

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, **K & H CONTRACTORS, INC.**, legal owner... of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an _____ zone to an _____ zone, for the following reasons:

See attached description

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

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

I, or we, agree to pay expenses of above re-classification 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.

By Charles E. Brooks, Esq.
Attorney for Petitioner

Contract purchaser
Address: 15246 Falls Road
Baltimore, Maryland 21023

Legal Owner
Address: 15246 Falls Road
Baltimore, Maryland 21023

Protestant's Attorney
Address: 610 Bosley Avenue
Towson, Maryland 21204

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 throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 1977, at _____ o'clock.

_____ day of _____, 1977, at _____ o'clock

_____ day of _____, 1977, at _____ o'clock

_____ day of _____, 1977, at _____ o'clock

_____ day of _____, 1977, at _____ o'clock

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_____ day of _____, 1977, at _____ o'clock

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, **K & H CONTRACTORS, INC.**, legal owner... of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section _____ of the Zoning Regulations of Baltimore County to be converted to an antique shop on a lot less than one (1) _____ acre in area.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

That the failure of the zoning authorities of Baltimore County to grant this request would cause undue hardship and impractical difficulty to the owners of the subject property.

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

I, or we, agree to pay expenses of above Variance 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.

By Charles E. Brooks, Esq.
Attorney for Petitioner

Contract purchaser
Address: 15246 Falls Road
Baltimore, Maryland 21023

Legal Owner
Address: 15246 Falls Road
Baltimore, Maryland 21023

Protestant's Attorney
Address: 610 Bosley Avenue
Towson, Maryland 21204

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 throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 1977, at _____ o'clock.

_____ day of _____, 1977, at _____ o'clock

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_____ day of _____, 1977, at _____ o'clock

_____ day of _____, 1977, at _____ o'clock

_____ day of _____, 1977, at _____ o'clock

_____ day of _____, 1977, at _____ o'clock

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD
PETITION FOR VARIANCE : OF APPEALS
5/5 of Falls Rd., 450' E of Stringtown Rd., 5th District : OF BALTIMORE COUNTY

K & H CONTRACTORS, INC., Petitioner : Case No. 77-187-XA

ORDER

Upon the foregoing Motion, it is this 15th day of June, 1978, by the County Board of Appeals of 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 22-151(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. Reiter, Jr., Chairman

Robert L. Gillford

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD
PETITION FOR VARIANCE : OF APPEALS
5/5 of Falls Rd., 450' E of Stringtown Rd., 5th District : OF BALTIMORE COUNTY
K & H CONTRACTORS, INC., Petitioner : Case No. 77-187-XA

MOTION

To the Honorable, the County Board of Appeals:

The Motion of K & H Contractors, Inc., by Charles E. Brooks, their attorney, respectfully represents:

1. That this case involves an application for a Special Exception to permit an antique shop on a property which is presently zoned R.C. 4 on the 1976 Comprehensive Zoning Map duly adopted by the County Council for Baltimore County.

2. That, in view of the decision recently promulgated by the County Board of Appeals in a case entitled, "Petition for Special Exception, Nicholas B. Margiore, et al.," No. 75-158-X, your Honors believe, and therefore aver, that the instant case is similarly impacted by the legal operation and effect of the "Interim Development Control Act" and should, as was held in "Margiore," be Remanded to the Zoning Commissioner of Baltimore County for processing in accordance with the terms and provisions of said "Interim Development Control Act."

WHEREFORE, said Petitioner respectfully moves that the County Board of Appeals by its appropriate Order cause said case to be Remanded to the Zoning Commissioner of Baltimore County and referral thereafter to the Planning Board of Baltimore County so that said application might be processed under the "Interim Development Control Act."

AND AS IN DUTY BOUND, etc.,

Charles E. Brooks
Attorney for Petitioner
610 Bosley Avenue
Towson, Maryland 21204
296-2500

- 2 -

I HEREBY CERTIFY that on this 14th day of June, 1978, a copy of the foregoing Motion and of the proposed Order thereon, was mailed to Stuart S. Janney, III, Esquire, Falls Road, Butler, Maryland 21023, Attorney for Protestants; and John W. Hession, III, Esquire, People's Counsel for Baltimore County, County Office Building, Towson, Maryland 21204.

Charles E. Brooks

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
301-404-3301

April 15, 1977

Charles E. Brooks, Esquire
610 Bosley Avenue
Towson, Maryland 21204

RE: Petition for Special Exception and Variance
5/5 of Falls Road, 450' E of Stringtown Road - 5th Election District
K & H Contractors, Inc. - Petitioner
NO. 77-187-XA (Item No. 9)

Dear Mr. Brooks:

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

Very truly yours,
S. ERIC DI NENNA
Zoning Commissioner

SED/me

Attachments

cc: Mr. Montgomery Lewis
The Valleys Planning Council, Inc.
212 Washington Avenue
Towson, Maryland 21204

Mr. Phillip W. Worrall
3025 Black Rock Road
Glyndon, Maryland 21071

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

E. F. RAPHAEL & ASSOCIATES
Regional Professional Land Surveyors
201 COUNTRYLAND AVENUE
TOWSON, MARYLAND 21204

October 26, 1976

RESIDENCE 77-187

DESCRIPTION TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION OF ANTIQUE SHOP

Beginning for the same at a point on the south side of Falls Road at a distance of 350' easterly from the center of Stringtown Road and going thence the beginning of the 2nd line of the land which is described as follows: (1) 37°11'30" 16.29'; (2) 37°11'30" 16.29'; (3) 37°11'30" 16.29'; (4) 37°11'30" 16.29'; (5) 37°11'30" 16.29'; (6) 37°11'30" 16.29'; (7) 37°11'30" 16.29'; (8) 37°11'30" 16.29'; (9) 37°11'30" 16.29'; (10) 37°11'30" 16.29'; (11) 37°11'30" 16.29'; (12) 37°11'30" 16.29'; (13) 37°11'30" 16.29'; (14) 37°11'30" 16.29'; (15) 37°11'30" 16.29'; (16) 37°11'30" 16.29'; (17) 37°11'30" 16.29'; (18) 37°11'30" 16.29'; (19) 37°11'30" 16.29'; (20) 37°11'30" 16.29'; (21) 37°11'30" 16.29'; (22) 37°11'30" 16.29'; (23) 37°11'30" 16.29'; (24) 37°11'30" 16.29'; (25) 37°11'30" 16.29'; (26) 37°11'30" 16.29'; (27) 37°11'30" 16.29'; (28) 37°11'30" 16.29'; (29) 37°11'30" 16.29'; (30) 37°11'30" 16.29'; (31) 37°11'30" 16.29'; (32) 37°11'30" 16.29'; (33) 37°11'30" 16.29'; (34) 37°11'30" 16.29'; (35) 37°11'30" 16.29'; 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Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations having been met,

the above reclassification should be had and the Special Exception should NOT BE GRANTED.

Special Exception for an antique shop should be granted.
IT IS ORDERED by the Zoning Commissioner of Baltimore County this 15th day of April, 1977, that a Special Exception for an antique shop should be granted the same is GRANTED, from and after the date of this Order, subject to no expansion of the existing building, no outdoor display or sales, and the approval of a site plan by the State Highway Administration, the Department of Public Works, and the Office of Planning and Zoning.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

the above reclassification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of April, 1977, that the above reclassification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as to remain a zone; and/or the Special Exception for be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING

DATE: April 15, 1977

FILED: 15-1

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the following finding of facts that strict compliance with the Baltimore County Zoning Regulations would result in practical difficulty and unreasonable hardship upon the Petitioner

the above Variance should be had; and it further appearing that by reason of the granting of the Variance requested not adversely affecting the health, safety, and general welfare of the community, a Variance to permit an existing building to be converted to an antique shop on a lot less than one (1) acre in area should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 15th day of April, 1977, that the herein Petition for the aforementioned Variance should be and the same is hereby GRANTED, from and after the date of this Order, subject to the approval of a site plan by the State Highway Administration, the Department of Public Works and the Office of Planning and Zoning.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

the above Variance should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of April, 1977, that the above Variance be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
for an Antique Shop, and a : COUNTY BOARD OF APPEALS
VARIANCE from Section 402-B : OF
of the Baltimore County : OF BALTIMORE COUNTY
Zoning Regulations :
5/5 of Falls Road :
E. of Stringtown Road :
5th District : BALTIMORE COUNTY
K & H Contractors, Inc. : No. 77-187-XA
Petitioners :
:

ORDER OF DISMISSAL

Petition of K & H Contractors, Inc. for a special exception for an Antique Shop and a variance from Section 402-B of the Baltimore County Zoning Regulations, on property located on the south side of Falls Road 450 feet east of Stringtown Road, in the Fifth Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a Motion to Dismiss and withdraw petition filed October 3, 1979 (a copy of which Motion is attached hereto and made a part hereof) from the attorney representing the Petitioners in the above entitled matter.

WHEREAS, the said attorney for the said Petitioners requests that the petition filed on behalf of said Petitioners be withdrawn as of October 3, 1979.

IT IS HEREBY ORDERED this 9th day of October, 1979, that said petition be and the same is DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Acting Chairman
Leroy A. Spurrer
Patricia Millhauser

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE COUNTY BOARD
For an Antique Shop, and : OF APPEALS
VARIANCE from Section 402-B : OF BALTIMORE COUNTY
of the Baltimore County :
Zoning Regulations :
5/5 of Falls Road :
450' E. of Stringtown Road :
5th District :
K & H Contractors, Inc. : Case: 76-158-X
Petitioners. :
:

MOTION TO DISMISS

NOW COVES, K & H CONTRACTORS, INC., a Maryland Corporation, by Charles E. Brooks, its attorney, and moves the County Board of Appeals of Baltimore County to dismiss the above-captioned matter and for reasons therefor, says:

That, K & H Contractors, Inc. does hereby and herewith withdraw its Petition for Special Exception and Variance as filed in the above-captioned proceedings.

Charles E. Brooks
CHARLES E. BROOKS
610 Bosley Avenue
Towson, Maryland 21204
296-2600
Attorney for Petitioners

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 3rd day of October, 1979, a copy of the foregoing Motion to Dismiss was mailed, postage prepaid to Stuart, S. Janney, III, Rich & Janney, 48 Randall Street, Annapolis, MD. 21401 and to John W. Hessian, III, Esquire, Peoples Council, County Office Building, Towson, Maryland 21204.

Charles E. Brooks
CHARLES E. BROOKS

LETTER 3-9-10-79
BALTIMORE COUNTY
COUNTY CLERK
BY: CHARLES E. BROOKS

June 15, 1978

Stuart S. Janney, III, Esq.
Butler, Maryland 21023

Re: Case No. 77-187-XA
K & H Contractors, Inc.

Dear Mr. Janney:

Enclosed herewith is a copy of the Order for Remand issued today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Eisenhart, Adm. Secretary

Encl.

cc: Mr. Philip W. Wornall
Mr. Matilda Hebb
Mr. C. G. Boyce
Mr. Montgomery Lewis
Charles E. Brooks, Esq.
John W. Hessian, III, Esq.
Senator Porter Hopkins
Mr. Lloyd M. Hoffner, Jr.
Mr. J. E. Dyer
Mr. S. E. O'Donnell
Mr. L. H. Groff
Board of Education
Mr. J. Havell

4/4-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
April 30, 1979

Charles E. Brooks, Esq.
610 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 77-187-XA
K & H Contractors, Inc.

Dear Mr. Brooks:

As per your Motion, the above mentioned case was remanded by this Board to the Zoning Commissioner in order that the Petitioner might seek compliance with I.D.C.A. As of this date, the record indicates that you have not pursued this matter.

Within fifteen (15) days, please advise the Board as to your intentions. No response to this request will be interpreted by this Board as an indication that you no longer wish to pursue this petition. Hence, the Board, upon its own Motion, will dismiss your petition.

Very truly yours,

Walter A. Reiter, Jr., Chairman

cc: Mr. Lloyd M. Hoffner, Jr., Pres.
K & H Contractors, Inc.
People's Council

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
October 9, 1979

Charles E. Brooks, Esquire
610 Bosley Avenue
Towson, Md. 21204

Re: Case No. 77-187-XA
K & H Contractors, Inc.

Dear Mr. Brooks:

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: Stuart S. Janney, III, Esquire
Mr. Lloyd M. Hoffner, Jr.
Mr. Philip W. Wornall
Mr. Matilda Hebb
Mr. John C. G. Boyce
Hon. Porter Hopkins
Mr. Montgomery Lewis
John W. Hessian, III, Esquire
Mr. W. E. Hammond
Mr. J. E. Dyer
Mr. J. D. Seyfert
Mr. J. G. Howell
Board of Education

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

To: Eric DiStefano, Zoning Commissioner Date: March 14, 1977

FROM: Norman L. Gerber, Acting Director of Planning
SUBJECT: Petition #77-187-XA. Petition for Special Exception for an Antique Shop.
Petition for Variance to permit an existing building to be converted to an antique shop on a lot less than one (1) acre in area, South side of Falls Road 450 feet East of Stringtown Road.
Petitioner - K & H Contractors, Inc.

5th District

HEARING: Wednesday, March 30, 1977 (11:00 A.M.)

An antique shop would be an appropriate use at this location.

Norman L. Gerber
Norman L. Gerber
Acting Director of Planning

WES:JDR:rw

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
S/S of Falls Rd., 450' E of
Stringtown Rd., 5th District : OF BALTIMORE COUNTY
K & H CONTRACTORS, INC., Petitioners : Case No. 77-187-XA

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

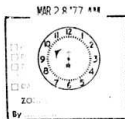
Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in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

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

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

I HEREBY CERTIFY that on this 24th day of March, 1977, a copy of the foregoing Order was mailed to Charles E. Brooks, Esquire, 610 Bosley Avenue, Towson, Maryland 21204, Attorney for Petitioner.

John W. Hession, III
John W. Hession, III



RE: PETITION FOR SPECIAL EXCEPTION IN THE
For an Antique Shop, and
VARIANCE from Section 402-B
of the Baltimore County
Zoning Regulations
S/S of Falls Road 450' E.
of Stringtown Road
5th District
K & H Contractors, Inc.,
Petitioners
File No. 77-187-XA
Philip W. Worrall, et al
Protestants-Appellants

IN THE
CIRCUIT COURT FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 11
File No. 6574
Folio No. 24

MOTION TO DISMISS APPEAL

K & H Contractors, Inc., Petitioner-Appellee, by their attorney, Charles E. Brooks, hereby moves that the above entitled Appeal be dismissed pursuant to Maryland Rule B5 and for reasons therefore states:

1. That an Order for Appeal was filed by the Protestants-Appellants on June 29, 1978. Appealing the decision and order of the County Board of Appeals dated June 15, 1978, in Case No. 77-187-XA.
2. That the requirements of Maryland Rule B2e have not been complied with in that the Protestants-Appellants did not file their Petition Accompanying Order for Appeal until August 18, 1978, which was well beyond the ten day period provided for in Maryland Rule B2e.
3. That the Order of the County Board of Appeals which was entered on June 15, 1978, was only an interlocutory order remanding the case to the Zoning Commissioner of Baltimore County for referral to the Baltimore County Planning Board and as such said Order was not a final and appealable order.
4. And for such other and further reasons as may be shown at the time of any hearing hereon.

LAW OFFICE
CHARLES E. BROOKS
410 BULLY AVENUE
TOWSON, MD. 21204
298-2100

B. K.
2/24/78
101-15-111

RE: PETITION FOR SPECIAL EXCEPTION : IN THE
For an Antique Shop, and
VARIANCE from Section 402-B
of the Baltimore County
Zoning Regulations
S/S of Falls Road 450' E.
of Stringtown Road
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K & H Contractors, Inc.,
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IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
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Misc. Docket No. 11
File No. 6574
Folio No. 24

PETITION ACCOMPANYING ORDER FOR APPEAL

Philip W. Worrall, Matilda Hebb, John C. Boyce, C. A. Porter Hopkins, Montgomery Lewis, and Stuart S. Janney III, by their attorney, Stuart S. Janney III file this Petition accompanying order for appeal, and in support thereof, state:

- (1) That on the 23rd day of June, 1978, the Protestants filed an order for appeal in the Circuit Court for Baltimore County, appealing the opinion and order of the County Board of Appeals dated June 15, 1978, in Case No. 77-187-XA.
- (2) That this appeal has been filed in accordance with the provisions of the Baltimore County Code and the Maryland Rules of Procedure.
- (3) That the opinion and order of the County Board of Appeals passed in this case was arbitrary, capricious, illegal and against the weight of the evidence presented at the hearing on June 15, 1978, before the said County Board of Appeals for the following reasons:
 - (a) That it was conceded by Petitioner-Appellees by a motion filed prior to the hearing before the Board that the

WHEREFORE, the Petitioner-Appellee, K & H Contractors, Inc., respectfully requests that this court dismiss the within Appeal.

Charles E. Brooks
CHARLES E. BROOKS
Law Offices of Charles E. Brooks
610 Bosley Avenue
Towson, Maryland 21204
Phone: 266-2600

REQUEST FOR HEARING

Mr. Clerk:

Please schedule the above entitled motion to dismiss for hearing at the earliest convenience of the Court.

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 26th day of February, 1979, a copy of the foregoing Motion to dismiss Appeal was mailed to the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland 21204, to John W. Hession, III, Esquire, Peoples Council, County Office Building, Towson, Maryland 21204 and to Stuart S. Janney, III, Esquire, 48 Randall Street, Annapolis, Maryland 21401, Attorney for Appellants.

LAW OFFICE
CHARLES E. BROOKS
410 BULLY AVENUE
TOWSON, MD. 21204
298-2100

Petition for a Special Exception for an antique shop pursuant to Section 402-B of the Baltimore County Zoning Regulations must comply with the provisions of the Interim Development Control Act, which was codified as new Section 22-15.1 of the Baltimore County Code, and that said Petition for a Special Exception to permit an antique store did not in fact comply with the provisions of Section 22-15.1 et seq. and that for this reason said petition could not be granted. Petitioners-Appellees requested that the case be remanded to the Zoning Commissioner.

(b) That the County Board of Appeals neither reversed nor affirmed the subject petition but instead granted Petitioner-Appellees motion to remand said Petition to the Zoning Commissioner for any and all steps deemed necessary for said petition to comply with Section 22-15.1 et seq., and that Protestant-Appellant formally opposed the motion to remand and introduced a motion to dismiss at the hearing before the Board on June 15, 1978.

(c) That Section 501.7 of the Baltimore County Zoning Ordinance sets forth the powers of the County Board of Appeals in acting upon Zoning Petitions before it. Section 501.7 provides as follows:

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

(d) That Section 501.7, supra, does not either explicitly or implicitly confer upon the Board of Appeals authority to remand cases to the Zoning Commissioner and that consequently the County Board of Appeals acted in excess and contrary to its

authority in granting the motion of K and H Contractors to the Zoning Commissioner for proceedings pursuant to Section 22-15.1 et seq. and the Board's action is consequently without legal foundation.

(e) And for such other and further reasons as may be assigned at a hearing of this appeal.

WHEREFORE, The Appellant respectfully prays:

(1) That this Honorable Court may pass an order reversing the decision of the County Board of Appeals dated June 15, 1978, and return this case to the County Board of Appeals with instructions that they must either "affirm or reverse in whole or in part, any decision or order of the Zoning Commissioner", as provided in Section 501.7 of the Baltimore County Code.

(2) And that the Appellant may have such other and further relief as the nature of the case may require.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of August, 1978, a copy of the foregoing Petition Accompanying Notice of Appeal was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 218, Court House, Towson, Maryland 21204, to John W. Hession, III, Esq., People's Counsel, County Office Building, Towson, Maryland 21204 and Charles E. Brooks, Esq., 610 Bosley Avenue, Towson, Maryland 21204.

Stuart S. Janney III
STUART S. JANNEY III
48 Randall Street
Annapolis, MD. 21401
301/269-1610

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 26th day of February, 1979, a copy of the foregoing Motion to dismiss Appeal was mailed to the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland 21204, to John W. Hession, III, Esquire, Peoples Council, County Office Building, Towson, Maryland 21204 and to Stuart S. Janney, III, Esquire, 48 Randall Street, Annapolis, Maryland 21401, Attorney for Appellants.

RE: PETITION FOR SPECIAL EXCEPTION IN THE
For an Antique Shop, and
VARIANCE from Section 402-B
of the Baltimore County
Zoning Regulations
S/S of Falls Road 450' E.
of Stringtown Road
5th District
K & H Contractors, Inc.,
Petitioners
File No. 77-187-XA
Philip W. Worrall, et al
Protestants-Appellants

IN THE
CIRCUIT COURT FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 11
File No. 6574
Folio No. 24

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION TO DISMISS APPEAL

K & H Contractors, Inc., Petitioner-Appellee, by their attorney, Charles E. Brooks, hereby submits the following Points and Authorities in Support of its Motion to Dismiss the Appeal filed herein:

1. *Bogley v. Barber*, 194Md.632 (1949).
2. *Celanese Corporation of America v. Bartlett*, 200Md.397 (1951).
3. *Prince George's County, Maryland v. Bahranal*, 33Md.App.644 (1977).

Charles E. Brooks
CHARLES E. BROOKS
Law Offices of Charles E. Brooks
610 Bosley Avenue
Towson, Maryland 21204
Phone: 296-2600

LAW OFFICE
CHARLES E. BROOKS
410 BULLY AVENUE
TOWSON, MD. 21204
298-2100

RE: PETITION FOR SPECIAL EXCEPTION : IN THE
For an Antique Shop, and : CIRCUIT COURT
VARIANCE from Section 402-B :
of the Baltimore County :
Zoning Regulations : FOR
S/S of Falls Road 450' E. : BALTIMORE COUNTY
9th District : AT LAW
K & H Contractors, Inc., :
Petitioners : Misc. Docket No. 11
File No. 77-187-XA : File No. 6574
Philip W. Worrall, et al :
Protestants-Appellants : Folio No. 24

MEMORANDUM

STATEMENT OF CASE

On June 15, 1978, the County Board of Appeals of Baltimore County conducted a hearing in the above-captioned case concerning the petition by K & H Contractors, Inc. for a Special Exception for an Antique Shop. This case was on appeal by Philip W. Worrall, et al. from the Zoning Commissioner's grant of a Special Exception on April 15, 1977. The County Board of Appeals granted Petitioner's Motion for Remand to the Zoning Commissioner on June 15, 1978. On June 28, 1978, the Protestants appealed the Opinion and Order of the County Board of Appeals to the Circuit Court of Baltimore County.

STATEMENT OF FACTS

As the transcript indicates, the matters in dispute between the Parties are matters of law and not matters of fact.

ARGUMENT

On June 15, 1978, the County Board of Appeals issued an Opinion and Order for the instant case. This Order remanded Appellee's application for a Special Exception to Construct an Antique Shop to the Zoning Commissioner for further proceedings.

On June 28, 1978, the Protestants-Appellants filed an Order for Appeal with this Court on the grounds that the County Board of Appeals had exceeded its authority in remanding this case to the Zoning Commissioner.

There is no dispute between the Parties that Appellee's Petition for a Special Exception does not comply with the provisions of the Interim Development Control Act, which was codified as new Section 22-15.1 of the Baltimore County Code and for that reason no special exception can be granted. This was the reason that Petitioner requested that the County Board of Appeals remand the case.

Since Petitioner has filed no Reply to the Petition accompanying the Order for Appeal, Appellant can only assume that the only matter in dispute for purposes of this appeal is whether the County Board of Appeals exceeded its authority in remanding this case to the Zoning Commissioner.

This question will turn primarily on the interpretation of Section 501.7 of the Baltimore County Zoning Ordinance which sets forth the powers of the County Board of Appeals Section 501.7 provides as follows:

"The decision and order of the Board of Zoning Appeals (County Board of Appeals) may affirm or reverse in whole or in part, any decision or order of the Zoning Commissioner, or may modify the order appealed from and direct the issuance of a permit to such modification as it may deem proper, subject, however, to zoning regulations and restrictions."

-2-

This Section gives the Board of Appeals several powers. First, the Board may affirm the Zoning Commissioner's decision. in toto. Second, it may reverse some aspects of the Zoning Commissioner's decision and affirm other aspects. Third, it may alter in some other respect the Zoning Commissioner's determination and, if it does so, direct the issuance of a permit as modified.

All of these actions are similar in one important respect. None require a further act on the part of the Zoning Commissioner. It is the clear intention of the County Council in establishing the powers of the Board of Appeals that decision-making authority flow in one direction from the Zoning Commissioner to the Board of Appeals, and finally to the Courts. Only when it has reached the Court is there a possibility that the matter may return to the Administrative level for further hearings or action. Otherwise, the County Council has not provided that decisions should return to an earlier and lower administrative body.

Further support for this interpretation of Section 501.7 of the Baltimore County Code is provided by Section 501.6 of the Code, which states in pertinent part as follows:

"Appeals from the Zoning Commissioner shall be heard by the Board of Zoning Appeals (County Board of Appeals) de novo. At such hearing, all parties, including the Zoning Commissioner, shall have the right to be represented by counsel, to produce witnesses and to file and submit all proper oral and written evidence."

The fact that the Board of Appeals has all the powers possessed by the Zoning Commissioner to conduct a hearing on the merits of any zoning application is strong and persuasive evidence that the County Council had no intention of giving the Board of Appeals the power to remand cases to the Zoning Commissioner. Such a power would have been entirely redundant and duplicative of the powers granted to the Board of Appeals.

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We also note that Article 25A of the Maryland Annotated Code, which grants certain enumerated powers to the chartered counties of Maryland, of which Baltimore County is one, in Section 5(u) specifically delineates the powers of County Boards of Appeals and also of the Circuit Courts, which must review decisions of the Boards of Appeals. Nowhere in that section do we find a power to remand provided to County Boards of Appeals. This contrasts with the specific language found in that section giving the remand power to Circuit Courts. It is Appellant's position that the power to remand was given to the Court because proceedings in the Circuit Court are not de novo, but rather are based on the administrative record. Without a power to remand, the Court would be severely limited in fulfilling its function. No such difficulty exists, however, for an administrative body having de novo powers.

Article 25A, Section 5(u) of the Maryland Annotated Code, and Section 501.7 of the Baltimore County Code, which together grant and define the powers of the Board of Appeals, both clearly support Appellant's position. There is no explicit or implied grant of a remand power. Governmental agencies must scrupulously conform to their own rules and authorizing statutes. Mandel v. HEW, 411 F. Supp. 542. Consequently, the County Board of Appeals has exceeded its legal authority and Appellant urges that this Court reverse the decision of the County Board of Appeals dated June 15, 1978 and return this case to the County Board of Appeals with instructions that they must either "affirm or reverse in whole or in part, any decision or order of the Zoning Commissioner", as provided in Section 501.7 of the Baltimore County Code.

STUART S. JANNEY III
48 Randall Street
Annapolis, Maryland 21401
Phone: 301-268-3090

-4-

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of November, 1978, a copy of the foregoing Memorandum was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 218, Court House, Towson, Maryland 21204; to John W. Hessian, III, Esq., People's Counsel, County Office Building, Towson, Maryland 21204 and Charles E. Brooks, Esq., 610 Bosley Avenue, Towson, Maryland 21204.

STUART S. JANNEY III

RE: Special Exception to * IN THE
Permit an Antique Shop * CIRCUIT COURT FOR
K & H CONTRACTORS, INC., Petitioner * BALTIMORE COUNTY
An Appeal from the Decision of *
The County Board of Appeals *
Case No. 77-187-XA * AT LAW
* * * * *

ORDER FOR APPEAL BY PHILIP W. WORRALL,
MATILDA HEBB, JOHN C. BOYCE, C. A. PORTER HOPKINS,
MONTGOMERY LEWIS, AND STUART S. JANNEY, III

Dear Mr. Clerk:

Please enter an appeal to the Circuit Court for Baltimore County on behalf of Philip W. Worrall, Matilda Hebb, John C. Boyce, C. A. Porter Hopkins, Montgomery Lewis, and Stuart S. Janney, III, Protestants from the Order of the County Board of Appeals of Baltimore County, passed in the above case on June 15, 1978.

STUART S. JANNEY, III
48 Randall Street
Annapolis, Maryland 21401
Phone: 268-3090

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of June, 1978, a copy of the foregoing Order for Appeal was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 218, Court House, Towson, Maryland 21204, to John W. Hessian, III, Esq., People's Counsel, County Office Building, Towson, Maryland 21204 and Charles E. Brooks, Esq., 610 Bosley Avenue, Towson, Maryland 21204.

STUART S. JANNEY, III

RE: PETITION FOR SPECIAL EXCEPTION : IN THE
For an Antique Shop, and : CIRCUIT COURT
VARIANCE from Section 402-B :
of the Baltimore County :
Zoning Regulations : FOR
S/S of Falls Road 450' E. : BALTIMORE COUNTY
9th District : AT LAW
K & H Contractors, Inc., :
Petitioners : Misc. Docket No. 11
File No. 77-187-XA : File No. 6574
Philip W. Worrall, et al :
Protestants-Appellants : Folio No. 24

NOTICE OF DISMISSAL

Appellant does hereby file Notice of Dismissal pursuant to Maryland Rule 561(a).

STUART S. JANNEY, III
48 Randall Street
Annapolis, Md. 21401
Phone: 268-3090

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 1979, a copy of the foregoing Notice of Dismissal was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 218, Court House, Towson, Maryland 21404; to John W. Hessian, III, Esq., People's Counsel, County Office Building, Towson, Maryland 21204; and Charles E. Brooks, Esq., 610 Bosley Avenue, Towson, Maryland 21204.

STUART S. JANNEY, III

77-187-XA

Kentus Hill Road
Clydon, Maryland 21071
March 22, 1977

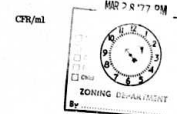
Mr. Eric DiNenna
Baltimore County Zoning Commissioner
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

As a member of the respective Executive Boards of the Valleys Planning Council and the Central Baltimore County Planning Association, Inc., I would like to write to protest a request for a special exception. I refer to item 86, listed as 77-187XA, for a special exception for an antique shop off of Falls Road in the north central portion of the county. If my own business travel schedule did not prevent me from appearing at the Wednesday, March 30, 1977, hearing, you can be assured that I would request permission to speak vigorously against this special exception. However, since I must be out of town, please let me list my objections to this issue in this letter. The site under consideration and there is no prospect of contiguous land owners selling the parties involved any additional land. In addition, it is totally inappropriate to establish a commercial enterprise in the midst of what is a residential economic entity, and once the special exception were granted, those of us involved with the planning process in Baltimore County, would fear that an unwanted and undesirable precedent would have been established. In any event, that site is situated in the flood plain, which is a big enough risk in itself, and the land is also of such a rocky structure that I doubt very seriously that adequate percolation could ever be achieved.

I sincerely hope that this petition for a special exception on behalf of K & H Contractors will be denied. Thank you very much for your consideration to this request.

Sincerely,
Clifford F. Hansen II



RE: PETITION FOR SPECIAL EXCEPTION
for an Antique Shop, and
VARIANCE from Section 402-B
of the Baltimore County
Zoning Regulations
S/S Falls Road 450' E.
of Stringtown Road
5th District
K & H Contractors, Inc.,
Petitioners
File No. 77-187-XA
Philip W. Worrall, et al
Protestants-Appellants

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 11
Folio No. 24
File No. 574

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 8-2 (d) of the Maryland Rules of Procedure;
Walter A. Reiter, Jr. and Robert L. Gilland, constituting the County Board of Appeals of
Baltimore County, have given notice by mail of the filing of the Appeal to the representa-
tive of every party to the proceeding before it; namely, Charles E. Brooks, Esquire, 610
Bailey Avenue, Towson, Maryland 21204, Attorney for the Petitioners, and Mr. Lloyd M.
Hoffner, Jr., President, K & H Contractors, Inc., 2205 Greenspring Drive, Timonium,
Maryland 21093, Petitioners, and Stuart S. Janney, III, Esquire, 48 Randall Street,
Annapolis, Maryland 21401, Attorney for Protestants-Appellants and Protest-Appellants,
and Mr. Philip W. Worrall, 3025 Black Rock Road, Glyndon, Maryland 21071, and Matilda
Hebb, Butler, Maryland 21023, and Mr. John C. G. Boyce, Butler, Maryland 21023, and
Mr. C. A. Porter Hopkins, c/o Stuart S. Janney, III, 48 Randall Street, Annapolis, Mary-
land 21401, and Mr. Montgomery Lewis, The Valleys Planning Council, Inc., 212 Washing-
ton Avenue, Towson, Maryland 21204, Protestants-Appellants, and John W. Hession, III,
Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore
County, a copy of which notice is attached hereto and prayed that it may be made a part
thereof.

Edith T. Eichenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 219, Courthouse, Towson, Md. 21204
494-3180

K & H Contractors, Inc. - #77-187-XA

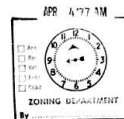
2.

I hereby certify that a copy of the foregoing Certificate of Notice has been
mailed to Charles E. Brooks, Esquire, 610 Bailey Avenue, Towson, Maryland 21204,
Attorney for the Petitioners, and Mr. Lloyd M. Hoffner, Jr., President, K & H Contractors,
Inc., 2205 Greenspring Drive, Timonium, Maryland 21093, Petitioners, and Stuart S.
Janney, III, Esquire, 48 Randall Street, Annapolis, Maryland 21401, Attorney for
Protestants-Appellants and Protest-Appellants, and Mr. Philip W. Worrall, 3025 Black
Rock Road, Glyndon, Maryland 21071, and Matilda Hebb, Butler, Maryland 21023, and
Mr. John C. G. Boyce, Butler, Maryland 21023, and Mr. C. A. Porter Hopkins, c/o Stuart S.
Janney, III, 48 Randall Street, Annapolis, Maryland 21401, and Mr. Montgomery Lewis,
The Valleys Planning Council, Inc., 212 Washington Avenue, Towson, Maryland 21204,
Protestants-Appellants, and John W. Hession, III, Esquire, County Office Building, Towson,
Maryland 21204, People's Counsel for Baltimore County, on this 6th day of July,
1978.

Edith T. Eichenhart
Edith T. Eichenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: Zoning, M. Campagna
Planning, J. Hessel

Mr. Phillip W. Worrall
3025 Black Rock Road
Glyndon, Maryland 21071
April 4, 1977



Mr. S. Eric Di Nenna, Commissioner
Zoning Commissioner's Office
Office of Planning and Zoning of Baltimore County
Room 113
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 77-187-AX
K & H Contractors, Inc., Petitioner

Dear Mr. Di Nenna:

Thank you very much for your indulgence of my unfamiliarity with the zoning
hearing process for the special exceptions on the subject case. Understand-
ing the pertinent issues at hand, I now realize that the broader issues I
addressed at the hearing and in my earlier letter should have been narrowed.
To this end I would like to summarize those pertinent issues that were
raised at the hearing by those opposing the granting of the special exception
in the subject case.

The principle basis on which opposition was raised related to health, safety
and welfare considerations. Of this general consideration, the traffic/
road issue is foremost. The petitioner offered no satisfactory testimony,
either expert or otherwise, on the existing dangerous situation of Falls Road
at the site or the impact of requested use on the road. Those opposed to the
petitioner's request demonstrated with photographs and testimony that the
entrance to the subject site is on dangerous blind curve which has experi-
enced a disproportionate number of accidents. Any use, regardless of how
small, which contributes to this dangerous situation must be avoided if pos-
sible. For the case at hand, the further aggravation of the bad situation
can be avoided.

As Falls Road is a state maintained road, the comments in the Zoning Advi-
sory Board Report by the County's traffic engineers as to the acceptability
of the petitioner's request evidences their unfamiliarity with the situation
and their limited responsibility on this issue. The State Highway Adminis-
tration's comments properly advised caution in the consideration of the
petitioner's request and they further withheld approval pending more detailed
review.

An additional concern is the inadequacy of ample parking on site, caused by
the limited site size (less than 1/2 acre), the very requirement the peti-
tioner seeks to have waived. Very conceivably for instance on Sunday after-
noon or for some sale, many more than six cars could be trying to park near
the site. Since there is no other flat area near the site, the overflow

Page Two
Mr. S. Eric Di Nenna, Commissioner
April 4, 1977

parking would spill out onto the sides of Falls Road and block the driveway
creating a potentially catastrophic situation on the dangerous curve.

Apart from the traffic concern, portions of the site are within the 10 and
100 year flood plains (determined by the U.S.D.A./S.C.S., the Department of
Natural Resources, Water Resources Administration and the County Planning
and Zoning Office) and are subject to periodic flooding. Testimony was in-
troduced as to actual field observations during the storm Agnes indicating
that flood waters from Indian River which abuts the subject site threatened
the property and inundated Falls Road at the site. Since the County is now
in the costly process of buying up flood plain properties to remove the
future hazards, it seems ludicrous that they would permit a commercial use
in another property which lies in the flood plain. Again, testimony by the
petitioner on this matter was woefully inadequate.

Another concern rests with the dubious claim that sanitary facilities would
be provided via "sewer" packaged system. Even if such systems are permitted,
which I doubt, their operation is impossible to police. The dumping of
effluent from such chemical systems into the Indian River watershed is quite
possible and very probable regardless of claims to the contrary by the
petitioner. The very fact that the Health Department unconditionally refused
to permit septic facilities is indicative of the apparent hazards.

The above mentioned concerns are each important factors in the health, safety
and welfare test of the petitioner's request. I feel that they provide over-
whelming reasons to reject the petitioner's request.

Again thank you for your patience with my presentation of the oppositions
concerns.

Sincerely,
Philip W. Worrall
Philip W. Worrall

PWW/bj

cc: The Valleys Planning Council, Inc.
Central Baltimore County Planning Association, Inc.



3025 Black Rock Road
Glyndon, Maryland 21071
March 21, 1977

Mr. S. Eric Di Nenna, Commissioner
Mr. George Martinac, Deputy Commissioner
Zoning Commissioners Office
Office of Planning and Zoning of Baltimore County
Room 113
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 77-187-AX

Dear Sirs:

I am writing in opposition to the case No. 77-187-AX of the granting of
special exception to K & H Contractors petition for the use of a non-
conforming lot as an antique shop on the west side of Falls Road north
of Butler, Maryland. Below are the reasons and rationale that support
my position.

1. The subject lot is located on a dangerous blind curve. Any
use which attracts traffic will aggravate this situation.
2. An antique shop will attract traffic and add to the growing
traffic congestion on Falls Road.
3. An antique shop is not a community amenity since it draws
clients from outside the Butler vicinity and serves no local
needs.
4. The lot is small and suffers from unsuitable geology for a
proper septic system and may pose pollution problem to Black
Rock Run which courses by the tract.
5. Portions of the lot were underwater during the storm Agnes
evidencing that it is within the flood plain and may add
future demands on taxpayers for flood control.
6. Antique shops are notorious for accumulating "antiques"
(i.e. junk) stream around the site which would create a visual
eyesore and erode adjacent property values.

Page Two
Mr. S. Eric Di Nenna, Commissioner
Mr. George Martinac, Deputy Commissioner
March 21, 1977

7. The owners of the subject property acquired it at a depressed
value relative to adjacent property values which reflected
the limited usefulness of the property. No claim for economic
hardship is valid by the petitioner since they were aware of
the property's limitations and enjoyed a reduced purchase
price accordingly.

This issue is the very reason the zoning laws were devised, to prevent
abuse and misuse of property as it affects adjacent property and the
taxpayers in general. A favorable action on petitioners request will
make a mockery of our zoning laws. As a Baltimore County taxpayer and
landowner in the immediate area of the subject property, I respectfully
request that the petitioner's request in Case No. 77-187-AX be denied
unmerited.

Sincerely,

Philip W. Worrall
Philip W. Worrall

PWW/bj

cc: Central Baltimore County Planning Association, Inc.
The Valleys Planning Council, Inc.
Clarence E. Ritter



Box 65
Butler, Maryland 21023
March 23, 1977

Mr. S. Eric Di Nenna, Commissioner
Mr. George Martinac, Deputy Commissioner
Zoning Commissioners Office
Office of Planning and Zoning of Baltimore County
Room 113
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 77-187-AX

Dear Sirs:

I am writing in opposition to the case No. 77-187-AX of the granting of
special exception to K & H Contractors petition for the use of a non-
conforming lot as an antique shop on the west side of Falls Road north
of Butler, Maryland. Below are the reasons and rationale that support
my position.

1. The subject lot is located on a dangerous blind curve. Any
use which attracts traffic will aggravate this situation.
2. An antique shop will attract traffic and add to the growing
traffic congestion on Falls Road.
3. An antique shop is not a community amenity since it draws
clients from outside the Butler vicinity and serves no local
needs.
4. The lot is small and suffers from unsuitable geology for a
proper septic system and may pose pollution problem to Black
Rock Run which courses by the tract.
5. Portions of the lot were underwater during the storm Agnes
evidencing that it is within the flood plain and may add
future demands on taxpayers for flood control.
6. Antique shops are notorious for accumulating "antiques"
(i.e. junk) stream around the site which would create a visual
eyesore and erode adjacent property values.

Page Two
Mr. S. Eric Di Nenna, Commissioner
Mr. George Martinac, Deputy Commissioner
March 21, 1977

7. The owners of the subject property acquired it at a depressed
value relative to adjacent property values which reflected
the limited usefulness of the property. No claim for economic
hardship is valid by the petitioner since they were aware of
the property's limitations and enjoyed a reduced purchase
price accordingly.

This issue is the very reason the zoning laws were devised, to prevent
abuse and misuse of property as it affects adjacent property and the
taxpayers in general. A favorable action on petitioners request will
make a mockery of our zoning laws. As a Baltimore County taxpayer and
landowner in the immediate area of the subject property, I respectfully
request that the petitioner's request in Case No. 77-187-AX be denied
unmerited.

Sincerely,

John C. G. Boyce
John C. G. Boyce

cc: Central Baltimore County Planning Association, Inc.
The Valleys Planning Council, Inc.
Clarence E. Ritter

February 1, 1977

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204
Attention: Mr. N. Commodari

Re: Z.A.C. Meeting,
Item: 96
Special exception for Antique
Shop
Falls Rd. (Rte. 25) south of
Stringtown Rd.
Revised Plan

Dear Mr. DiNenna:

The revised plan, dated 1-12-77, indicates proposed curbing and paving. Although the proposed construction is somewhat less than what will be required, we feel that the hearing can be held with the understanding that the plan will be further revised at such time as the permit for the shop is applied for.

CLJEM:dj

Very truly yours,
Charles Lee, Chief
Bureau of Engineering
Access Permits
John E. Meyers
By: John E. Meyers

P.O. Box 717 / 300 West Preston Street, Baltimore, Maryland 21203

November 24, 1976

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204
Attention: Mr. N. Commodari

Re: Z.A.C. Meeting, Nov. 16, 1976
Item: 96
Property Owner: K & H Contractors, Inc.
Location: S/S Falls Rd. (Rte. 25)
450' E. Stringtown Rd.
Existing Zoning: R.D.P.
Proposed Zoning: Special exception for an antique shop and a variance to permit an existing building to be converted to an antique shop on a lot less than one acre.

Acres: 0.481
District: 5th

Dear Mr. DiNenna:

The entrance must be channelized with concrete curb and must be paved in accordance with State Highway Administration standards and specifications. The plan must be revised prior to the hearing.

The entrance construction must be done under permit from the Administration.

CLJEM:dj

Very truly yours,
Charles Lee, Chief
Bureau of Engineering
Access Permits
John E. Meyers
By: John E. Meyers

P.O. Box 717 / 300 West Preston Street, Baltimore, Maryland 21203

December 30, 1976

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

Dear Mr. DiNenna:

Comments on Item #96, Zoning Advisory Committee Meeting, November 16, 1976, are as follows:

Property Owner: K & H Contractors, Inc.
Location: S/S Falls Road 450' E. Stringtown Road
Existing Zoning: R.D.P.
Proposed Zoning: Special Exception for an antique shop and a variance to permit an existing building to be converted to an antique shop on a lot less than one acre
Acres: 0.481
District: 5th

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.

This plan has been reviewed and there are no site-planning factors requiring comment.

Very truly yours,

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

November 26, 1976

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

Dear Mr. DiNenna:

Comments on Item #96, Zoning Advisory Committee Meeting, November 16, 1976, are as follows:

Property Owner: K & H Contractors, Inc.
Location: S/S Falls Rd. 450' E. Stringtown Rd.
Existing Zoning: R.D.P.
Proposed Zoning: Special Exception for an antique shop and a variance to permit an existing building to be converted to an antique shop on a lot less than one acre.
Acres: 0.481
District: 5th

This lot cannot meet the minimum requirements for an under ground sewage disposal, therefore, approval will not be granted for the proposed use by the Health Department.

Very truly yours,

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

TED/LW/rth

November 19, 1976

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

Re: Item 96 - ZAC - November 16, 1976
Property Owner: K & H Contractors, Inc.
Location: S/S Falls Rd. 450' E. Stringtown Rd.
Existing Zoning: R.D.P.
Proposed Zoning: Special Exception for an antique shop and a variance to permit an existing building to be converted to an antique shop on a lot less than one acre.

Acres: 0.481
District: 5th

Dear Mr. DiNenna:

No major traffic problems are anticipated by the requested special exception for an antique shop.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate

MSF:hv

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

Attention: Mr. Nicholas B. Commodari
Zoning Advisory Committee

Re: Property Owner: K & H Contractors, Inc.
Location: S/S Falls Rd. 450' E. Stringtown Rd.
Item No. 96

Zoning Agenda 11/16/76

Gentlemen:

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

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

REVIEWED: *Michael S. Flanagan* Noted and Approved: *Robert E. Smith, Jr.*
Planning Group Acting Battalion Chief
Fire Prevention Bureau

November 9, 1976

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

Dear Mr. DiNenna:

Comments on Item #96 Zoning Advisory Committee Meeting, November 16, 1976 are as follows:

Property Owner: K & H Contractors Inc
Location: S/S Falls Road - 450' E. Stringtown Road
Existing Zoning: R.D.P.
Proposed Zoning: Special Exception for an antique shop and a variance to permit an existing building to be converted to an antique shop on a lot less than one acre.
Acres: 0.481
District: 5th

The items checked below are applicable:

- ☒ A. Structure shall conform to Baltimore County Building Code (B.C.C.A.) 1970 Edition and the 1971 Supplement and other applicable codes. See Attached Sheet.
- ☒ B. A building permit shall be required before construction can begin.
- ☒ 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 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. Burdick
Charles E. Burdick
Plans Review Chief
CER:rrj

November 9, 1976
Comments on Item #96 Zoning Advisory Committee Meeting, November 16, 1976

- A. Assuming the existing building is not presently a mercantile or sales type building, the following would apply:
 1. A change of occupancy to the new use is required.
 2. If the building is more than one story of unprotected wood frame, the change should be denied (See Table 6, of 1970 Edition of B.C.C.A. Code).
 3. If the building is of other than unprotected wood frame it would have to meet the Code requirements for structural floor loadings, exits and other numerous Code requirements.
 4. Any changes necessary to meet the Code requirements would have to have a permit thru normal procedures and the work be completed before the permit office will release the change of occupancy.

rrj/

THE VALLEYS
PLANNING COUNCIL, INC.

212 Washington Avenue
Towson, Maryland 21204
V A I I F B 7 6 0

March 30, 1977

Mr. S. Eric Di Nenna, Commissioner
Zoning Commissioner's Office
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: March 30, 1977 Agenda Item 77-187-A2

Dear Mr. Di Nenna:

This letter is written to express the opposition of the Valleys Planning Council to the petition of K&H Contractors for a special exception enabling conversion of an existing building (on the South side of Falls Road, 350 feet east of Stringtown Road) for use as an antique shop.

We oppose the granting of such special exception for the following reasons:

1. The site in question lies at an extremely dangerous portion of Falls Road. Intensification of traffic there would only worsen the hazards.
2. The site is less than an acre in size, and is characterized by soil conditions inadequate for effective sanitary sewer disposal by septic systems. In our opinion, such development would threaten pollution of Indian Run which, a part of the Loch Raven drainage system, lies adjacent to the site.
3. A portion of the lot lies within the 10 and 100 year flood limits as documented by the U.S. Soil Conservation Service Flood Hazard Study of the Western Run and Tributaries.

We believe these reasons compel a judgment against granting the petition in question and trust that you will consider them with your usual thoroughness in your deliberation.

Sincerely yours,
Montgomery Lewis
Montgomery Lewis
Eric Di Nenna

cc: Phillip Morrall
Cliff Ransom

cc

BALTIMORE COUNTY
ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

Charles E. Brooks, Esq.
BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

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

Your Petition has been received and accepted for filing
this 30th day of February, 1977.

S. Eric Di Nenna
S. ERIC DINENNA
Zoning Commissioner

Petitioner: K & H Contractors, Inc.

Petitioner's Attorney: Charles E. Brooks
cc: E. F. Raphael & Associates
201 Courtland Avenue
Towson, Maryland 21204

Reviewed by: *Nicholas B. Comodari*
Nicholas B. Comodari,
Planning & Zoning
Associate III

Charles E. Brooks, Esq.
610 Rosley Avenue
Towson, Md. 21204

Item 96

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

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

Your petition does not meet the Zoning
Commissioner's requirements for filing, as per attached.

Nicholas B. Comodari
Nicholas B. Comodari,
Planning & Zoning
Associate III

cc: E. F. Raphael & Associates
201 Courtland Avenue
Towson, Maryland 21204

Reviewed by:

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

February 17, 1977

Charles E. Brooks, Esq.
Re: Item 96
February 17, 1977
Page 2

This petition was originally filed November 5, 1976, and since that time I verbally informed you of the adverse comments of the State Highway Administration and Health Department concerning this request. As evidenced by the revised plans, dated January 12, 1977, the aforementioned comments of M. John Meyers of State Highway Administration were adequately fulfilled, however, those of the Health Department were not. Since this time I have personally spoken to Mr. Bob Weber, representative of the Health Department on the Zoning Plans Advisory Committee, to determine what would be required in order to attain a satisfactory comment from his office. At that time, it was indicated to me that your surveyor, Mr. Raphael, would submit a second set of revised plans that would indicate some method of sewage disposal. Since I have not as yet received these plans, I have decided to forward formal written comments to you.

I would like to emphasize that these comments were not sent earlier because I was assured by you and Mr. Raphael that the revised plans were forthcoming.

This petition is being withheld from a hearing date until such time as revised plans are received that reflect the comments above, and any comments from other departments as requested.

Very truly yours,

Nicholas B. Comodari
NICHOLAS B. COMODARI,
Acting Chairman, ZONING
Plans Advisory Committee

NBC:JD

Enclosure

cc: E. F. Raphael & Associates
201 Courtland Avenue
Towson, Md. 21204

Baltimore County
Department of Public Works
TOWSON, MARYLAND 21204

THORNTON M. MOURING, P.E.
DIRECTOR

December 15, 1976

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

Re: Item #96 (1976-1977)
Property Owner: K & H Contractors, Inc.
S/2 Falls Rd., 450' E. Stringtown Rd.
Existing Zoning: RDP
Proposed Zoning: Special Exception for an antique shop
and a variance to permit an existing building to be
converted to an antique shop on a lot less than 1 acre.
Acres: 0.481 District: SD

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.

Highways

Falls Road (Md. 25) is a State Road; therefore, all improvements, intersections, entrances and drainage requirements as they affect this 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.

It is the responsibility of the Petitioner to ascertain and clarify his rights in and to the indicated "North Mill Road" - a narrow private lane.

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

Sediment Control

Development of this property through striping, 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 striping of top soil.

Storm Drainage

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan.

Item #96 (1976-1977)
Property Owner: K & H Contractors, Inc.
Page 2
December 15, 1976

Storm Drainage (Cont'd)

Indian River is adjacent to the northwesternmost outline of this site. Open stream drainage requires a drainage reservation or easement of sufficient width to cover the flood plain of a 100-year design storm. However, a minimum width of 50 feet is required.

Water and Sanitary Sewer

This property is beyond the Baltimore County Metropolitan District and the Urban Rural Demarcation Line. Although an existing well is indicated, there is no indication of an onsite sewage disposal system. The Baltimore County Comprehensive Water and Sewerage Plan, adopted January 1974, indicates "no Planned Service" in the area.

Very truly yours,

Edward M. Dwyer
EDWARD M. DWYER, P.E.
Chief, Bureau of Engineering

ENC: EAM:FW:RBS

CO-SE Key Sheet
89 & 90 SW 23 Pos. Sheets
SW 23 F Type
33 Tax Map

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Nicholas B. Comodari
Acting Chairman

MEMBERS

BUREAU OF
ENGINEERING

DEPARTMENT OF
TRAFFIC ENGINEERING

STATE ROADS COMMISSION

BUREAU OF
FIRE PREVENTION

HEALTH DEPARTMENT

PROJECT PLANNING

BUILDING DEPARTMENT

BOARD OF EDUCATION

ZONING ADMINISTRATION

INDUSTRIAL
DEVELOPMENT

Charles E. Brooks, Esq.
610 Rosley Avenue
Towson, Maryland 21204

RE: Variance Petition
Item 96
K & H Contractors, Inc. -
Petitioner

Dear Mr. Brooks:

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 appropriateness of the requested zoning.

The subject property, currently zoned R.C. 4 and improved with a stone building, is located on the south side of Falls Road approximately 450 feet east of Stringtown Road, in the 5th Election District. Adjacent properties surrounding this site are similarly zoned and consist of farm land.

This Special Exception hearing is necessitated by your petitioner's proposal to convert the existing building into an antique shop, and due to the inadequate lot size, a Variance is also necessitated.

January 27, 1977

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

Dear Mr. DiNenna: **REVISED**
Comments on Item # 96 Zoning Advisory Committee Meeting,
are as follows:

Property Owner: K & H Contractors Inc.
Location: S/S Falls Road - 450' E Stringtown Road
Existing Zoning: R.D.P.
Proposed Zoning: Special Exception for an antique shop and a variance to permit an existing building to be converted to an antique shop on a lot less than one acre.
Acres: 0.181
District: 5th

The items checked below are applicable:

- ☒ A. Structure shall conform to Baltimore County Building Code (B.C.C.) 1970 Edition and the 1971 Supplement and other applicable codes. A change of occupancy from "3" to use group "C" will be required.
- ☒ B. A building permit shall be required before construction can begin, for alterations which may be required.
- ☐ 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 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,

Mark E. Burdhan 29B

Charles E. Burdhan
Plans Review Chief
(301) 454-3610

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: November 10th, 1976

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

Z.A.C. Meeting of: November 16, 1976

Re: Item 96
Property Owner: K & H Contractors, Inc.
Location: S/S Falls Rd. 450' E Stringtown Rd.
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for an antique shop and a variance to permit an existing building to be converted to an antique shop on a lot less than one acre.

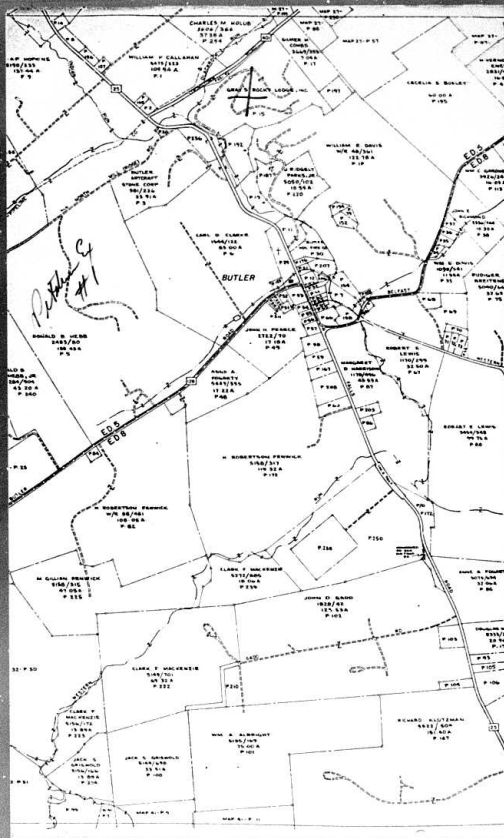
District: 5th
No. Acres: 0.451

Dear Mr. DiNenna:

This has no bearing on the student population.

Very truly yours,
W. H. H. H.
W. H. H. H.
Field Representative

SNP/ol

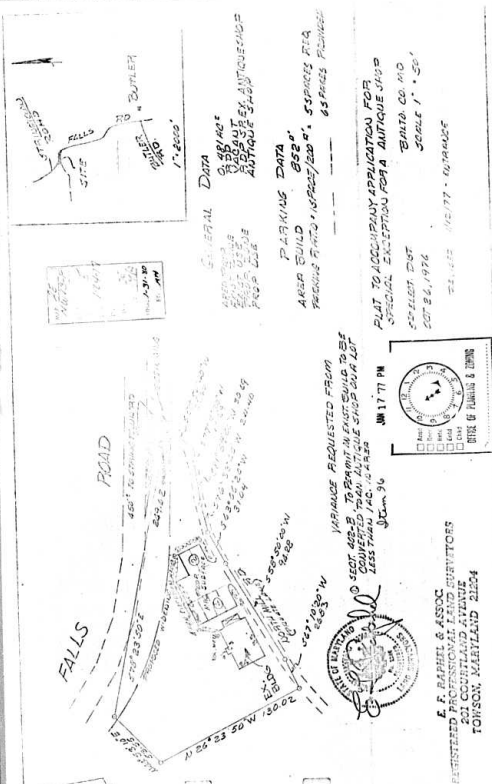
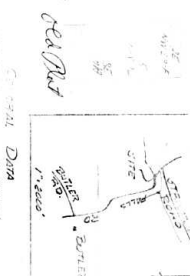


F. F. FAHRE & ASSOC
REGISTERED PROFESSIONAL LAND SURVEYORS
201 COUNTELAND AVENUE
TOWSON, MARYLAND 21204



PLAT TO ACCOMPANY APPLICATION FOR
SPECIAL EXCEPTION FOR AN ANTIQUE SHOP
BUILD ON LOT
SCALE 1" = 50'

DATA
88' x 45'
88' x 45'
88' x 45'
88' x 45'



CERTIFICATE OF PUBLICATION

TOWSON, MD. March 10, 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., on the 10th day of March, 1977, the 10th day of March, 1977.

Cost of Advertisement, \$ 99.75

THE JEFFERSONIAN
Manager

OFFICE OF THE TIMES NEWSPAPERS

TOWSON, MD. 21204 Mar. 9, 1977

THIS IS TO CERTIFY, that the annexed advertisement of Petition for Special Exception - K & H Contr. was inserted in the following:

☐ Catonsville Times ☐ Towson Times
☐ Dundalk Times ☐ Arbutus Times
☐ Essex Times ☒ Community Times
☐ Suburban Times East ☐ Suburban Times West

weekly newspapers published in Baltimore, County, Maryland, once a week for one successive weeks before the 30th day of March, 1977, that is to say, the same was inserted in the issues of Mar. 9, 1977.

STROMBERG PUBLICATIONS, INC.
BY *John Smith*

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

1-Sign 77-197-XA

Date of Posting MAY 24, 1977

Petitioner: K & H CONTRACTORS, INC.

Location of property: S/S OF FALLS RD. 450' E. OF STRINGTOWN RD.

Location of Sign: S/S OF FALLS RD. 450' E. OF STRINGTOWN RD.

Remarks: *John Smith*

Date of return: MAY 22, 1977

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

No. 46509

DATE March 30, 1977 ACCOUNT 01-662

AMOUNT \$63.75

RECEIVED FROM Messrs. Brooks & Turnbull, 610 Bosley Ave.,
Towson, Md. 21204
FOR Advertising and posting of property for
K & H Contractors
#77-187-XA

8000 REM 31 63.75 HSD

VALIDATION OR SIGNATURE OF CASHIER

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

No. 51744

DATE May 18, 1977 ACCOUNT 01-662

AMOUNT \$75.00

RECEIVED FROM Stuart S. Janney, 3rd, Falls Road, Butler, Md.
21023
FOR Cost of Appeal for K & H Contractors, Inc.
#77-187-XA (Item #96)

8142 REM 18 75.00 HSD

VALIDATION OR SIGNATURE OF CASHIER

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

No. 6455

DATE March 8, 1977 ACCOUNT 01-662

AMOUNT \$50.00

RECEIVED FROM Messrs. Brooks & Turnbull 610 Bosley Ave., Towson
Md. 21204
FOR Petition for Special Exception and Variance for
K & H Contractors, Inc. #77-187-XA

888 REM 8 50.00 HSD

VALIDATION OR SIGNATURE OF CASHIER

2-SIGNS 77-187-XA

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 5th Date of Posting MARCH 12, 1977

Posted for: PETITIONS FOR SPECIAL EXCEPTION & VARIANCE

Petitioner: K & H CONSTRUCTORS, INC.

Location of property: S/S OF FALLS RD. 450' E OF STRINGTOWN RD

Location of Sign: S/S OF FALLS RD. 450' E OF STRINGTOWN RD

Remarks: _____

Posted by Thomas K. Roland Date of return: MARCH 18, 1977

Signature

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

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

Your Petition has been received * this 5 day of

Nov. 1976. Item # _____

S. Eric DiNenna
S. Eric DiNenna,
Zoning Commissioner

Petitioner K & H Contractors Submitted by C. Brooks

Petitioner's Attorney C. Brooks Reviewed by NBC

* This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.



200 FEET SOUTH OF DRIVE ON FALLS



100 FT SOUTH OF DRIVE ON FALLS



© DRIVE ON FALLS ROAD



Baltimore County
Office of Planning and Zoning

1/1/82

