Nick Petrovich
W. Nick Petrovich,
Field Representative.

WNP/ml

JOSEPH M. MCGOWAN, PRESIDENT
J. KATHLEEN MCGOWAN, JR., VICE PRESIDENT
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ROGER R. HAYDEN
ALVIN KOSICK
THOMAS W. TALLEY, D.V.M.



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

January 4, 1977

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

Dear Mr. DiNenna:

Comments on Item 118, Zoning Advisory Committee Meeting, December 13, 1976, are as follows:

Property Owner: J. William & Martha R. Aston
Location: SE/S Belair Rd. 70' SW Darnell Dr.
Existing Zoning: D.R. 16
Proposed Zoning: Special Exception for offices
Acres: 9.34
District: 11th

Comments: Since metropolitan water and sewer exist, no health hazard is anticipated.

Very truly yours,

Thomas H. Devlin
Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

TMD/WW/rth

BZC
EXHIBITS

TITLE 10 - DEPARTMENT OF HEALTH AND MENTAL HYGIENE
STATE ENVIRONMENTAL HEALTH ADMINISTRATION
10.01.05 RULES AND REGULATIONS COVERING THE CONTROL OF NOISE POLLUTION
IN THE STATE OF MARYLAND

Pursuant to Article 43, Section 828 of the Annotated Code of Maryland, the following regulations governing the control of noise pollution in the State of Maryland are hereby established as requirements of the Department of Health and Mental Hygiene.

PURPOSE

The Environmental Noise Act of 1976 of the State of Maryland declares as policy the limitation of noise to that level which will protect the health, general welfare and property of the people of the State. It requires that the Department assume responsibility for the jurisdiction over the level of noise, and prepare regulations for the control of noise, including the establishment of standards for ambient noise levels and equipment performance with respect to noise, for adoption by the Secretary of Health and Mental Hygiene. Enforcement of the regulations and standards is the responsibility of the Department in all areas, using the facilities and services of local agencies within the areas to the greatest extent possible. The Department shall coordinate the programs of all State agencies relating to noise abatement and each State agency prescribing sound level limits or regulations respecting noise shall obtain the endorsement of the Department in prescribing any such limits or regulations.

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01 Definitions.

- A. ANSI means American National Standards Institute or its successor bodies.
- B. Day - Night Average Sound Level (L_{dn}) means in decibels, the energy average sound level for a 24-hour day with a 10 decibel penalty applied to noise occurring during the nighttime period, i.e., noise levels occurring during the period from 10:00 p.m. one day until 7:00 a.m. the next are treated as though they were 10 dBA higher than they actually are. The use of the A-weighting is understood. The mathematical expression for L_{dn} is as follows:
$$L_{dn} = 10 \log \frac{1}{24} \left[15 \left(10^{L_{dn}/10} \right) + 9 \left(10^{L_{dn}+10}/10 \right) \right] \text{ dBA}$$

where
 L_d = The daytime average sound level
 L_n = The nighttime average sound level
- C. dBA means abbreviation for the sound level in decibels determined by the A-weighting network of a sound level meter or by calculation from octave band or one-third octave band data.
- D. Daytime Hours means 7:00 a.m. to 10:00 p.m., local time.
- E. Decibel (dB) means a unit of measure, on a logarithmic scale, of the ratio of a particular sound pressure squared to a standard reference pressure squared. For the purpose of this subtitle, 20 micropascals shall be the standard reference pressure.
- F. Department means the Maryland State Department of Health and Mental Hygiene.

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- G. Environmental Noise means the noise that exists at any location from all sources.
- H. Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- I. Environmental Noise Standards means the goals for environmental noise, the attainment and maintenance of which, in defined areas and under specified conditions, are necessary to protect the public health and general welfare.
- J. Equivalent Sound Level (also Average Sound Level) means the level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time-varying sound during the same period. Equivalent sound level is the level of the time weighted, mean-square, A-weighted sound pressure. A numerical subscript may be used to indicate the time period under consideration, i.e., $L_{eq} (24)$ or $L_{eq} (8)$ for 24-hour and 8-hour periods, respectively. No subscript indicates a 24-hour period. The mathematical expression for the L_{eq} is as follows:
$$L_{eq} = 10 \log_{10} \left[\frac{t_2 - t_1}{t_2 - t_1} \int_{t_1}^{t_2} 10^{L_A(t)/10} dt \right] \text{ dBA}$$

where t_1 and t_2 are the beginning and ending times, respectively, of the period over which the average is determined, and $L_A(t)$ is the instantaneous A-weighted sound pressure level fluctuating with time.
- K. Nighttime Hours means 10:00 p.m. to 7:00 a.m., local time.

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- L. Noise means the intensity, frequency, duration, and character of sound, including sound and vibration of sub-audible frequencies.
- M. Noise Pollution means the presence of noise of sufficient loudness, character, and duration, which whether from a single source or multiple sources, is, or may be predicted with reasonable certainty to be injurious to health or which unreasonably interferes with the proper enjoyment of property or with any lawful business or activity.
- N. Periodic Noise means noise possessing a repetitive on-and-off characteristic.
- O. Person means any individual, group of individuals, firm, partnership, voluntary association or private, public or municipal corporation, or political subdivision of the State, responsible for the use of property.
- P. Prominent Discrete Tone means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this regulation, a prominent discrete tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.
- Q. Sound level means in decibels, the weighted sound pressure level measured by the use of a sound level meter satisfying the requirements of ANSI S1.4 1971 "Specifications for Sound Level Meters." Sound level and noise level are synonymous.

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- R. Sound Level Meter means an instrument, meeting ANSI S1.4 1971 "Specifications for Sound Level Meters," comprising a microphone, an amplifier, an output meter, and frequency-weighting network(s) that is used for the measurement of sound pressure levels in a specified manner.
- S. Sound Pressure means the minute fluctuations in atmospheric pressure which accompany the passage of a sound wave.
 - (1) For a steady sound, the value of the sound pressure average over a period of time.
 - (2) Sound pressure is usually measured in dynes per square centimeter (dynes/cm^2), or in newtons per square meter (N/m^2), or in micropascals.
- T. Sound Pressure Level means in decibels, 20 times the logarithm to the base ten of the ratio of a sound pressure to the reference sound pressure of 20 micropascals (20 microneutons per square meter). In the absence of any modifier, the level is understood to be that of a root-mean-square pressure.
- U. Source means any person or property, real or personal, contributing to noise pollution.
- V. Zoning District means a general land use category, defined according to local subdivision, the activities and uses for which are generally uniform throughout the subdivision. For the purposes of this regulation, property which is not zoned shall be classified according to use as follows:
 - (1) Commercial means property used for buying and selling goods and services.

(2) Industrial means property used for manufacturing and storing goods.

(3) Residential means property used for dwellings.

.02 Environmental Noise Standards

A. Precepts

(1) It is known that noise above certain levels is harmful to the health of humans. Although precise levels at which all adverse health effects occur have not definitely been ascertained, it is known that one's well-being can be affected by noise through loss of sleep, speech interference, hearing impairment, and a variety of other psychological and physiological factors. The establishment of ambient noise standards or goals, must provide margins of safety in reaching conclusions based on available data which relate noise exposure to health and welfare effects, with due consideration to technical and economic factors.

(2) The environmental noise standards set forth here represent goals expressed in terms of equivalent A-weighted sound levels which are protective of the public health and welfare. The ambient noise levels shall be achieved through application, under provisions of laws or regulations or otherwise, of means for reducing noise levels including, but not limited to, insulation of noise producing equipment, dampening of sound waves by insulation, equipment modification and re/design, and land use management.

B. Standards for Environmental Noise

General - The following sound levels represent the standards for the State by general zoning district:

Table 1

Environmental Noise Standards

Zoning District	Level	Measure
Industrial	70 dBA	L _{eq} (24)
Commercial	64 dBA	L _{dn}
Residential	55 dBA	L _{dn}

.03 General Regulations

A. Noise Prohibitions

(1) A person may not cause or permit noise levels which exceed those specified in Table 2 except as provided in B below.

Table 2

Maximum Allowable Noise Levels by Zoning Category (dBA)

Effective Date	Day/Night	Industrial	Commercial	Residential
July 1, 1975	Day	80	72	65
	Night	80	67	60
July 1, 1977	Day	75	67	60
	Night	75	62	50

(2) A person may not cause or permit noise levels emanating from construction or demolition site activities which exceed:

- 90 dBA during daytime hours.
- The levels specified in Table 2 during nighttime hours. Daytime levels obtained from construction or demolition site activities located less than 50 feet from the property line will be adjusted as follows:

Distance to Source in Feet Reduction in Observed Level

0 - 5	20 dB
6 - 10	14 dB
11 - 20	8 dB
21 - 30	5 dB
31 - 40	2 dB
41 - 50	0 dB

(3) A person may not cause or permit the emission of prominent discrete tones and periodic noises which exceed a level which is 5 dBA lower than the applicable level listed in Table 2.

B. Exemptions

(1) The provisions of this section may not apply to devices used solely for the purpose of warning, protecting, or alerting the public, or some segment thereof, of the existence of an emergency situation.

(2) The provisions of this section may not apply to the following:

- Household tools and portable appliances in normal usage.
- Lawn care and snow removal equipment (daytime only) when used and maintained in accordance with the manufacturer's specifications.
- Agricultural field machinery when used and maintained in accordance with manufacturer's specifications.
- Blasting operations for demolition, construction, and mining or quarrying (daytime only).
- Motor vehicles on public roads.
- Aircraft.

G. Motor vehicles or boats on State lands or waters.

H. Emergency utility operations.

I. Pile driving equipment during the daytime hours of 8:00 a.m. to 5:00 p.m.

J. Sound not electronically amplified created by sporting, amusement, and entertainment events and other public gatherings operating according to terms and conditions of appropriate local jurisdiction. This includes but is not limited to athletic contests, amusement parks, carnivals, fairsgrounds, sanctioned auto racing facilities, parades, and public celebrations.

K. Rapid rail transit vehicles and railroads.

(3) Short term increases in daytime noise levels above those specified in Table 2 will be allowed as follows:

Increase (dBA)	Maximum Time Allowable
5	15 minutes in any consecutive 60 minutes
10	3 minutes in any consecutive 60 minutes
15	30 seconds in any consecutive 60 minutes

G. Variance Procedure

- Any person who believes that meeting the requirements of A above is not practical in a particular case may request an exception to its requirements.
- Requests submitted to the Department shall be in writing and shall include evidence to show that compliance is not practical.
- Upon receipt of a request for an exception, the Department shall schedule a hearing to be held within 60 days.

(a) The applicant for the exception, at least 30 days before the hearing date, shall advertise prominently the hearing by placing a notice in a newspaper of general circulation in the subdivision in which the facility or source for which the exception is sought is located. The notice shall include the name of the facility or source and such additional information as the Department may require. Based upon evidence presented at the hearing, the Secretary may grant an exception to A above for a period not to exceed 5 years under terms and conditions appropriate to reduce the impact of the exception.

(5) Exceptions shall be renewable upon receipt by the Department of evidence that conditions under which the exception was originally granted have not changed significantly.

D. Measurement

(1) The equipment and techniques employed in the measurement of noise levels may be those recommended by the Department, which may refer to currently accepted standards or recognized organizations including, but not limited to the American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), Society of Automotive Engineers (SAE), and the United States Environmental Protection Agency (EPA).

(2) The measurement of noise levels shall be conducted at points on the property line of the source or the boundary of a zoning district and may be conducted at any point for the determination of identity in multiple source situations.

(3) In situations where noise levels are measured at an interface between two different zoning districts, in which two different noise levels are applicable under .03A above, the applicable level shall be whichever is the more restrictive.

.04 Emission Regulations

A. A person may not cause or permit the sale or lease of new non-vehicular products (or class of products) which produce sound levels in excess of 90 dBA, measured at a distance of 3 feet unless the product is labeled to indicate the maximum noise level emitted. Examples of products subject to the provisions of this regulation include, but are not limited to, the following:

- Appliances, such as blenders, waste disposers, and vacuum cleaners.
- Home shop tools, such as power saws, routers, and grinders.
- Lawn care and landscape tools, such as mowers, edger-trimmers, shredders, and hedge clippers.

B. Products regulated by Sections 6 or 8 of the Federal Noise Control Act of 1972 (Public Law 92-587 Ch. Sec.) are not subject to this requirement.

.05 Penalties

A. Civil Penalty. Any person who willfully violates these regulations shall be liable to a civil penalty of not more than \$10,000. Each day during which a violation continues there shall be a liability for a separate penalty.

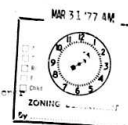
B. Plan for Compliance. A violator who has submitted a plan for compliance with these regulations and has that plan or amendments to it approved by the Secretary upon recommendation of the Department, shall not be considered to be in violation of these regulations as long as he acts in accordance with the original or amended plan.

Effective: August 6, 1975



AKEHURST NURSERIES, INC.

Plantings for Two Generations



4425 EAST JOPPA ROAD
PERRY HALL, MARYLAND 21228
Phone (410) 735-1700
March 29, 1977

Mr. William J. Linton
Assistant Zoning Commissioner
Zoning Department
Department of the Environment
State of Maryland

1st Action Property -
0377-0378 Valair Road

Dear Mr. Linton:

At the request of Mr. J. William Linton, I have inspected the above referenced property regarding the planting of a solid evergreen screen as recommended for rear of said properties and hereby submit my observations and recommendations.

- The rear of these two properties is an extremely wet area, particularly during rainy periods, due to the type sub soil in this as well as surrounding areas and also that said area is used as a drainage easement for surface water runoff from surrounding properties as well as these two properties.
- It is our professional experience that evergreens, such as those used in solid evergreen screen plantings, will not survive such wet conditions as exist at this site and therefore we strongly recommend that Ligustrum ovalifolium, or which some of the area is already planted with, be used in planting of said areas.

If you have any questions, please do not hesitate to call me.

Respectfully submitted,
AKEHURST NURSERIES, INC.

Wm. E. Akehurst
Landscape Architect

cc: Mr. J. William Linton

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

May 11, 1977

Lewis L. Fleury, Esq.
434 Woodbine Ave.
Towson, Md. 21204

Re: File Nos. 77-156-X and 77-157-X
J. William Aston

Dear Mr. Fleury:

- Number of witnesses you anticipate calling 6
- How many of these witnesses will be "expert witnesses"? 1
- Fields to be covered by experts you intend to call - please check:
 Land Planner ☒
 Real Estate ☒
 Engineer ☒
 Traffic ☒
 Other ☒
- Total time required (in hours) for presentation of your side of the case
3 + 4 hours

J. L. Fleury
Attorney for Protestants
Attorney for Petitioners (✓)

Rec'd 5/11/77
10:30 a.m.

77-374
Holt

November 2, 1978

Lewis L. Fleury, Esquire
434 Woodbine Avenue
Towson, Md. 21204

Re: Case No. 77-156-X and
Case No. 77-157-X
J. William Aston, Petitioner

Dear Mr. Fleury:

Enclosed herewith is a copy of the Opinion and Order
passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encl.
cc: Gerard V. Caldwell, Esquire
Mrs. Jean Siegrist
Mrs. Genevieve Buettner
Mr. Ernst H. Hohnefeld
Mr. James May
Mr. Glen P. Morse
Mr. J. William Aston
John W. Hession, III, Esquire
Mr. S. E. DiNenna
Mr. G. J. Martink
Mr. L. H. Groef
Board of Education
Mr. J. Harwell



NOTICE FOR SPECIAL HEARING

11th DISTRICT

RELING: Petition for Special Exception for Offices.
LOCATION: Southwest corner of Belair Road and Darnell Drive.
DATES & TIMES: THURSDAY, DECEMBER 8, 1977 at 1:00 P.M.
Public Hearings: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The zoning Commission of Baltimore County, by authority of the zoning Act and Regulations of Baltimore County, will hold a public hearing:

(a) Petition for Special Exception for Offices.

All that parcel of land in the Eleventh District of Baltimore County

Using the property of J. William Aston and Martha B. Aston, as shown on plat plan filed with the zoning Department.

Hearing Dates: Thursday, February 2, 1977 at 1:00 P.M.
 Public Hearings: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Md.

BY ORDER OF
S. ERIC HEDGECOCK
SIXING COMMISSIONER OF
BALTIMORE COUNTY

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

May 11, 1977

Gerard V. Caldwell, Esq.
7701 Belair Road
Guttenberg, Md. 21206

Re: File Nos. 77-156-X and 77-157-X
J. William Aston

Dear Mr. Caldwell:

- Number of witnesses you anticipate calling 5
- How many of these witnesses will be "expert witnesses"? 1
- Fields to be covered by experts you intend to call - please check:
 Land Planner ☐
 Real Estate ☒
 Engineer ☐
 Traffic ☐
 Other ☐
- Total time required (in hours) for presentation of your side of the case
one hour

Gerard V. Caldwell
Attorney for Protestants (✓)
Attorney for Petitioners ()

Rec'd 5/11/77
10:30 a.m.

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

May 11, 1977

Mrs. Jean Siegrist, President
Perry Hall Improvement Assn.
P.O. Box 48, Perry Hall, Md. 21126

Re: File Nos. 77-156-X and 77-157-X
J. William Aston

Dear Mrs. Siegrist:

- Number of witnesses you anticipate calling one
- How many of these witnesses will be "expert witnesses"? none
- Fields to be covered by experts you intend to call - please check:
 Land Planner ☐
 Real Estate ☐
 Engineer ☐
 Traffic ☐
 Other ☐
- Total time required (in hours) for presentation of your side of the case
Possibly one half hour for improvement association.

Attorney for Protestants ()

Attorney for Petitioners ()
Jean Siegrist

Rec'd 5/11/77
3:05 p.m.

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

August 16, 1977

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-156-X J. WILLIAM ASTON
 and SE cor. Belair and Darnell Drive, and
 CASE NO. 77-157-X SE/S Belair Rd. 70' W. of Darnell Drive

11th District
 SPECIAL EXCEPTION FOR OFFICES
 3/17/77 - D.Z.C. GRANTED SE, subject to restrictions
 4/4/77 - D.Z.C. passed Amended Order, Nunc Pro Tunc (amending restriction #2)

ASSIGNED FOR: THURSDAY, DECEMBER 8, 1977 at 10 a.m.

cc: Lewis L. Fleury, Esquire Counsel for Petitioner
 Gerard V. Caldwell, Esquire " " Protestants (Hohnefeld, May, Morse)
 Mrs. Jean Siegrist, President Protestants
 Mrs. Genevieve Buettner "
 Mr. Ernst H. Hohnefeld "
 Mr. James May "
 Mr. Glen P. Morse "
 John W. Hession, III, Esquire People's Counsel
 S. E. DiNenna "
 Mr. J. G. Martink "
 Mr. L. Groef "
 Mr. G. Burl Board of Education
 Mr. C. L. Perkins

Edith T. Eisenhart, Adm. Secretary

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

November 22, 1977

NOTICE OF POSTPONEMENT

CASE NO. 77-156-X J. WILLIAM ASTON
 and SE cor. Belair and Darnell Drive, and
 CASE NO. 77-157-X SE/S Belair Rd. 70' W. of Darnell Drive
 11th District

scheduled for hearing on Thursday, December 8, 1977 at 10 a.m. has been POSTPONED
 by the Board at the request of the attorney for the Petitioner (Arguments, etc. re Interim Development Control Act)

cc: Lewis L. Fleury, Esquire
 Gerard V. Caldwell, Esquire
 Mrs. Jean Siegrist
 Mrs. Genevieve Buettner
 Mr. Ernst H. Hohnefeld
 Mr. James May
 Mr. Glen P. Morse
 John W. Hession, III, Esquire
 Mr. S. E. DiNenna
 Mr. J. G. Martink
 Mr. L. Groef
 Mr. G. Burl
 Board of Education
 Mr. C. L. Perkins

Edith T. Eisenhart, Adm. Secretary

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

May 25, 1978

NOTICE OF POSTPONEMENT

CASE NO. 77-156-X and J. WILLIAM ASTON
 CASE NO. 77-157-X for Special Exception for Offices
 SE corner Belair Road and Darnell Drive
 and SE/S Belair Rd. 70' W. of Darnell Drive
 11th District

scheduled for hearing on Thursday, June 8, 1978 at 10 a.m. has been POSTPONED
 at the request of the attorney for the Petitioner due to the fact that the Declaratory Judgment proceeding filed in the Circuit Court has not been ruled upon at this time.

cc: Lewis L. Fleury, Esq. Counsel for Petitioner
 Gerard V. Caldwell, Esq. " " Protestants
 John W. Hession, III, Esq. People's Counsel
 Mrs. Jean Siegrist, President
 Perry Hall Improvement Assn.
 Mrs. Genevieve Buettner
 Mr. Ernst H. Hohnefeld
 Mr. James May
 Mr. Glen P. Morse
 Mr. S. E. DiNenna
 Mr. G. J. Martink
 Mr. L. Groef
 Mr. Gary Burl
 Board of Education
 Mr. C. L. Perkins

Edith T. Eisenhart, Adm. Secretary

8/16/77 - Notified of appeal hearing scheduled for THURSDAY, DECEMBER 8, 1977 at 10 a.m.

Lewis L. Fleury, Esq.
Gerard V. Caldwell, Esq.
Mrs. Jean Stigritz
Mrs. Genevieve Buettner
Mr. Ernest H. Hahnfeld
Mr. James May
Mr. Glen P. Morse
John W. Hession, III, Esq.

SENT L72 & B72

*Postponed 11-22-77
Requested by
Mr. Fleury*

3/17/78 Notified above of appeal hearing scheduled for THURSDAY, JUNE 8, 1978 at 10 a.m.

*Postponed 5-25-78
Req. by Mr. Fleury*

6/19/78 - Notified of appeal hearing scheduled for TUESDAY, SEPT. 19, 1978 at 10 am

*5/14/78 -
Dismissed in open hearing.
Mr. Hession will submit
Order for Board's signature.
10/19 - from Hession - He has proposed
caching Dis. (Dis. because they did not
want case removed per 220A)
11/26 - Sent Order to HAH for signature re: 11/77*

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

June 19, 1978

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108.

CASE NO. 77-156-X and
CASE NO. 77-157-X

J. WILLIAM ASTON

for Special Exception for Offices

SE cor. Belair and Darnell Drive

and

SE/S of Belair Rd. 70' W. of Darnell Drive

11th District

3/17/77 - D.Z.C. Granted SE, subject to restrictions

ASSIGNED FOR:

TUESDAY, SEPTEMBER 19, 1978 at 10 a.m.

cc: Lewis L. Fleury, Esq.

Counsel for Petitioner

Mr. J. William Aston

Petitioner

Gerard V. Caldwell, Esq.

Counsel for Protestants

Mrs. Jean Stigritz, President
Perry Hall Improvement Assn.

Protestant

Mrs. Genevieve Buettner

"

Mr. Ernest H. Hahnfeld

"

Mr. James May

"

Mr. Glen P. Morse

People's Counsel

John W. Hession, III, Esq.

Mr. S. E. DiNenna

Mr. George Martinak

Mr. Leslie Orsini

Mr. Gary Burt

Board of Education

Mr. C. L. Perkins

Muriel E. Buddemeier
County Board of Appeals

November 2, 1978

Lewis L. Fleury, Esquire
424 Woodbine Avenue
Towson, Md. 21204

Re: Case No. 77-156-X and
Case No. 77-157-X
J. William Aston, Petitioner

Dear Mr. Fleury:

Enclosed herewith is a copy of the Opinion and Order
passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith Y. Elmhurst
Edith Y. Elmhurst, Adm. Secretary

Encl.

cc: Gerard V. Caldwell, Esquire

Mrs. Jean Stigritz

Mrs. Genevieve Buettner

Mr. Ernest H. Hahnfeld

Mr. James May

Mr. Glen P. Morse

John W. Hession, III, Esquire

Mr. S. E. DiNenna

Mr. G. J. Martinak

Mr. L. H. Orsini

Board of Education

Mr. J. Howell

November 20, 1978

BILLED TO:

Lewis L. Fleury, Esq.
424 Woodbine Avenue
Towson, Md. 21204

Cost of certified documents in Case Nos. 77-156-X
and 77-157-X\$28.00
J. William Aston
SE cor. Belair Rd. and Darnell Dr.
and
SE/S Belair Rd. 70' W. of Darnell Dr.
11th District

MAKE CHECKS PAYABLE TO:

Baltimore County, Md.

REMIT TO:

County Board of Appeals
Rm. 219 Court House
Towson, Md. 21204

November 28, 1978

Lewis L. Fleury, Esq.
424 Woodbine Avenue
Towson, Maryland 21204

Re: J. William Aston
Case Nos. 77-156-X and 77-157-X

Dear Mr. Fleury:

Appeal letter

cc: Mr. J. W. Aston

Muriel E. Buddemeier

November 28, 1978

Mrs. Genevieve Buettner
4206 Penn Ave.
Baltimore, Md. 21236

Re: J. William Aston
File No. 77-156-X and 77-157-X

Dear Mrs. Buettner:

Notice of Appeal

Muriel E. Buddemeier

November 28, 1978

Mrs. Jean Stigritz, President
Perry Hall Improvement Association
P.O. Box 63
Perry Hall, Md. 21120

Re: J. William Aston
File Nos. 77-156-X and 77-157-X

Dear Mrs. Stigritz:

Notice of Appeal

Muriel E. Buddemeier

November 28, 1978

Gerard V. Caldwell, Esq.
7701 Belair Road
Baltimore, Md. 21236

Re: J. William Aston
File Nos. 77-156-X and 77-157-X

Dear Mr. Caldwell:

Notice of Appeal

Muriel E. Buddemeier

cc: Mr. E. H. Stonefield
Mr. James May
Mr. Glen P. Morse

Lewis L. Fleury
Attorney at Law
424 Woodbine Avenue
Towson, Maryland 21204
(301) 825-9200

November 30, 1978

Mrs. Muriel F. Buddemeier
County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Re: J. William Aston
Case Nos. 77-156-X and 77-157-X

Dear Mrs. Buddemeier:

In accordance with your letter and bill of November 28, 1978, I am enclosing my check in the amount of \$28.00 to cover the cost of certified documents in the above cases.

Very truly yours,

Lewis L. Fleury

Lewis L. Fleury

LLF:pjk

Enclosure

Rec'd 11/30/78
11:25 a.m.



Baltimore County, Maryland

PEOPLE'S COUNSEL
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III
People's Counsel
PETER MAX ZIMMERMAN
Deputy People's Counsel

TEL. 484-2100

December 17, 1979

Howard E. Friedman, Clerk
Court of Special Appeals of Maryland
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, Maryland 21401

Re: People's Counsel for Baltimore County
v. J. William Aston, et al,
Case No. 1109, September Term, 1979

Dear Mr. Friedman:

Enclosed for filing, please find the original and thirteen copies of the Motion to Dismiss in the above-entitled case. For the Court's convenience, a suggested Order is enclosed also.

Very truly yours,

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Enclosures

PMZ:sh

cc: Lewis L. Fleury, Esquire
Gerard V. Caldwell, Esquire

RECEIVED
BALTIMORE COUNTY
DEC 18 11 21 AM '79
COURT OF SPECIAL APPEALS
BY

- 3 -

10. The Appellee's petition herein is, therefore, according to the newly enacted legislation, now ripe for a hearing on the merits of the Special Exception before the Board of Appeals. If the Special Exception case is concluded, following the exhaustion of all appeals, in the favor of Appellee, any development of the property would still be subject to the review process under Bill 178-79.

11. Since the Order of the Circuit Court September 18, 1979 coincides with the undisputed effect of the new law, there is nothing to be gained from this appeal but an advisory opinion as to the finality of appealed decisions of the Zoning Commissioner.

12. Accordingly, while Appellant disagrees with the reasoning of the Circuit Court in its opinion, there is no specific relief that the appellate courts can now effectively grant. The matter is moot.

WHEREFORE, Appellant prays that the Court enter an Order dismissing the present appeal for mootness.

AND AS IN DUTY BOUND, etc.,

John W. Hessian, III
John W. Hessian, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 17 day of December, 1979, a copy of the foregoing Motion to Dismiss was mailed to Lewis L. Fleury, Esquire, 424 Woodbine Avenue, Towson, Maryland 21204, Attorney for Petitioner/Appellee; and Gerard V. Caldwell, Esquire,

- 4 -

2701 Belair Road, Baltimore, Maryland 21234, Attorney for Protestants.

Peter Max Zimmerman
Peter Max Zimmerman

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY,
Appellant
V.
J. WILLIAM ASTON, et al,
Appellee

IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
Case No. 1109, September Term, 1979

MOTION TO DISMISS

People's Counsel for Baltimore County, Appellant, moves to dismiss the appeal in the above-entitled case for mootness, and says:

1. The issue to have been decided upon this appeal involves the finality of an order of the Zoning Commissioner granting a Special Exception. The issue of finality was pertinent to the operation of the "grandfather" clause of the Interim Development Control Act (hereinafter "IDCA"). Following the filing of this appeal, the IDCA expired. As explained below, the issue of "finality" of the appealed Zoning Commissioner's order has no practical import under the successor growth management legislation.

2. The Deputy Zoning Commissioner of Baltimore County, by Order dated March 16, 1977, approved Appellee's Petition for Special Exception for an office building.

3. The People's Counsel, Appellant herein, and nearby property owners, appealed to the County Board of Appeals of Baltimore County.

4. On April 16, 1977, prior to the *de novo* hearing before the Board, Bill 12-77, the IDCA became effective. It provided, in pertinent part, that no Special Exception could be granted in the absence of a determination by the Planning Board, upon referral, that the property complied with the specified legislative requirements. Baltimore County Code, Section 22-15(e)(1). The law would not apply, however, to any Special Exception already "lawfully issued and in effect." Section 22-15(h)(1)(A).

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY,
Appellant
V.
J. WILLIAM ASTON, et al,
Appellee

IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
Case No. 1109, September Term, 1979

ORDER

Upon the foregoing Motion to Dismiss, it is, this 17 day of December, 1979, ORDERED by the Court of Special Appeals of Maryland that the above-entitled case be, and hereby is, DISMISSED as being moot.

JUDGE

- 2 -

5. By Order dated November 2, 1978, the Board of Appeals reversed, applying to the subject petition its interpretation that cases pending before it on the effective date of the IDCA "were subject to the legal operation of the provisions of the legislation." The Petitioner declined to avail himself of the procedure established by the Board for remand to the Zoning Commissioner and processing under the IDCA. Accordingly, the Board dismissed the Petition.

6. Upon appeal to the Circuit Court for Baltimore County, the Board's Order was reversed in turn on September 18, 1979. The lower court, having narrowed the issue "to a determination of the finality of the Order of the Deputy Zoning Commissioner," found it to be "a final order and effective as of the date it is filed." The Circuit Court thereupon remanded the case to the Board of Appeals for a determination of the merits of the Special Exception.

7. From the Order of the Circuit Court, Appellant timely filed this appeal on October 8, 1979.

8. On November 25, 1979, Bill 178-79, also known as the Growth Management legislation, became effective, replacing the IDCA standards with comprehensive new development standards.

9. Pursuant to Section 1 thereof, enacting Section 4A02.1G1 of the Baltimore County Zoning Regulations, the development review, involving the prescribed standards, occurs prior to the issuance of a building permit or subdivision appeal. It does not precede, but rather follows the granting of any zoning approval by way of Special Exception.

*The provisions of the IDCA, Bill 12-77, had been continued in effect by virtue of Bill 58-79, the "Plan in Progress" law, and Bill 177-79, being further transition legislation.

July 23, 1981

Lewis L. Fleury, Esquire
424 Woodbine Avenue
Towson, Md. 21204

Re: Case No. 77-156-X and
Case No. 77-157-X
J. William Aston

Dear Mr. Fleury:

The above entitled case has been dormant since early 1980 and we have not received a request to set same for hearing. Therefore, please advise us if you wish this case to be heard.

If not, please send us a letter of dismissal.

Very truly yours,

William T. Hodson
William T. Hodson, Chairman

WTH:m

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204
August 4, 1981

Lewis L. Fleury, Esquire
424 Woodbine Avenue
Towson, Md. 21204

Re: Case No. 77-156-X and
Case No. 77-157-X
J. William Aston

Dear Mr. Fleury:

Enclosed herewith is a copy of the Order of Divisual
passed today by the County Board of Appeals in the above entitled
case.

Very truly yours,

Edith F. Eisenhart
Edith F. Eisenhart, Adm. Secretary

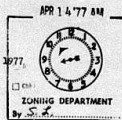
Encl.

cc: Gerard V. Caldwell, Esq.
Mr. Jean Siegrist
Mrs. Genevieve Buettner
Mr. Ernst H. Hahnfeld
Mr. James May
Mr. Glen P. Morse
John W. Hession, III, Esq.
Mr. J. William Aston
Mr. Howard E. Friedman
Mr. Elmer H. Kahline, Jr.
Mr. W. E. Hammond
Mr. J. E. Dyer
Mr. M. E. Garber
Mr. J. G. Howell

Gerard V. Caldwell
ATTORNEY AT LAW

7701 BELAIR ROAD
BALTIMORE, MD. 21204

April 14, 1977



Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Petition for Special Exceptions
Two Properties
S/E Corner of Belair Road
and Darnell Drive - 11th District
No. 77-156-X
No. 77-157-X

Dear Sir:

Enclosed find check in the amount of \$150.00 made
payable to Baltimore County Maryland to cover cost of appealing
the above captioned cases. The appeal is made on behalf of the
following:

Ernst H. Hahnfeld
1209 Darnell Road
Baltimore, Maryland 21236

James May
Pinedale Drive
Baltimore, Maryland 21236

Glen P. Morse
9012 Dana Vista Road
Baltimore, Maryland 21236

Thank you for your attention to this matter.

Very truly yours,

Gerard V. Caldwell
Gerard V. Caldwell

GVG:ag

cc Lewis Fleury

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 484-3351

S. ERIC DINENNA
ZONING COMMISSIONER

April 4, 1977

Lewis L. Fleury, Esquire
424 Woodbine Avenue
Towson, Maryland 21204

RE: Petitions for Special Exception
SE/Corner of Belair Road and Darnell
Drive - 11th Election District
J. William Aston - Petitioner
NO. 77-156-X (Item No. 117)
NO. 77-157-X (Item No. 118)

Dear Mr. Fleury:

I have this date passed my Amended Order in the above captioned matter
in accordance with the attached.

Very truly yours,

George J. Martinak
GEORGE J. MARTINAK
Deputy Zoning Commissioner

GJM/mc

Attachments

cc: Mrs. Jean Siegrist
President
Perry Hall Improvement Association
P. O. Box 63
Perry Hall, Maryland 21128

Mrs. Genevieve Buettner
4206 Penn Avenue
Baltimore, Maryland 21236

John W. Hession, III, Esquire
People's Counsel

April 18, 1977

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 484-3351

S. ERIC DINENNA
ZONING COMMISSIONER

Lewis L. Fleury, Esquire
424 Woodbine Avenue
Towson, Maryland 21204

Re: Petitions for Special Exception for J. William Aston
SE/Corner of Belair and Darnell Road
77-156-X (Item #117) and 77-157-X (Item #118)

Dear Sir:

Please be advised that an appeal has been filed by Gerard V. Caldwell,
Esquire, acting on behalf of Ernst H. Hahnfeld, James May and Glen P.
Morse, protestants, from the decision rendered by the Deputy Zoning
Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it
is scheduled by the Baltimore County Board of Appeals.

Very truly yours,

SED/ae
cc: Mrs. Jean Siegrist
President
Perry Hall Improvement Association
P.O. Box 63
Perry Hall, Maryland 21128

Mrs. Genevieve Buettner
4206 Penn Avenue
Baltimore, Maryland 21236

Gerard V. Caldwell, Esquire
7701 Belair Road
Baltimore, Md. 21236

John W. Hession, III, Esquire
People's Counsel

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 484-3351

S. ERIC DINENNA
ZONING COMMISSIONER

April 19, 1977

Gerard V. Caldwell, Esquire
7701 Belair Road
Baltimore, Maryland 21236

Re: Petition for Special Exception for J. William Aston
Case No. 77-156-X (Item #117)

Dear Sir:

Please be advised that an appeal has been filed by Lewis L. Fleury,
Esquire, acting on behalf of J. William Aston, petitioner, from the
decision rendered by the Deputy Zoning Commissioner of Baltimore County
in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it
is scheduled by the Baltimore County Board of Appeals.

Edith F. Eisenhart
Edith F. Eisenhart, Adm. Secretary

SED/ae
cc: Mrs. Jean Siegrist
President
Perry Hall Improvement Association
P.O. Box 63
Perry Hall, Maryland 21128

Mrs. Genevieve Buettner
4206 Penn Avenue
Baltimore, Maryland 21236

Lewis L. Fleury, Esquire
424 Woodbine Avenue
Towson, Maryland

John W. Hession, III, Esquire
People's Counsel

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 484-3351

S. ERIC DINENNA
ZONING COMMISSIONER

February 16, 1977

Lewis L. Fleury, Esq.
424 Woodbine Ave.
Towson, Md. 21204

Re: Petition for Special Exception for J. William Aston
77-156-X

Dear Sir:

This is to advise you that \$17.50 is due for advertising
and posting of the above property.

Please make check payable to Baltimore County, Md. and remit to Mrs. Anderson

Room 121, County Office Building, before the hearing.

Very truly yours,

S. Eric Dinenna
S. ERIC DINENNA
ZONING COMMISSIONER

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric Dinenna, Zoning Commissioner Date: February 22, 1977
FROM: Norman E. Gerber, Acting Director of Planning

SUBJECT: Petition 77-156-X, Petition for Special Exception for Offices.
Southeast corner of Belair Road and Darnell Drive
J. William Aston and Martha R. Aston

11th District

HEARING: Thursday, February 24, 1977 (1:00 P.M.)

The proposed use would be appropriate here. However, it is suggested
that this proposal and that on the adjacent property (77-157-X) be
considered jointly in discussing with the petitioner the following
recommendation. Since Darnell Drive is a "Residential Street", it
would be desirable if both parking areas could be tied together and
access be provided via 8933 Belair Road; then screen planting
along the parking area on 8935 could effectively "hold off" these
non-residential uses from the adjacent dwellings.

Norman E. Gerber
Norman E. Gerber
Acting Director of Planning

EDG:JWH

January 31, 1977

Lewis L. Fleury, Esq.
424 Woodbine Ave.
Towson, Md. 21204

NOTICE OF HEARING

Re: Petition for Special Exception for J. William Aston
77-156-X

TIME: 1:00 P.M.

DATE: Thursday, February 24, 1977

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE,
TOWSON, MARYLAND

S. Eric Dinenna
S. ERIC DINENNA
ZONING COMMISSIONER OF
BALTIMORE COUNTY

PERRY HALL IMPROVEMENT ASSOCIATION, INC.
P.O. Box 63
Perry Hall, Maryland 21128

Mr. S. Eric DiMenna
Zoning Commissioner
Baltimore County

RE: Statement of Position
Perry Hall Improvement Assoc.
Aston Request for Special
Exception

It is known that the Perry Hall Improvement Association, Inc. is in opposition to the Aston Request for Special Exception on his (2) properties in the 9300 block of Belair Road. This opposition was determined by a vote which was taken at the meeting held on February 10, 1977, a regular membership meeting. The association has an approximate membership of one hundred sixty persons, of which twenty-five were present for the vote. The results of the vote showed twenty-four (24) members in opposition to the request and one (1) abstention.

Jean Sigrist
Jean Sigrist
President, Perry Hall Improvement
Association

ATTEST: *James M. May*
Recording Secretary

PERRY HALL IMPROVEMENT ASSOCIATION, INC.
P.O. Box 63
Perry Hall, Maryland 21128

Mr. S. Eric DiMenna
Zoning Commissioner
Baltimore County

RE: Affidavit of Board of Governors
Zoning Representation Authorization

WHEREAS Article VI, Section II, of the By-Laws of Perry Hall Improvement Association states, "The Board of Governors shall consist of 5 members elected by the association, the present officers and the past president", and the official election of the Association was conducted at the February meeting of the Association, that being the annual meeting.

The following Board of Directors is hereby certified as the present official Board of the Perry Hall Improvement Association and under Article V of the By-Laws are empowered to represent the Association on matters pertaining to zoning.

BOARD OF GOVERNORS
Genevieve Buehner
Lori Houston
Glen Morse
Hugh Coon
Robert Sweet

OFFICERS OF ASSOCIATION
President - Jean Sigrist
Vice-Pres - Anne Kemp
Treasurer - Tony Anders
Record. Sec. - James May
Comm. Sec. - Clara Chin
Past Pres. - Gail Deaneck

Jean Sigrist
President, Perry Hall
Improvement Association

ATTEST: *James M. May*
Recording Secretary

Sworn to *James M. May*
Notary Public
2/13/77

PERRY HALL IMPROVEMENT ASSOCIATION, INC.
P.O. Box 63
Perry Hall, Maryland 21128

February 23, 1977

Mr. S. Eric DiMenna
Zoning Commissioner
Baltimore County

RE: Statement of Resolution
regarding Zoning Matters

WHEREAS Article V of the By-Laws of the Perry Hall Improvement Association requires that, at the annual meeting, the Association shall take action by way of a Resolution, providing that the responsibility for review and recommended action on all zoning matters be placed in the hands of the Board of Governors, by it hereby

RESOLVED that pursuant to Article V of the By-Laws, zoning matters coming before the Perry Hall Improvement Association shall be the responsibility of the Board of Governors of said Association, and be it further RESOLVED that any member of said Board, the President or Vice-President of said Association or Council, for the Association, is hereby authorized to represent said Association when so designated.

We hereby certify that the foregoing statement is a true and accurate extract from the Minutes of the Annual Meeting of the Perry Hall Improvement Association, held on February 10, 1977.

Jean Sigrist
Jean Sigrist
President, Perry Hall
Improvement Association

ATTEST: *James M. May*
Recording Secretary

Present at Hearing 2/13/77
ASTON SPEC EXCEPTION PETITIONERS

NAME	ADDRESS	39 people
Blaine P. Moore	9412 Dana Vista Rd	
Robert A. Simpson	9413 Dana Vista Rd	21236
Margaret B. Ray	9217 Carlsbad Ave	21238
William B. Ray		
Robert B. Ray	9216 Carlsbad Ave	21238
James V. Probst	4309 Penn Ave	21232
Richard W. Spencer	4110 Penn Ave	21236
Edith Ann Boston	4110 Penn Ave	21236
Mr. & Mrs. G. Robinson	4217 Penn Ave	21236
Mr. & Mrs. G. Robinson	5301 Belair Rd	
Daniel G. Bell	4204 Penn Ave	21236
Edith Bell	9309 Carlsbad Ave	21236
Carl Carter	9109 CARLSBAD AVE	21236
Carl H. Moore	1301 Carlsbad Ave	21236
Jean Moore	9301 Carlsbad Ave	21236
McIntosh Hotel	4231 Penn Ave	21236
Mr. & Mrs. Bick	4231 Penn Ave	21236
Shirley B. Bick	9218 Carlsbad Ave	21236
Alfred B. Bick	9218 Carlsbad Ave	21236
Mr. & Mrs. Bick	9412 Dana Vista Rd	21236
DONALD O. SMITH	4112 PINE HILL RD	21236
James M. May	4111 Pinedale Drive	21236
John H. Bell	9219 Carlsbad Ave	21236
Robert A. Simpson	9224 Carlsbad Ave	21236
Paul A. Robinson	4224 " "	
William B. Ray	9417 Dana Vista Rd	21236
Charles P. Moore	4322 Penn Ave	21236
Edward A. Bick	9406 Dana Vista Rd	21236
John B. Bick	9406 Dana Vista Rd	21236
Marie A. Bick	4208 Darnall Rd	21236
Marjorie Bick	4213 Darnall Rd	21236
John B. Bick	4207 Darnall Rd	21236
Charles Bick	4201 Penn Ave	21236
Ernest H. Bick	4207 Penn Ave	21236

RE: PETITIONS FOR SPECIAL EXCEPTIONS : BEFORE THE
SE/Corner of Belair Road and Darnall : DEPUTY ZONING
Drive - 11th Election District : COMMISSIONER
J. William Aston - Petitioner :
NO. 77-156-X (Item No. 117) :
NO. 77-157-X (Item No. 118) :
OF

AMENDED ORDER
NUNC PRO TUNC

It is hereby ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 4th day of April, 1977, that the Order, dated March 17, 1977, passed in this matter should be and the same is hereby Amended "Nunc Pro Tunc" on Page 2, Item 2, to read as follows:

2. Screening shall be provided by the installation of a chain link, slatted, fence the length of and at the rear of 9333 Belair Road, adjacent to the school-use property.

James M. May
Deputy Zoning Commissioner of
Baltimore County

CASH REG. 77-156-X (Item #117)
77-157-X (Item #118)

April 10, 1977

J. William Aston - Petitioner
SE/Corner of Belair and Darnall
Roads and the W/2 of Belair
Road 70 ft. S of Darnall Road
11th Election District

8/6/75	Petitioner's Exhibit #1	
12/13/76	Copy of Petitioner Petition	
12/13/76	Copy of Petitioner's Petition	
12/13/76	Copy of Description of property (9333 Belair Rd.)	
12/13/76	Copy of Description of property (9333 Belair Road)	
2/3/77	Copies of Certificate of publication (Deed Times)	
2/3/77	Copies of Certificate of publication (The Jeffersonian)	
2/3/77	Copies of Certificate of postings	
2/17/77	Copy of Zoning Advisory Committee Comments	
2/18/77	Copies of Order to enter appearance John W. Heslian, 3rd, People's Counsel	
2/22/77	Copies of Comments from Planning	
2/23/77	Copy of Protestants Exhibit #2	
3/17/77	Copy of Deputy Zoning Commissioner's Order	
3/17/77	Copy of Deputy Zoning Commissioner's Amended Order	
3/17/77	Copy of Appeal from Gerard V. Caldwell, Counsel for Protestants	
3/17/77	Copy of Appeal from Lewis L. Fleury, Counsel for Petitioner	
	(2) Copies of Plans	

3-Signs

*Lewis L. Fleury, Esq.
121 Woodbine Avenue
Towson, Maryland
*Gerard V. Caldwell, Esq.
7701 Belair Road
Baltimore, Md. 21236
Mrs. Jean Sigrist
President
Perry Hall Impr. Assoc.
P.O. Box 63
Perry Hall, Md. 21128

Counsel for Petitioner

Counsel for Protestants

Emergency Protestants

Assar Darnall
Flora Darnall
John D. Darnall, Jr.
Mrs. Mary D. Darnall
Constance Darnall
William Darnall

4718 Darnall 21232
9320 Belair Rd 21236
9410 Dana Vista Rd 21236
4215 Darnall Rd 21236
4206 Penn Ave 21236
4109 Pinedale Dr 21236

Mr. Genevieve Buehner
1204 Penn Avenue
Baltimore, Maryland 21236
Mrs. H. Hahnfeld
1209 Darnall Road
Baltimore, Md. 21236
James May
Pinedale Drive
Baltimore, Md. 21236
Glen F. Morse
9412 Dana Vista Road
Baltimore, Md. 21236
John W. Heslian, 3rd, Esq.
County Office Building

Protestant
Protestant
Protestant
People's Counsel

SHOWN RECEIVED FOR FILING

DATE April 4, 1977

11 John D. Darnall, Jr.

PERRY HALL IMPROVEMENT ASSOCIATION, INC.

P. O. Box 63
Perry Hall, Maryland 21128

February 23, 1977

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County

Re: Statement of Resolution
regarding Zoning Matters

WHEREAS Article V of the By-Laws of the Perry Hall Improvement Association requires that, at the annual meeting, the Association shall take action by way of a Resolution providing that the responsibility for review and recommended action on all zoning matters be placed in its Board of Governors, by it hereby

RESOLVED that pursuant to Article V of its By-Laws, zoning matters coming before the Perry Hall Improvement Association shall be the responsibility of the Board of Governors of said Association, and be it further RESOLVED that any member of said Board, the President or Vice-President of said Association or Council for the Association, is hereby authorized to represent said Association when so designated.

WE hereby certify that the foregoing statement is a true and accurate extract from the Minutes of the Annual Meeting of the Perry Hall Improvement Association, held on February 10, 1977.

Jean Siegrist
Jean Siegrist
President, Perry Hall
Improvement Association

ATTEST: *James M. May*
Recording Secretary

OFFICE
HIGHTSFIELD B-7148

Gerard V. Caldwell
ATTORNEY AT LAW

7701 BELAIR ROAD
BALTIMORE, MD. 21236

April 11, 1977



Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Petition for Special Exceptions
Two Properties
2/E Corner of Belair Road
and Darnell Drive - 11th District
No. 77-156-X
77-157-X

Dear Sir:

Enclosed find check in the amount of \$150.00 made payable to Baltimore County Maryland to cover cost of appealing the above captioned cases. This appeal is made on behalf of the following:

Ernest H. Babnerfeld
1409 Darnell Road
Baltimore, Maryland 21236

James May
Pindale Drive
Baltimore, Maryland 21236

Glen P. Morse
9412 Dana Vista Road
Baltimore, Maryland 21236

Thank you for your attention to this matter.

Very truly yours,

Gerard V. Caldwell
Gerard V. Caldwell

ENCLOSURE

cc: *James M. May*

PERRY HALL IMPROVEMENT ASSOCIATION, INC.

P.O. Box 63
Perry Hall, Maryland 21128

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County

Re: Statement of Position
Perry Hall Improvement Assoc.
Aston Request for Special
Exception

Be it known that the Perry Hall Improvement Association, Inc. is in opposition to the Aston request for Special Exception on his two (2) properties in the 9300 block of Belair Road. This opposition was determined by a vote which was taken at the meeting held on February 10, 1977, a regular membership meeting. The Association has an approximate membership of one hundred sixty persons, of which twenty-five were present for the vote. The results of the vote showed twenty-four (24) members in opposition to the request and one (1) abstention.

Jean Siegrist
Jean Siegrist
President, Perry Hall
Improvement Association

ATTEST: *James M. May*
Recording Secretary

LLF/mfj
4/18/77
7447
1 & 2

PETITION FOR SPECIAL EXCEPTION
SE/Corner of Belair Road and Darnell
Drive - 11th Election District
J. William Aston - Petitioner
No. 77-156-X (11th & N. 117)
No. 77-157-X (11th & N. 117)

NOTICE OF APPEAL

ZONING COMMISSIONER,
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

MR. COMMISSIONER:

Please enter an Appeal to the Baltimore County Board of Appeals from the Order of the Zoning Commissioner of Baltimore County entered on March 17, 1977, by which the special exception requested was granted, with no enhance on Darnell Drive. This Appeal is filed on behalf of J. William Aston & wife.

L. L. Fleury
Lewis L. Fleury
Attorney for Petitioner
424 Woodbine Avenue
Towson, Maryland 21204

I HEREBY CERTIFY that on this 18th day of April, 1977, a copy of the foregoing Notice of Appeal was mailed to Gerard V. Caldwell, Esquire, 7701 Belair Road, Baltimore, Maryland, 21236.



PERRY HALL IMPROVEMENT ASSOCIATION, INC.

P. O. Box 63
Perry Hall, Maryland 21128

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County

Re: Affidavit of Board of Governors
Zoning Representation Authorization

WHEREAS Article VI, Section II, of the By-Laws of Perry Hall Improvement Association states, "The Board of Governors shall consist of 5 members elected by the Association, the present officers and the past president", and The official election of the Association was conducted at the February meeting of the Association, that being the Annual meeting.

The following Board of Directors is hereby certified as the present official Board of the Perry Hall Improvement Association and under Article V of the By-Laws are empowered to represent the Association on matters pertaining to Zoning.

BOARD OF GOVERNORS

Constance Butcher
Iari Houston
Glen Morse
Hugh Ehm
Robert Ewert

OFFICERS OF ASSOCIATION

President - Jean Siegrist
Vice-Pres - Anna Kemp
Treasurer - Tony Anders
Record. Sec. - James May
Corr. Sec. - Clara Chin
Past Pres. - Gail Duszrak

Jean Siegrist
President, Perry Hall
Improvement Association

ATTEST: *James M. May*
Recording Secretary

Seen to *James M. May*
Notary Public
4/13/77

LLF/mfj
11/22/77
7447
1 & 4

RE: PETITION FOR SPECIAL
EXCEPTION
J. William Aston
Case Nos. 77-156-X
and 77-157-X

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY
OF APPEALS
OF BALTIMORE COUNTY

ORDER GRANTING POSTPONEMENT

UPON the request of the Appellant in the above-styled matter, it is this day of November, 1977, by the County Board of Appeals of Baltimore County,

ORDERED, that the hearing on the above-styled matter be postponed from its assigned date of Thursday, December 8, 1977 at 10:00 a.m. to some future date to be assigned by this Board.

County Board of Appeals of Baltimore County

E. F. RAFFEL & ASSOCIATES

Registered Professional Land Surveyors
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OFFICE 822-3000

November 30, 1976

RESIDENCE 771-4982

DESCRIPTION TO ACCOMPANY PETITION FOR OFFICES IN OR 16 ACRES
PROPERTY OF WILLIAM ASTON AND WIFE
BEL AIR ROAD AND DARNELL DRIVE, BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the southeast right of way line of Bel Air Road said point being located 348' 30" W 70.00' from the intersection formed by the southeast right of way line of Bel Air Road and the southwest side of Darnell Road, running thence and binding on the southeast right of way line of Bel Air Road 348' 30" W 75.00', thence leaving the southeast right of way line of Bel Air Road 348' 30" W 200.00', running thence 141' 30" W 75.00', running thence 141' 30" W 200.00' to the place of beginning. Containing 0.34 acres of land more or less.

Being the land of William Aston and wife and being known as 9333 Bel Air Road.



E. F. Raffel
E. F. RAFFEL
Reg. Prof. Land Surveyor
No. 2246

LLF/mfj
11/22/77
7447
1 & 4

RE: PETITION FOR SPECIAL
EXCEPTION
J. William Aston
Case Nos. 77-156-X
and 77-157-X

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY
OF APPEALS
OF BALTIMORE COUNTY

ORDER GRANTING POSTPONEMENT

UPON the request of the Appellant in the above-styled matter, it is this day of November, 1977, by the County Board of Appeals of Baltimore County,

ORDERED, that the hearing on the above-styled matter be postponed from its assigned date of Thursday, December 8, 1977 at 10:00 a.m. to some future date to be assigned by this Board.

County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION
J. William Aston, Petitioner
CASE NOS: 77-156-X
and 77-157-X
BEFORE THE COUNTY BOARD
OF APPEALS
OF BALTIMORE COUNTY

REQUEST FOR POSTPONEMENT

The Appellant, J. William Aston, respectfully requests the County Board of Appeals to postpone the hearing on the above matter from its presently assigned date of December 8, 1977 at 10:00 A.M. to a future unassigned date, and for reasons says:

1. Upon advice that the People's Counsel intended to request that all cases similar to the case of Nicholas B. Mangione, et ux, Case No. 76-158-X, be remanded to the zoning Commissioner for IDCA review by the Planning Board, the Appellant filed a Petition to Intervene in the pending proceeding for the Circuit Court for Baltimore County, in Equity, entitled Colin J. Hoffman, et al vs. Baltimore County, et al, Docket 115, folio 111, case no. 92684, and upon leave of Court, did file a Petition for Declaratory Judgment in said proceeding requesting the Circuit Court for Baltimore County to pass an Order directing that the Interim Development Control Act does not apply to the grant to the Petitioner of a Special Exception on March 17, 1977, and therefore, the Board of Appeals may hear the appeal in this proceeding without a prior review or decision by the Planning Board of Baltimore County.

2. Motion for Summary Judgment has been filed by this Appellant and arguments have been heard thereon and memoranda have been filed by all parties. Said matter is now being held sub curia for determination by the Honorable William E. Brannon.

3. That, even if Judge Brannon should rule in the above-mentioned Declaratory Judgment proceeding prior to December 8th, Appellant's counsel has been advised by the People's Zoning Counsel for Baltimore County that appeal will be taken to the Court of Special Appeals. Therefore it is and will be impossible to have a determination in said Declaratory Judgment proceeding prior to December 8, 1977.

- 2 -

Agreement, shall be granted by the appropriate County authority or official for any property lying within any area shown on the Interim Development Control Map unless the Planning Board pursuant to the procedures set forth in section (1) of this Act, after referral to the appropriate departments for study, analysis and findings, and taking into account all appropriate public comments and department findings and recommendations submitted, determines that said property meets all of the following requirements: . . . "

Petitioner concedes that none of the required approvals has been sought. As we held in Mangione, even if we should find after an evidentiary hearing that the Petitioner met all of the requirements of Section 502.1 of the Baltimore County Zoning Regulations, no Special Exception could be granted absent IDCA approval by the Planning Board.

There were pending on our docket on the effective date of the IDCA approximately twenty-four (24) cases within the category affected by the legislation. Although we did not rule on the question, we expressed concern in Mangione that if we dismissed these cases, Petitioners would be needlessly hamstringed by Section 500.12 of the Regulations, the so-called "18 month rule." With the exception of one case withdrawn and voluntarily dismissed for reasons apparently not related to the IDCA, all other petitioners sought and we ordered a remand to the Zoning Commissioner for processing under the IDCA. Petitioner has declined to avail himself of this procedure.

These appeals have been pending for more than eighteen months and must be concluded. Since we cannot grant the Special Exceptions sought, and Petitioner refuses to cure the defect that we perceive, we have no other course but to dismiss the Petitions.

Whereupon, it is, this 2nd day of Nov., 1978, by the County Board of Appeals of Baltimore County, ORDERED, that the Order of the Deputy Zoning Commissioner herein be and it is hereby Reversed, and the Petitions herein be and they are hereby DISMISSED.

4. That on November 1, 1977, the Board of Appeals granted a continuance in the case of Colin A. Hoffman, Petitioner, Case No. 77-207-X, which is the companion case to this proceeding in the Declaratory Judgment proceeding mentioned above.

L. Fleury
Lewis L. Fleury
Attorney for Appellant
424 Woodbine Avenue
Towson, Maryland 21204
825-9200

I HEREBY CERTIFY that on this 22nd day of November, 1977, a copy of and Order thereon, the foregoing Request for Postponement was mailed to: GERARD V. CALDWELL, ESQ., 7701 Belair Road, Baltimore, Maryland, 21236; and to JOHN W. HESSIAN, III, ESQ., People's Counsel, County Office Building, Towson, Maryland, 21204.

L. Fleury
Lewis L. Fleury

- 3 -

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert L. Gillard, Vice Chairman

Walter A. Reiter, Jr.

Herbert A. Davis

494-3180

County Board of Appeals

Room 218, Court House
Towson, Maryland 21204
March 17, 1978

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 77-156-X and
CASE NO. 77-157-X

J. WILLIAM ASTON

for Special Exception for Offices

SE cor. of Belair and Darnell Drive
and
SE/S of Belair Rd. 70' W. of Darnell Dr.
11th District

3/17/77 - D.Z.C. Granted SE, sub. to res.

ASSIGNED FOR:

THURSDAY, JUNE 8, 1978 at 10 a.m.

cc: Lewis L. Fleury, Esq.

Counsel for Petitioner

Gerard V. Caldwell, Esq.

" = Protestants

John W. Hessian, III, Esq.

People's Counsel

Mrs. Jean Siegrist, Pres.
Perry Hall Improvement Assn.

Protestant

Mrs. Genevieve Buettner

"

Mr. Ernst H. Hahnfeld

"

Mr. James May

"

Mr. Glen P. Morse

"

Mr. S. E. DiNenna

Mr. George Martinuk

Mr. Leslie Graef

Mr. Gary Burl

Board of Education

Mr. C. L. Perkins

Max E. Buddemeier
County Board of Appeals

RE: PETITION FOR SPECIAL EXCEPTION
South side of Greenlidge Road 641 feet
East of York Road, 9th District
NICHOLAS B. MANGIONE, et ux,
Petitioners
BEFORE THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No. 76-158-X

FINDINGS AND ORDER

This case having come on for hearing and the Petitioner having adduced testimony and evidence in support of his Petition for a Special Exception to erect, operate and maintain a convalescent home on a parcel of land zoned D.R. 5.5 pursuant to Section 1 E01 C. 4. of the Baltimore County Zoning Regulations, and Petitioner having concluded his presentation, upon Motion made by counsel for the Protestant parties and by the People's Counsel for Baltimore County, and after argument thereon, the Board finds as follows, viz:

1. That under Bill No. 12-77, Legislative Session 1977, the County Council for Baltimore County enacted a new Section 22-15.1 to the Baltimore Code, 1959, to regulate for an interim period the issuance of building permits, special permits, special exceptions, subdivision approvals, amendments to the zoning maps, and reclassification of the use of certain property in Baltimore County, known in accordance with Section 22-15.1(a) (2) thereof as the "Interim Development Control Act," which said Act took effect on April 16, 1977, and has been neither repealed, amended, or superseded.

2. That in accordance with Section 22-15.1(b) of the Act, the County Council for Baltimore County did adopt simultaneously with said Act an "Interim Development Control Map of the County" and Petitioner's property is classified thereon within an "Urbanized Area," as more particularly shown on a portion of said Map received in evidence as "Board's Exhibit No. 1," a part of the record in this case.

3. That although Section 22-15.1(c) of said Act provides in pertinent part, viz:

RE: PETITIONS FOR SPECIAL EXCEPTIONS
J. WILLIAM ASTON, Petitioner
BEFORE THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No. 77-156-X (Item No. 117)
Case No. 77-157-X (Item No. 118)

OPINION AND ORDER

These cases involve a request for Special Exceptions to maintain offices in R. 16 zone as authorized in the Baltimore County Zoning Regulations. Although two docket numbers were assigned, these are companion cases involving abutting properties in the same ownership fronting on the Belair Road, both improved by dwelling structures. Since we are here construing a regulation, and its impact on an entire class or group of petitions, of which these are a part, and do not reach the question of the appropriateness of the specific request, no factual recitation concerning location, traffic, community, or the proposed use is necessary.

Our authority to make the determination we herein reach is established. Hoffman v. Baltimore County, Maryland, et al, Circuit Court for Baltimore County, Equity Docket 115, Folio 111, No. 92684. We have previously ruled on the question here presented, Petition for Special Exception, Nicholas B. Mangione, et ux, No. 76-158-X, July 12, 1977 (copy attached), wherein we held that cases pending on the effective date of County Council Bill No. 12-77 (Interim Development Control Act - "IDCA") were subject to the legal operation of the provisions of that legislation. Since the effective date of the legislation was April 16, 1977, and the Special Exceptions herein sought were not "already issued or approved" on that date (Sec. 22-15.1(b) (1) A. of the "IDCA"), they fall within the group of Special Exception cases awaiting hearing and decision on the effective date of the "IDCA" which is affected thereby.

Sec. 22-15.1(a) (1) of the "IDCA" provides:

"(1) General Requirements for All Development. No special permits, special exceptions, tentative or final subdivision approvals (with or without a Public Works Agreement), shall be granted by the appropriate County authority or official for any property lying within any area shown on the Interim Development Control Map unless the Planning Board pursuant to the procedures set forth in section (1) of this Act, after referral to the appropriate departments for study, analysis and findings, and taking into account all appropriate public comments and department findings and recommendations submitted, determines that said property meets all of the following requirements: . . . "

Petitioner's application has not been subjected to said process.

4. That the application here involved is not exempt from the provisions of the Interim Development Control Act by virtue of a "vested right" under Section 22-15.1 (b) (1) (A) because it does not concern a Special Exception lawfully issued and in effect on or before April 16, 1977.

5. That the application here involved is subject to the pertinent provisions of said Section 22-15.1(a), et seq., and cannot be considered unless and until it is properly filed, processed, and thereafter heard in accordance with the procedures established in said Section 22-15.1(a), et seq.

6. That the Board specifically makes no finding or findings of fact on the issue of whether Petitioner's proposal complies with the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

In view of these conclusions, a continuation of the presently scheduled hearing would impose needless cost and inconvenience on all of the parties merely to obtain a foreordained result. We have an obligation to react to the new status of the proceeding in a fashion which is fair to all parties. On the one hand, we must respect the legislative declaration that expanded scrutiny of proposed uses through the new process is necessary, while on the other, we cannot ignore the position of the Petitioner should we dismiss the Petition and bring into play Section 500.12 of the Baltimore County Zoning Regulations (the so-called 18 month rule). We feel that the answer is to give the Petitioner his opportunity to proceed without unnecessary loss of time but under the new, stricter

criteria. Since the Zoning Commissioner is the officer responsible for the new procedure, we will remand the case to him for completion of the required review and a new determination taking into account the new material, if any, developed under the new criteria.

Thereupon, it is, this 12th day of July, 1977, by the County Board of Appeals for Baltimore County, ORDERED, that the Order of the Zoning Commissioner of Baltimore County granting said Petition be and it is hereby neither Affirmed or Reversed, but the entire proceeding is hereby REMANDED to the Zoning Commissioner of Baltimore County for referral to the Baltimore County Planning Board in accordance with Section 22-15.1(f) of the Baltimore County Code, and further proceedings thereon as are required in accordance with law.

Any appeal from this decision must be in accordance with Rules 8-1 to 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Reilly, Jr., Esq.
Walter A. Reilly, Jr., Esq.
Robert L. Gilland
Robert L. Gilland

Herbert A. Davis
Herbert A. Davis

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

RE: PETITION FOR SPECIAL EXCEPTIONS
S/E Corner of Belair Road and Darrell
Drive, 11th Election District
J. WILLIAM ASTON, Petitioner
Case No. 76-155X (Item No. 117)
Case No. 77-167X (Item No. 118)

Misc. Docket No.
Folio:
File No:

PETITION ON APPEAL

The Petition of J. William Aston, Appellant, by Lewis L. Fleury, his attorney, respectfully represents into this Honorable Court, that:

1. The Petitioner is the owner of the property described in this proceeding and applicant for the special exceptions requested before the County Board of Appeals in this case.

2. That the action appealed from is the Order of the County Board of Appeals in the above-entitled matter entered on the 2nd day of November, 1976, which reversed the prior Order of the Deputy Zoning Commissioner for Baltimore County granting the special exceptions requested in this proceeding and dismissing the Petitions for Special Exceptions filed in this proceeding.

3. The County Board of Appeals erred in the following respects:

a. The County Board of Appeals erroneously construed County Council Bill No. 12-77 (Interim Development Control Act - "IDCA") in holding that the special exception in the instant case granted by the Deputy Zoning Commissioner of Baltimore County on March 17, 1977 (30 days prior to the effective date of said IDCA) and pending before the County Board of Appeals on the effective date of said IDCA was subject to the legal operation of the provisions of that legislation.

4. That the County Board of Appeals of Baltimore County acted arbitrarily, capriciously and illegally in interpreting, said act and in applying the applicable law and statutes pertaining to special exception procedure in Baltimore County.

WHEREFORE, your Petitioner prays that the Order of the County Board of Appeals of Baltimore County be reversed and this matter be remanded to said County

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

RE: PETITION FOR SPECIAL EXCEPTIONS
S/E Corner of Belair Road and Darrell
Drive, 11th Election District
J. WILLIAM ASTON, Petitioner
Case No. 76-155X (Item No. 117)
Case No. 77-167X (Item No. 118)

Misc. Docket No.
Folio:
File No:

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal to the Circuit Court for Baltimore County from the Order of the County Board of Appeals of Baltimore County, dated November 2, 1976, in the above entitled case on behalf of J. William Aston, owner.

L. L. Fleury
LEWIS L. FLEURY
424 Woodlawn Avenue
Towson, Maryland 21204
Phone: 823-9200
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was served upon the County Board of Appeals for Baltimore County, by leaving a copy of the same with the County Board of Appeals for Baltimore County, Court House, Towson, Maryland, prior to the filing hereof, and that a copy of the same was mailed this 21st day of November, 1976, to Gerard V. Caldwell, Esquire, 7701 Belair Road, Baltimore, Maryland 21236, and to John W. Hessler, III, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204.

L. L. Fleury
LEWIS L. FLEURY

Board of Appeals for a full evidentiary hearing and determination by it of the issues there presented.

MAIL CERTIFICATION

I HEREBY CERTIFY that a copy of the foregoing Petition on Appeal was left with the County Board of Appeals of Baltimore County, Court House, Towson, Maryland 21204, and that a copy was mailed to Gerard V. Caldwell, Esq., 7701 Belair Road, Baltimore, Maryland 21236, and to John W. Hessler, III, Esq., People's Counsel, County Office Building, Towson, Maryland 21204, on the 21st day of November, 1976.

L. L. Fleury
LEWIS L. FLEURY

-2-

use No. 6692
Lewis L. Fleury

RE: PETITION FOR SPECIAL EXCEPTIONS
S/E Corner of Belair Road and Darrell
Drive, 11th Election District
J. WILLIAM ASTON, Petitioner

ADVANCE COSTS
Plaintiff's Atty. \$5.00
Clerk 50.00
Sheriff

Paid 10/21/77
Receipt No. 12434

ADDITIONAL COSTS
Clerk
Sheriff

Def't's Atty.
Paid _____
Receipt No. _____
Record ✓

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY
JEAN SIEGIST
GERARD V. CALDWELL
JAMES H. HANCOCK
JAMES MAY
PROTESTANTS
PEOPLE'S COUNCIL FOR BALTIMORE COUNTY

Gerard V. Caldwell
John W. Hessler, III

- (1) Nov. 27, 1976 - Order for Appeal from the Order of the County Board of Appeals of Baltimore County fd.
- (2) Nov. 27, 1976 - Petition for Appeal fd.
- (3) Nov. 30, 1976 - Certificate of Notice fd.
- (4) Dec. 19, 1976 Answer & Transcript of Record fd.
- (5) Dec. 21, 1976 App. of Gerard V. Caldwell and John W. Hessler, III for Protestants and People's Council Bldg. Co. Same day Answer to Petition on Appeal fd.
- (6) May 11, 1977 - Plaintiff's Request for Hearing fd.
- (7) Sept. 4, 1977 - Appellant's Memorandum in Support of Appellant's Petition on Appeal fd.
- September 5, 1977 Hon. Marvin J. Land. Hearing had. Held Sub-curia.
- (8) Sept. 19, 1977 Memorandum & Order of Court that the Order of the County Board of Appeals is reversed & this case is remanded to the County Board of Appeals for a full hearing and determination by it of the issues there presented fd. (NLT)

CENTRAL ASSIGNMENT

since an appeal was filed and the Petition was to be heard de novo by the Board, the Deputy Commissioner's Order is a nullity and his previous jurisdiction by statute is eliminated.

The issue narrows to a determination of the finality of the Order of the Deputy Zoning Commissioner in granting a Special Exception.

The Court finds that the order of the Deputy Zoning Commissioner in granting a Special Exception is a final order and is effective as of the date it is filed. To find otherwise would mean that actions of the Zoning Commissioners have no legal impact or effect once an appeal is taken to the Board of Appeals. Petitioner, in his Memorandum, cites cases indicating that this is erroneous. (See Shadbrook Improvement Assoc. v. Balloy, 232 Md. 265 (1963); Paul v. County Board of Appeals, 237 Md. 294 (1965).)

Since the Court finds that the Order of the Deputy Zoning Commissioner in granting Petitioner's Special Exception was final on March 17, 1977, the date it was filed, the Petitioner avoids the impact of the requirements of the IDCA. Accordingly, the Order of the County Board of Appeals is reversed and this case is remanded to the County Board of Appeals for a full hearing and determination by it of the issues there presented.

Harvin J. Land, Judge
HARVIN J. LAND, JUDGE

September 18, 1979
Copies Sent to:

Lewis L. Fleury, Esq.
Gerard V. Caldwell, Esq.
John W. Hessler, III, Esq., People's Counsel
for Baltimore County
Lecraed S. Jacobson, Esq., Office of Law
Marcel E. Rademacher, County Board of Appeals
of Baltimore County

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

STATE OF MARYLAND:
SCT.
COUNTY OF BALTIMORE

I, ELMER H. KAHLIN, JR., Clerk of the Circuit Court for Baltimore County, do hereby certify that the foregoing is a true photo copy of the original Docket Entries and Memorandum and Order of Court, filed taken from the Records of the said Circuit Court for Baltimore County as recorded in Liber 1307, JR. No. 11 Folio 112, one of the Miscellaneous Law Records of Baltimore County.

IN TESTIMONY WHEREOF, I hereto set my hand and affix the seal of said Court this 10th day of September A.D., 1979
Elmer H. Kahlin, Jr.
Clerk of the Circuit Court for Baltimore County

RE: PETITION FOR SPECIAL EXCEPTIONS IN THE
S.E. Corner of Belair Road and
Darnell Drive, 11th District
Circuit Court
FOR
J. WILLIAM ASTON
Petitioner BALTIMORE COUNTY
VS. MISCELLANEOUS NO. 6692

MEMORANDUM AND ORDER

This case was heard in open court on September 4, 1979, on the Petitioner's (J. William Aston) Appeal from the Order of the County Board of Appeals of Baltimore County on a Petition for Special Exceptions at the southeast corner of Belair Road and Darnell Drive. That Order reversed the prior Order of the Deputy Zoning Commissioner for Baltimore County granting the Special Exceptions request and dismissed the Petitions.

The County Board of Appeals decision was based upon its interpretation of the effect of the Interim Development Control Act which became law on April 16, 1977. It held that the Special Exceptions granted in this case were not "already issued or approved on that date and since the case was awaiting hearing before the Appeal Board, the Special Exceptions granted by the Deputy Zoning Commissioner was ineffective."

Counsel for the Petitioner and the People's Council presented argument to the Court and the case was held sub curia.

The question before the Court is whether on April 16, 1977, the effective date of the Interim Development Control Act (IDCA), the Petitioner possessed a lawfully issued Special Exception. If so, he avoids the impact of the requirements of the IDCA since Section (L) (1) (a) of the Act states that it does not "supersede or annul any prior approval lawfully issued and in effect on the date of effectiveness of this Act with respect to an already issued or approved special permit, special exception with or without a public works agreement."

Petitioner argues that the Order of the Deputy Zoning Commissioner which granted his Special Exception on March 17, 1977, was a final order, and that he was in fact in possession of a Special Exception on April 16, 1977.

The People's Council contends that the Zoning Commissioner's Order is a qualified one and is not in effect until the appeal time has expired. He further contends that

since an appeal was filed and the Petition was to be heard de novo by the Board, the Deputy Commissioner's Order is a nullity and his previous jurisdiction by statute is eliminated.

The issue narrows to a determination of the finality of the Order of the Deputy Zoning Commissioner in granting a Special Exception.

The Court finds that the order of the Deputy Zoning Commissioner in granting a Special Exception is a final order and is effective as of the date it is filed. To find otherwise would mean that actions of the Zoning Commissioners have no legal impact or effect once an appeal is taken to the Board of Appeals. Petitioner, in his Memorandum, cites cases indicating that this is erroneous. (See Stadynbrook Improvement Assoc. v. Halley, 232 Md. 265 (1963); Pahl v. County Board of Appeals, 237 Md. 294 (1965).)

Since the Court finds that the Order of the Deputy Zoning Commissioner in granting Petitioner's Special Exception was final on March 17, 1977, the date it was filed, the Petitioner avoided the impact of the requirements of the IDCA. Accordingly, the Order of the County Board of Appeals is reversed and this case is remanded to the County Board of Appeals for a full hearing and determination by it of the issues there presented.

September 18, 1979
Copies Sent to:

Lewis L. Fleury, Esq.
Gerard V. Caldwell, Esq.
John W. Heslian, III, Esq., People's Counsel
for Baltimore County
Isaac S. Jacobson, Esq., Office of Law
Muriel E. Buddemeier, County Board of Appeals
of Baltimore County

MURIEL E. BUDDEMEIER
COUNTY BOARD OF APPEALS

RECEIVED
BALTIMORE COUNTY
IF 11 12 11 PM '79
COUNTY BOARD
OF APPEALS

RE: PETITION FOR SPECIAL EXCEPTION IN THE
for Offices SE cor. of Belair Rd. and Darnell Dr. 11th District
CIRCUIT COURT
FOR
J. William Aston
Petitioner - Appellant BALTIMORE COUNTY
Zoning File No. 77-156-X and Misc. File No. 11
Zoning File No. 77-157-X Folio No. 142
File No. 6692

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come: Walter A. Reiter, Jr., Robert L. Gilland and Herbert A. Davis, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in this above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

No. 77-156-X and
No. 77-157-X

Dec. 13, 1976 Petition of J. William Aston and Martha R. Aston for special exception for offices on property located on southeast corner of Belair Road and Darnell Drive and southeast side of Belair Road 70 feet west of Darnell Drive, 11th District - filed

" 13 Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for February 24, 1977 at 1:00 p.m.

Feb. 3, 1977 Certificate of Posting of property - filed

" 3 Certificate of Publication in newspaper - filed

" 17 Comments of Baltimore County Zoning Advisory Committee filed

" 22 Comments of Acting Director of Planning filed

" 24 At 1:00 p.m. hearing held on petitions by Deputy Zoning Commissioner case held sub curia

cc: Heslian, III, Esq.
Fleury, Esq.
Caldwell, Esq.

Respectfully submitted,

Muriel E. Buddemeier
Muriel E. Buddemeier
County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION IN THE CIRCUIT COURT
for Offices SE cor. of Belair Rd. and Darnell Dr. 11th District
FOR BALTIMORE COUNTY
AT LAW
J. William Aston
Petitioner-Appellant Misc. File No. 11
Zoning File No. 77-156-X and Folio No. 142
Zoning File No. 77-157-X File No. 6692

ANSWER TO PETITION ON APPEAL

The Answer of Jean Siegrist, Genevieve Buettner, Ernst H. Hahnfeld, and James May, Protestants, by Gerard V. Caldwell, their attorney, and of the People's Counsel for Baltimore County to the Petition heretofore filed in the above-entitled matter respectfully shows:

1. That your Protestants admit the matters and facts alleged in the first and second paragraphs of said Petition.
2. Answering the third paragraph of said Petition, your Protestants deny that the said County Board of Appeals of Baltimore County acted arbitrarily, capriciously, or illegally in construing the impact of County Council Bill No. 12-77 upon this case, and say that the Board's interpretation, as expressed in its Opinion, is correct and should be sustained.

AND AS IN DUTY BOUND, etc.,

Gerard V. Caldwell
Gerard V. Caldwell
7701 Belair Road
Baltimore, Maryland 21236
648-7742
Attorney for Protestants

John W. Heslian, III
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204
494-2188

RE: PETITION FOR SPECIAL EXCEPTION IN THE
for Offices SE cor. of Belair Rd. and Darnell Drive 11th District
CIRCUIT COURT
FOR
J. William Aston
Petitioner - Appellant BALTIMORE COUNTY
Zoning File No. 77-156-X and Misc. File No. 11
Zoning File No. 77-157-X Folio No. 142
File No. 6692

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Walter A. Reiter, Jr., Robert L. Gilland and Herbert A. Davis, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representatives of every party to the proceeding before it; namely, Lewis L. Fleury, Esq., 424 Woodbine Avenue, Towson, Maryland, 21204, attorney for the Petitioner; Gerard V. Caldwell, Esq., 7701 Belair Road, Baltimore, Maryland, 21236, attorney for Protestants; John W. Heslian, III, Esq., County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland, 21204, People's Counsel for Baltimore County; Mrs. Jean Siegrist, President of Perry Hall Improvement Association, P.O. Box #63, Perry Hall, Maryland, 21128, and Mrs. Genevieve Buettner, 4206 Penn Avenue, Baltimore, Maryland, 21236, Protestants, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

Muriel E. Buddemeier
Muriel E. Buddemeier
County Board of Appeals of Baltimore County
Rm. 219 Court House, Towson, Md. 21204
Telephone - 494-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Lewis L. Fleury, Esq., 424 Woodbine Avenue, Towson, Maryland,

- 2 -

I HEREBY CERTIFY that on this 21st day of December, 1979, a copy of the foregoing Answer to Petition on Appeal was left with the County Board of Appeals of Baltimore County, Rm. 219, Court House, Towson, Maryland 21204, prior to the filing hereof, and that a copy of the same was mailed to Lewis L. Fleury, Esquire, 424 Woodbine Avenue, Towson, Maryland 21204, Attorney for Petitioner-Appellant.

John W. Heslian, III

J. William Aston - File Nos. 77-156-X and No. 77-57-X (f 6692)

(2)

21204, attorney for the Petitioner; Gerard V. Caldwell, Esq., 7701 Belair Road, Baltimore, Maryland, 21236, attorney for the Protestants; John W. Heslian, III, Esq., County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland, 21204, People's Counsel for Baltimore County; Mrs. Jean Siegrist, President of Perry Hall Improvement Association, P.O. Box #63, Perry Hall, Maryland, 21128, and Mrs. Genevieve Buettner, 4206 Penn Avenue, Baltimore, Maryland, 21236, Protestants, on this 28th day of November, 1978.

Muriel E. Buddemeier
Muriel E. Buddemeier
County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION : IN THE CIRCUIT COURT
for Offices :
SE cor. of Belair Rd. and Darnell Dr. : FOR BALTIMORE COUNTY
11th District :
: AT LAW
J. William Aston : Misc. File No. 11
Petitioner :
Zoning File No. 77-156-X and : Folio No. 142
Zoning File No. 77-157-X : File No. 6692

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in this case, dated September 18, 1979, and forward all papers in connection with said case to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

John W. Hession, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 4th day of October, 1979, a copy of the foregoing Order for Appeal was mailed to Lewis L. Fleury, Esquire, 424 Woodbine Avenue, Towson, Maryland 21204, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

494-3180

County Board of Appeals Room 219, Court House Towson, Maryland 21204 August 4, 1981

Lewis L. Fleury, Esquire
424 Woodbine Avenue
Towson, Md. 21204

Re: Case No. 77-156-X and
Case No. 77-157-X
J. William Aston

Dear Mr. Fleury:

Enclosed herewith is a copy of the Order of Dismissal passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encl.

cc: Gerard V. Caldwell, Esq.
Mr. Jean S. Gribble
Mrs. Genevieve Buehner
Mr. Ernest H. Hahnfeld
Mr. James May
Mr. Glen P. Howe
John W. Hession, III, Esq.
Mr. J. William Aston
Mr. Howard E. Friedman
Mr. Elmer H. Kuhlmeier, Jr.
Mr. W. E. Hauenrod
Mr. J. E. Dyer
Mr. P. E. Garber
Mr. J. G. Horwell

J. WILLIAM ASTON : 77-156-X
SE cor. of Belair and Darnell Drive : 77-157-X
and :
SE/S of Belair Rd. 70' W. of Darnell Drive : 11th District
Re: SPECIAL EXCEPTION for Offices

Dec. 13, 1976 : Petition filed
Mar. 17, 1977 : D.Z.C. (Martinak) Granted SE, subject to res.
Apr. 4 : D.Z.C. " passed Amended Order Nunc Pro Tunc (amending restriction #2)
" 14 : Order of Appeal to C.B. of A. filed by Gerard V. Caldwell, Esq., attorney for Petitioner
" 18 : Order of Appeal to C.B. of A. filed by Lewis L. Fleury, Esq., attorney for Petitioner
Sept. 19, 1978 : Dismissed in open hearing
Nov. 2 : Board Reversed DZC, and Dismissed Petitions (Gilliland, Reiter, Davis)
" 21 : Order for Appeal to Circuit Court filed by Lewis L. Fleury, Esq., attorney for Petitioner
" 28 : Certificate of Notice filed
Dec. 19 : Record of proceedings filed in Circuit Court
Sept. 18, 1979 : Judge Land ORDERED: "... that the Order of the Deputy Zoning Commissioner in granting Petitioner's Special Exception was final on March 17, 1977, the date it was filed, the Petitioner avoided the impact of the requirements of the IDCA. Accordingly, the Order of the County Board of Appeals is reversed and this case is remanded to the County Board of Appeals for a full hearing and determination by it of the issues there presented."
Oct. 8 : Order for Appeal filed in the Court of Special Appeals by People's Counsel
Dec. 17 : Motion to Dismiss appeal as being moot filed by People's Counsel

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
for Offices : COUNTY BOARD OF APPEALS
SE cor. Belair Road and :
Darnell Drive, and SE/S of : OF
Belair Road 70' W. of :
Darnell Drive : BALTIMORE COUNTY
11th District :
J. William Aston, Petitioner : No. 77-156-X
and :
No. 77-157-X

ORDER OF DISMISSAL

Petition of J. William Aston for special exception for offices on property located on the southeast corner of Belair Road and Darnell Drive, and on the southeast side of Belair Road 70 feet west of Darnell Drive, in the Eleventh Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a letter of dismissal of appeal and withdrawal of application filed August 4, 1981 (a copy of which letter is attached hereto and made a part hereof) from the attorney representing the Petitioner-Appellant in the above entitled matter.

WHEREAS, the said attorney for the said Petitioner-Appellant states "... that the property in question has been reclassified by the comprehensive zoning map of 1980 to RO, rendering the above proceeding before your board moot."

WHEREAS, the said attorney for the said Petitioner-Appellant requests that the appeal and application filed on behalf of said Petitioner-Appellant be dismissed and withdrawn as of August 4, 1981.

IT IS HEREBY ORDERED this 4th day of August, 1981, that said appeal and petition be and the same are hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

John V. Murphy
John V. Murphy

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
for Offices : COUNTY BOARD OF APPEALS
SE cor. Belair Road and :
Darnell Drive, and SE/S of : OF
Belair Road 70' W. of :
Darnell Drive : BALTIMORE COUNTY
11th District :
J. William Aston, Petitioner : No. 77-156-X
and :
No. 77-157-X

ORDER OF DISMISSAL

Petition of J. William Aston for special exception for offices on property located on the southeast corner of Belair Road and Darnell Drive, and on the southeast side of Belair Road 70 feet west of Darnell Drive, in the Eleventh Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a letter of dismissal of appeal and withdrawal of application filed August 4, 1981 (a copy of which letter is attached hereto and made a part hereof) from the attorney representing the Petitioner-Appellant in the above entitled matter.

WHEREAS, the said attorney for the said Petitioner-Appellant states "... that the property in question has been reclassified by the comprehensive zoning map of 1980 to RO, rendering the above proceeding before your board moot."

WHEREAS, the said attorney for the said Petitioner-Appellant requests that the appeal and application filed on behalf of said Petitioner-Appellant be dismissed and withdrawn as of August 4, 1981.

IT IS HEREBY ORDERED this 4th day of August, 1981, that said appeal and petition be and the same are hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

John V. Murphy
John V. Murphy

LEWIS L. FLEURY
ATTORNEY AT LAW
424 WOODBINE AVENUE
TOWSON, MARYLAND 21204
(410) 828-8800

July 31st, 1981

Mr. William T. Hackett, Chairman
County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Re: Case No. 77-156-X and
Case No. 77-157-X
J. William Aston

Dear Mr. Hackett:

In response to your letter of July 23rd, be advised that the property in question has been reclassified by the comprehensive zoning map of 1980 to RO, rendering the above proceeding before your board moot.

Accordingly, please dismiss the appeal and the application of the petitioner in this matter.

Very truly yours,

L. Fleury
Lewis L. Fleury

cc: John W. Hession, III, Esquire
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204

cc: Gerard V. Caldwell, Esquire
7701 Belair Road
Baltimore, Maryland 21236

LLF/ds

LEWIS L. FLEURY
ATTORNEY AT LAW
424 WOODBINE AVENUE
TOWSON, MARYLAND 21204
(410) 828-8800

July 31st, 1981

Mr. William T. Hackett, Chairman
County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Re: Case No. 77-156-X and
Case No. 77-157-X
J. William Aston

Dear Mr. Hackett:

In response to your letter of July 23rd, be advised that the property in question has been reclassified by the comprehensive zoning map of 1980 to RO, rendering the above proceeding before your board moot.

Accordingly, please dismiss the appeal and the application of the petitioner in this matter.

Very truly yours,

L. Fleury
Lewis L. Fleury

cc: John W. Hession, III, Esquire
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204

cc: Gerard V. Caldwell, Esquire
7701 Belair Road
Baltimore, Maryland 21236

LLF/ds

Returned For Better Address

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Mr. James May
Baltimore 21204
Baltimore, MD 21220

RECEIVED
BALTIMORE BOARD OF APPEALS
Aug 4 4 00 PM '81

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
SE/C of Belair Road and Darnell Drive - 11th Election District : OF BALTIMORE COUNTY
J. William Aston - Petitioner

No. 77-156-X (Item No. 117)

NOTICE OF APPEAL

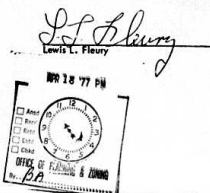
ZONING COMMISSIONER,
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

MR. COMMISSIONER:

Planes enter an Appeal to the Baltimore County Board of Appeals from the Order of the Deputy Zoning Commissioner of Baltimore County entered on March 17, 1977, by which the special exception requested was granted, with no entrance on Darnell Drive. This Appeal is filed on behalf of J. William Aston & wife.

L. L. Fleury
Lewis L. Fleury
Attorney for Petitioner
424 Woodbine Avenue
Towson, Maryland 21204

I HEREBY CERTIFY that on this 17th day of April, 1977, a copy of the foregoing Notice of Appeal was mailed to Gerald V. Caldwell, Esquire, 7701 Belair Road, Baltimore, Maryland, 21236.



RE: PETITIONS FOR SPECIAL EXCEPTIONS : BEFORE THE
SE/corner of Belair Road and Darnell Drive - 11th Election District : DEPUTY ZONING
J. William Aston - Petitioner : COMMISSIONER
NO. 77-156-X (Item No. 117) :
NO. 77-157-X (Item No. 118) : OF
BALTIMORE COUNTY

AMENDED ORDER
NUNC PRO TUNC

It is hereby ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 17th day of April, 1977, that the Order, dated March 17, 1977, passed in this matter should be and the same is hereby Amended "Nunc Pro Tunc" on Page 2, Item 2, to read as follows:

- Screening shall be provided by the installation of a chain link, slatted, fence the length of and at the rear of 9333 Belair Road, adjacent to the school-use property.

L. L. Fleury
Deputy Zoning Commissioner of
Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
SE/C of Belair Rd. and Darnell Dr., : OF BALTIMORE COUNTY
11th District :
J. William Aston, et ux, Petitioner : Case No. 77-156-X

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Charles E. Kramt, Jr.
Charles E. Kramt, Jr.,
Deputy People's Counsel

John W. Heslon, III
John W. Heslon, III
People's Counsel
County Office Building
Towson, Maryland 21204

I HEREBY CERTIFY that on this 17th day of February, 1977, a copy of the foregoing Order was mailed to Lewis L. Fleury, Esquire, 424 Woodbine Avenue, Towson, Maryland 21204, Attorney for Petitioner.

John W. Heslon, III
John W. Heslon, III



RE: PETITIONS FOR SPECIAL EXCEPTIONS : BEFORE THE COUNTY BOARD OF APPEALS
SE/corner of Belair Road and Darnell Drive, 11th Election District : OF BALTIMORE COUNTY
J. William Aston, Petitioner : Case No. 77-156-X (Item No. 117)
Case No. 77-157-X (Item No. 118)

OPINION AND ORDER

These cases involve a request for Special Exceptions to maintain offices in a D.R. 16 zone as authorized in the Baltimore County Zoning Regulations. Although two docket numbers were assigned, these are companion cases involving adjoining properties in the same ownership fronting on the Belair Road, both improved by dwelling structures. Since we are here construing a regulation, and its impact on an entire class or group of petitions, of which these are a part, and do not reach the question of the appropriateness of the specific request, no factual recitation concerning location, traffic, community, or the proposed use is necessary.

Our authority to make the determination we herein reach is established. *Hoffman v. Baltimore County, Maryland*, et al., Circuit Court for Baltimore County, Equity Docket 115, Folio 111, No. 92884. We have previously ruled on the question here presented, *Petition for Special Exception, Nicholas B. Mangione, et ux*, No. 76-158-X, July 12, 1977 (copy attached), wherein we held that cases pending on the effective date of County Council Bill No. 12-77 (Interim Development Control Act - "IDCA") were subject to the legal operation of the provisions of that legislation. Since the effective date of the legislation was April 16, 1977, and the Special Exceptions herein sought were not "already issued or approved" on that date [Sec. 22.15.1(h) (1) A. of the "IDCA"], they fall within the group of Special Exception cases awaiting hearing and decision on the effective date of the "IDCA" which is effected thereby.

Sec. 22.15.1(a) (1) of the "IDCA" provides:

"(1) General Requirements for All Development. No special permit, special exception, tentative or final subdivision approval (with or without a Public Works

RE: PETITIONS FOR SPECIAL EXCEPTIONS : BEFORE THE
SE/corner of Belair Road and Darnell Drive - 11th Election District : DEPUTY ZONING
J. William Aston - Petitioner : COMMISSIONER
NO. 77-156-X (Item No. 117) :
NO. 77-157-X (Item No. 118) : OF
BALTIMORE COUNTY

This matter comes before the Deputy Zoning Commissioner as a result of a Petition requesting Special Exceptions for offices in a D.R. Zone. The subject property, known as 9333 and 9335 Belair Road, is located at the southeast corner of Belair Road and Darnell Drive. Both properties are improved with dwellings.

Testimony indicated that the owner plans to treat the two properties as a single unit, thereby facilitating their use for offices and off-street parking for the same.

Residents of the area, in protest, expressed apprehension concerning the effect the proposed Special Exception would have on traffic on Darnell Drive and Belair Road. Darnell Drive is presently paved to a width of twenty (20) feet and is to be improved to a paved width of thirty (30) feet. Belair Road, a forty-six (46) foot roadway, has four (4) lanes of traffic. Further concern included possible parking on Darnell Drive by users of the offices and alleged flooding of the street as a result of poor drainage.

The Plans Advisory Committee comments submitted by the Department of Traffic Engineering stated in part:

"The requested Special Exceptions for offices are not expected to be major traffic generators. ..."

Comments submitted by the Acting Director of Planning reported in part:

"The proposed use would be appropriate here ... it would be desirable if safe access be provided via 9333 Belair Road. ..."

Agreement), shall be granted by the appropriate County authority or official for any property lying within any area shown on the Interim Development Control Map unless the Planning Board pursuant to the procedures set forth in section (f) of this Act, after referral to the appropriate departments for study, analysis and findings, and taking into account all appropriate public comments and department findings and recommendations submitted, determines that said property meets all of the following requirements: ..."

Petitioner concedes that none of the required approvals has been sought. As we held in *Mangione*, even if we should find after an evidentiary hearing that the Petitioner met all of the requirements of Section 502.1 of the Baltimore County Zoning Regulations, no Special Exception could be granted absent IDCA approval by the Planning Board.

There were pending on our docket on the effective date of the IDCA approximately twenty-four (24) cases within the category affected by the legislation. Although we did not rule on the question, we expressed concern in *Mangione* that if we dismissed these cases, Petitioners would be needlessly hamstringing by section 500.12 of the Regulations, the so-called "18 month rule." With the exception of one case withdrawn and voluntarily dismissed for reasons apparently not related to the IDCA, all other petitioners sought and we ordered a remand to the Zoning Commissioner for processing under the IDCA. Petitioner has declined to avail himself of this procedure.

These appeals have been pending for more than eighteen months and must be concluded. Since we cannot grant the Special Exception sought, and Petitioner refuses to cure the defect that we perceive, we have no other course but to dismiss the Petitions.

Therefore, it is, this 2nd day of Nov., 1978, by the County Board of Appeals of Baltimore County, ORDERED, that the Order of the Deputy Zoning Commissioner herein be and it is hereby Reversed, and the Petitions herein be and they are hereby DISMISSED.

Without reviewing the evidence further in detail but based on all the evidence presented at the hearing in the judgement of the Deputy Zoning Commissioner, the prerequisites of Section 502.1 of the Baltimore County Zoning Regulations have been met, and the Special Exceptions should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 17th day of March, 1977, that the Special Exceptions for offices should be and the same are hereby GRANTED, from and after the date of this Order, subject to the following:

- Ingress and egress must be provided from 9333 via Belair Road.
- Dense evergreen screening, a minimum of four (4) feet high, shall be installed and maintained the length and at the rear of 9333, adjacent to the school-use property.
- Access between the parking lot at 9333 and 9335 must be shown.
- No significant exterior changes shall be made to the existing houses, other than the indicated enclosure of the patio at 9335 Belair Road.
- Approval of a site plan by the State Highway Administration, Department of Public Works, Department of Traffic Engineering, and the Office of Planning and Zoning.

Gerald V. Caldwell
Gerald V. Caldwell
Deputy Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE 2/28/77

BY *L. L. Fleury*

- 3 -

Any appeal from this decision must be in accordance with Rules 8-1 to 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert L. Gilland
Robert L. Gilland, Vice Chairman

Walter A. Reiter, Jr.
Walter A. Reiter, Jr.

Herbert A. Davis
Herbert A. Davis

ORDER RECEIVED FOR FILING

DATE 2/28/77

BY *L. L. Fleury*

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD OF APPEALS
South side of Greenridge Road (41) feet : OF BALTIMORE COUNTY
East of York Road, 7th District
NICHOLAS B. MANGIONE, et al., : Case No. 76-158-X
Petitioners

FINDINGS AND ORDER

This case having come on for hearing and the Petitioner having adduced testimony and evidence in support of his Petition for a Special Exception to erect, operate and maintain a convalescent home on a parcel of land zoned D.R. 5.5 pursuant to Section 1 801 C. 4. of the Baltimore County Zoning Regulations, and Petitioner having concluded his presentation, upon Motion made by counsel for the Protestant parties and by the People's Counsel for Baltimore County, and after argument thereon, the Board finds as follows, viz:

1. That under Bill No. 12-77, Legislative Session 1977, the County Council for Baltimore County enacted a new Section 22-15.1 to the Baltimore Code, 1968, to regulate for an interim period the issuance of building permits, special permits, special exceptions, subdivision approvals, amendments to the zoning maps, and reclassification of the use of certain property in Baltimore County, known in accordance with Section 22-15.1(a) (2) thereof as the "Interim Development Control Act," which said Act took effect on April 16, 1977, and has been neither repealed, amended, or superseded.

2. That in accordance with Section 22-15.1(b) of the Act, the County Council for Baltimore County did adopt simultaneously with said Act an "Interim Development Control Map of the County" and Petitioner's property is classified thereon within an "Urbanized Area," as more particularly shown on a portion of said Map received in evidence as "Board's Exhibit No. 1," a part of the record in this case.

3. That although Section 22-15.1(a) of said Act provides in pertinent part, viz:

"General Requirements of Development. No special permit, special exception, tentative or final subdivision approval (with or without a Public Works Agreement), shall be granted by the appropriate County authority or official for any property lying within any area shown on the Interim Development Control Map unless the Planning Board pursuant to the procedures set forth in section (f) of this Act, after referral to the appropriate departments for study, analysis and findings, and taking into account all appropriate public comments and department findings and recommendations submitted, determines that said property meets all of the following requirements:.....",

Petitioner's application has not been subjected to said process.

4. That the application here involved is not exempt from the provisions of the Interim Development Control Act by virtue of a "vested right" under Section 22-15.1 (b) (1) (A) because it does not concern a Special Exception lawfully issued and in effect on or before April 16, 1977.

5. That the application here involved is subject to the pertinent provisions of said Section 22-15.1(a), at seq., and cannot be considered unless and until it is properly filed, processed, and thereafter heard in accordance with the procedures established in said Section 22-15.1(a), at seq.

6. That the Board specifically makes no finding or findings of fact on the issue of whether Petitioner's proposal complies with the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

In view of these conclusions, a continuation of the presently scheduled hearing would impose needless cost and inconvenience on all of the parties merely to obtain a foreordained result. We have an obligation to react to this new status of the proceeding in a fashion which is fair to all parties. On the one hand, we must respect the legislative declaration that expanded scrutiny of proposed uses through the new process is necessary, while on the other, we cannot ignore the position of the Petitioner should we dismiss the Petition and bring into play Section 500.12 of the Baltimore County Zoning Regulations (the so-called 18 month rule). We feel that the answer is to give the Petitioner his opportunity to proceed without unnecessary loss of time but under the new, stricter

criteria. Since the Zoning Commissioner is the officer responsible for the new procedure, we will remand the case to him for completion of the required review and a new determination taking into account the new material, if any, developed under the new criteria.

Thereupon, it is, this 19th day of July, 1977, by the County Board of Appeals for Baltimore County, ORDERED, that the Order of the Zoning Commissioner of Baltimore County granting said Petition be and it is hereby neither Affirmed or Reversed, but the entire proceeding is hereby REMANDED to the Zoning Commissioner of Baltimore County for referral to the Baltimore County Planning Board in accordance with Section 22-15.1(f) of the Baltimore County Code, and further proceedings thereon as are required in accordance with law.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Reiter, Jr., Chairman
Robert L. Gilland

Herbert A. Davis

Appealed 11/27/78

RE: PETITION FOR SPECIAL EXCEPTION : IN THE
for Offices : CIRCUIT COURT
SE cor. Belair Rd. and Darnell Drive :
11th District :
J. William Aston : FOR
Petitioner - Appellant : BALTIMORE COUNTY
Zoning File No. 77-156-X and : Misc. File No. 11
Zoning File No. 77-157-X : :
Folio No. 142
File No. 6692

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Walter A. Reiter, Jr., Robert L. Gilland and Herbert A. Davis, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Lewis L. Fleury, Esq., 424 Woodbine Avenue, Towson, Maryland, 21204, attorney for the Petitioner; Gerard V. Caldwell, Esq., 7701 Belair Road, Baltimore, Maryland, 21236, attorney for Protestants; John W. Huston, III, Esq., County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland, 21204, People's Counsel for Baltimore County; Mrs. Jean Stegrist, President of Perry Hall Improvement Association, P.O. Box #63, Perry Hall, Maryland, 21128, and Mrs. Genevieve Buettner, 4206 Penn Avenue, Baltimore, Maryland, 21236, Protestants, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County
Rm. 219 Court House, Towson, Md. 21204
Telephone - 494-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Lewis L. Fleury, Esq., 424 Woodbine Avenue, Towson, Maryland,

J. William Aston - File No. 77-156-X and No. 77-57-X (6692) (2)

21204, attorney for the Petitioner; Gerard V. Caldwell, Esq., 7701 Belair Road, Baltimore, Maryland, 21236, attorney for the Protestants; John W. Huston, III, Esq., County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland, 21204, People's Counsel for Baltimore County; Mrs. Jean Stegrist, President of Perry Hall Improvement Association, P.O. Box #63, Perry Hall, Maryland, 21128, and Mrs. Genevieve Buettner, 4206 Penn Avenue, Baltimore, Maryland, 21236, Protestants, on this 28th day of November, 1978.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD
J. William Aston, Petitioner : OF APPEALS
CASE NOS. 77-156-X : OF BALTIMORE COUNTY
77-157-X

SECOND REQUEST FOR POSTPONEMENT

The Appellant, J. William Aston, respectfully requests the County Board of Appeals to postpone the hearing on the above matter from its presently assigned date of June 3, 1978 at 10:00 a.m. to future unassigned date, and for reasons says:

1. That the Declaratory Judgment proceeding mentioned and described in the request for postponement previously filed in this proceeding has at the time of this request not been ruled upon by the Circuit Court for Baltimore County.

2. That even if Judge Cullen H. Hornes, who has been assigned the matter upon the death of Judge William E. Brennan, should rule in the above mentioned Declaratory Judgment proceeding prior to June 3, 1978, Appellant's counsel has been advised by the People's Zoning Council for Baltimore County that a plea will be taken to the Court of Special Appeals. Therefore, it is and will be impossible to have a determination in the said Declaratory Judgment proceeding prior to June 3, 1978.

Lewis L. Fleury
Attorney for Appellant
24 Woodbine Avenue
Towson, Maryland 21204
Phone: 825-9200

I HEREBY certify that on this 23rd day of May, 1978, a copy of the foregoing Second Request for Postponement was mailed to: GERALD V. CALDWELL, ESQUIRE, 7701 Belair Road, Baltimore, Maryland 21236, and to JOHN W. HUSTON, III, ESQUIRE, People's Council, County Office Building, Towson, Maryland 21204.

Lewis L. Fleury

May 23, 1978

County Board of Appeals
Room 219 - Court House
Towson, Maryland 21204

RE: Files No. 77-156-X and 77-157-X
J. William Aston

Dear Sir:

Enclosed herewith is a Second Request for Postponement in connection with the above-entitled case. Please file this.

Thank you very much for your cooperation.

Very truly yours,

Lewis L. Fleury

LLF/plj

Encls.

Louis L. Fleury
Attorney at Law
424 Woodbine Avenue
Towson, Maryland 21204
(301) 825-9200

CERTIFICATE OF PUBLICATION

TOWSON, MD. 21204, 1977

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., from 11 a.m. to 12 p.m. on the 19th day of May, 1978, the first publication appearing on the 19th day of May, 1978.

THE JEFFERSONIAN
Manager

Cost of Advertisement, \$.....

2nd Party
CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District..... Date of Posting..... 2-18-77

Posted for.....

Petitioner.....

Location of property.....

Location of Sign.....

Remarks.....

Posted by..... Date of return..... 2-22-77

