

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, RONALD LEE and GWENDOLYN E. LEE, 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 Special Hearing Under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve this request for a THREE YEAR extension of SPECIAL EXCEPTION (CASE NO. 78-92-XA) 1521 Meadowside Road.

MAP	25
DISTRICT	2
TYPE	SP
FILE	78-92-XA
DATE	10/15/79
BY	

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing 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 MR RONALD & GWENDOLYN E. LEE
 Address 7223 CROYDON ROAD
BALTIMORE MD. 21207
 Petitioner's Attorney 265 5243
Protestant's Attorney

ORDERED By the Zoning Commissioner of Baltimore County, this 4th day of September, 1979, 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 held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 23rd day of October, 1979, at 10:00 o'clock A.M.

[Signature]
 Zoning Commissioner of Baltimore County

(over)

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

October 15, 1979

COUNTY OFFICE BLDG.
 131 W. CONSUMERS AVE.
 TOWSON, MARYLAND 21204

Mr. & Mrs. Ronald Lee
 7223 Croydon Road
 Baltimore, Maryland 21207

RE: Item No. 49
 Petitioners - Ronald Lee, et ux
 Special Hearing

Dear Mr. & Mrs. Lee:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following 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 suitability of the requested zoning.

This Special Hearing is requested as a result of your inability to utilize the Special Exception (Case #78-92 XA) that was granted on November 21, 1977 to convert the existing dwelling to a day care center within the allowable two year time limit as provided in Section 502.3 of the Baltimore County Zoning Regulations. As result of a recent opinion by Judge Raine, the Zoning Commissioner is not empowered to provide an extension for utilization of a Special Exception unless it was specifically stated in the order granting said Special Exception. As you know in our previous conversations, the People's Counsel feels that this matter should be heard de novo rather than through this Special Hearing process. However, through the long-standing policy of this office, this hearing was filed and scheduled at your request.

Since this matter involves a legal question and all members of this Committee had submitted comments on the previous hearing, additional comments were not required. However, Mr. Ted Burnham of the Department of Permits and Licenses wanted to reiterate his comment, which is enclosed for your further review.

Item No. 49
 Special Hearing
 October 15, 1979

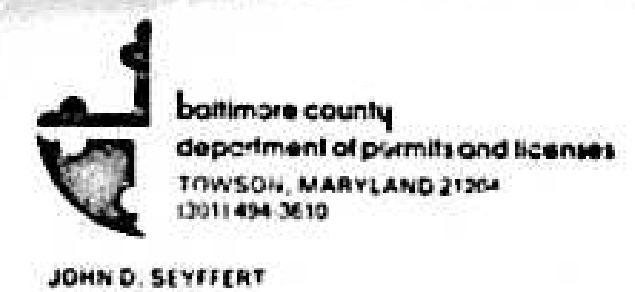
This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30 nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

[Signature]
 NICHOLAS B. COMMODARI
 Chairman
 Zoning Plans Advisory Committee

NBC:hk

Enclosures



Baltimore County
 Department of Permits and Licenses
 TOWSON, MARYLAND 21204
 (301) 494-3610

JOHN D. SEYFFERT
 DIRECTOR
 September 14, 1979

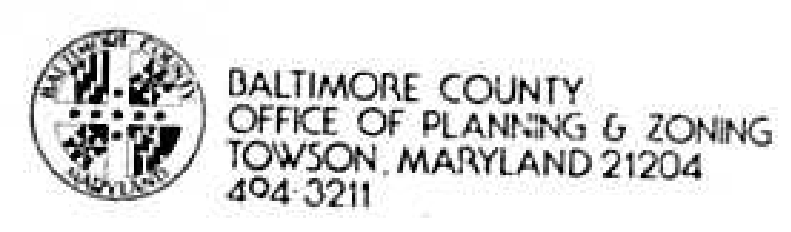
Mr. William Z. Hammond, Zoning Commissioner
 Office of Planning and Zoning
 County Office Building
 Towson, Maryland 21204

Dear Mr. Hammond:
 Comments on Item #49 Zoning Advisory Committee Meeting, September 4, 1979 are as follows:
 Property Owner: SES Meadowside Road 374.42' SW Liberty Heights Ave.
 Location: D.R. x 5.5
 Existing Zoning: Special Hearing to allow a three year extension of Case No 78-92-XA (Item 3; 1977-1978).

Acres: 0.257
 District: 2nd
 NOTE: No plans submitted with this folder
 The items checked below are applicable:

- X.A. Structure shall conform to Baltimore County Building Code (B.O.C.A.) 1973 Edition and the 1971 Supplement, State of Maryland Code for the Handicapped and aged and other applicable codes.
- B. A building permit shall be required before construction can begin.
- C. Additional permits shall be required.
- D. Building shall be upgraded to new use - requires alteration permit.
- E. Three sets of construction drawings will be required to file an application for a building permit.
- F. 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.
- G. 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.
- H. Requested setback variance conflicts with the Baltimore County Building Code. See Section _____.
- I. No comment.
- X.J. Comment: Previous comments still apply. The structure as it exist cannot comply with the Building Code Table 5 with institutional H-2 USE GROUP.

Very truly yours,
[Signature]
 Charles E. Burnham, Chief
 Plans Review



BALTIMORE COUNTY
 OFFICE OF PLANNING & ZONING
 TOWSON, MARYLAND 21204
 494-3211

JOHN D. SEYFFERT
 DIRECTOR
 October 10, 1979

Mr. William Hammond, Zoning Commissioner
 Zoning Advisory Committee
 Office of Planning and Zoning
 Baltimore County Office Building
 Towson, Maryland 21204

Dear Mr. Hammond:
 Comment on Item #49, Zoning Advisory Committee Meeting, September 4, 1979, are as follows:
 Property Owner: Ronald Lee
 Location: SE/S Meadowside Road 374.42' SW Liberty Heights Ave.
 Existing Zoning: D.R.S.5
 Proposed Zoning: Special Hearing to allow a three year extension of Case No. 78-92-XA (Item 3; 1977-1978)
 Acres: 0.257
 District: 2nd
 Note: No plans submitted with this folder

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,

[Signature]
 John L. Wimbley
 Planner III
 Current Planning and Development



Baltimore County
 Department of Public Engineering
 TOWSON, MARYLAND 21204
 (301) 494-3560

STEPHENE COLLINS
 DIRECTOR
 September 26, 1979

Mr. William Hammond
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

Dear Mr. Hammond:
 This department has no comment for the following items: Numbers 49, 50, and 51.

Very truly yours,

[Signature]
 Michael S. Flanagan
 Engineering Associate II

MSF/mjm

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: August 29, 1979

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

Z.A.C. Meeting of: September 4, 1979

RE: Item No: 49, 50, 51, 52, 53, 54
 Property Owner:
 Location:
 Present Zoning:
 Proposed Zoning:

District:
 No. Acres:

Dear Mr. DiNenna:

All of the above have no bearing on student population.

Very truly yours,

[Signature]
 W. Nick Petrovich
 Field Representative

MNP/bp

JOSEPH R. ACCOWAN, PRESIDENT
 T. RAYARD WILLIAMS, JR., VICEPRESIDENT
 MARCUS M. ROTARIUS
 THOMAS H. BOYER
 MRS. TORALNE P. CHURCH
 ROGER B. HAYDEN
 ALVIN LOWICK
 MRS. MILTON B. SMITH, JR.
 RICHARD W. TRACY, DVM.
 ROBERT E. ZIGLER, SECRETARY/TREASURER

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 6th day of November, 1979, that a three year extension, beginning November 22, 1979, and ending November 22, 1982, as requested in the herein Petition for Special Hearing, should be and the same is GRANTED, from and after the date of this Order, subject, however, to compliance with the terms, provisions, and conditions contained in the Order dated November 22, 1977.

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
545 of Meadowside Rd., 374.42' :
SW of Liberty Heights Ave., : OF BALTIMORE COUNTY
2nd District :
 : Case No. 80-104-5PH (Item 49)
RONALD LEE, et ux, Petitioners

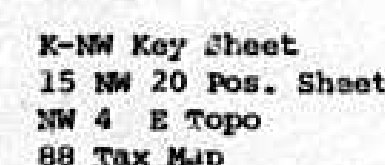
Please note an appeal from your decision in the above-entitled case, under date of November 6, 1979, to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.

I HEREBY CERTIFY that on this 27th day of November, 1972, a copy of the foregoing Order for Appeal was mailed to Mr. and Mrs. Ronald Lee, 7223
 1st Avenue, Baltimore, Maryland 21207, Petitioners.


William R. Evans, Acting Chairman


Patricia Phipps


Leroy B. Spurrier



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

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

Julie Holmen, Secy.

J. Somers
K-111 Key Sheet
15 NW 20 Pos. Sheet
NE 4 & Topo
88 Tax Map

Ray Tracer
w/old time
507-1440

baltimore county
department of health
TOWSON, MARYLAND 21204

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

November 8, 1979

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #19, Zoning Advisory Committee meeting of
September 4, 1979, are as follows:

Property Owner: Ronald Lee
Location: SE/S Meadowside Rd. 374.42' SW Liberty Heights Ave.
Existing Zoning: D.R. 5.5
Proposed Zoning: Special Hearing to allow a three year extension of
Case No. 78-92-XA (Item 3; 1977-1978)
Acres: 0.257
District: 2nd
Notes: No plate submitted with this folder.

The dwelling is presently served by metropolitan water and sewer.

The Division of Maternal and Child Health has reviewed the plans
for the proposed day care center and can find no reason for denial of a
permit to operate.

The parking area/s should be surfaced with a dustless, bonding
material.

Very truly yours,

Lan J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

LJF/JHE/ltm

cc: E. Smith

W. L. Phillips

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William E. Hammond
Zoning Commissioner

TO: John D. Seyfert, Director
FROM: Office of Planning and Zoning

Date: October 11, 1979

SUBJECT: 80-106SPH Item 49
Petition for Special Hearing for extension of Special Exception
Southeast side of Meadowside Road, 374.42 feet Southwest of Liberty Heights Avenue
Petitioner - Ronald Lee, et ux

2nd District

HEARING: Tuesday, October 23, 1979 (10:30 A.M.)

There are no comprehensive planning factors requiring comment on this petition.

John D. Seyfert
John D. Seyfert, Director
Office of Planning and Zoning

JDS:JGH:rw

baltimore county
fire department
TOWSON, MARYLAND 21204
(301) 825-7310

Paul H. Reincke
CHIEF

September 11, 1979

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

Attention: Mr. William Hammond, Zoning Commissioner
Zoning Advisory Committee

Re: Property Owner Ronald Lee

Location: SE/S Meadowside Rd. 374.42' SW Liberty Heights Ave.

Item No. 49 Zoning Agenda: Meeting of 9/4/79

Gentlemen:

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

(x) 1. Fire hydrants for the referenced property are required and shall be
located at intervals of 300 feet along an approved road in
accordance with Baltimore County Standards as published by the
Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____
EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the
Fire Prevention Code prior to occupancy or beginning of operations.

(x) 5. The buildings and structures existing or proposed on the site shall
comply with all applicable requirements of the National Fire Pro-
tection Association Standard No. 101 "Life Safety Code" 1976 Edition
prior to occupancy.

() 6. Site plans are approved as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: *George M. Wagonet* Noted and Approved: *George M. Wagonet*
Planning Group Fire Prevention Bureau
Special Inspection Division

DELLA.ROCCA, ORSINI & ASSOCIATES, INC.

336 EAST 25TH STREET
BALTIMORE, MARYLAND 21218
April 11, 1977

METES & BOUNDS DESCRIPTION
of the property of
Ronald Lee & Gwendolyn E. Lee, his wife.

Baltimore County, Md. Election District 2

BEGINNING for the same at an iron pipe found on the southeast side
of Meadowside Road (formerly Nuberry Avenue) at the distance of 374.42
feet southwesterly from the intersection formed by the southwest side
of Liberty Road 66 feet wide and the southeast side of Mea-
dowside Road 40 feet wide and running thence southwesterly, binding on
the southeast side of Meadowside Road 100.00 feet to Lot 12 to a pipe
now set, thence southeasterly and binding on Lot 12, 112.00 feet to the
outline of the whole property of which these Lots are a part; thence
northeasterly and binding on said outline 100.00 feet to Lot 9 to a pipe
found; thence in a northwesterly direction and binding on Lot 9, 112.00
feet to the place of beginning.

Being Lots 10 and 11, section R, as shown on the Amended Plat of Hay-
wood Heights, filed and recorded among the Land Records of Baltimore
County in Plat Book W.P.C. No. 7, Folio 49.

The Improvements thereon being known as No. 3521 Meadowside Rd.

Being the same parcel of land which was conveyed by Deed dated
April 22, 1976 and recorded among the Land Records Of Baltimore County
in Liber 5627, Folio 939, between Toney L. Phillips & Janet Phillips, his
wife to Ronald Lee & Gwendolyn Lee, his wife.

OFFICE COPY



Guy Della-Rocca
Guy Della-Rocca P.E.S. #8714

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-0353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

November 6, 1979

Mr. & Mrs. Ronald Lee
7223 Croydon Road
Baltimore, Maryland 21207

RE: Petition for Special Hearing
SE/S of Meadowside Road, 374.42'
SW of Liberty Heights Avenue - 2nd
Election District
Ronald Lee, et ux - Petitioners
NO. 80-106-SPH (Item No. 49)

Dear Mr. & Mrs. Lee:

I have this date passed my Order in the above referenced matter in accord-
ance with the attached.

Very truly yours,

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

WEH/srl

Attachments

cc: John W. Hessian, III, Esquire
People's Counsel

PETITION FOR SPECIAL HEARING

2nd District

ZONING: Petitioner for Special Hearing for extension of Special Exception

LOCATION: Southeast side of Meadowside Road, 374.42 feet Southwest of
Liberty Heights Avenue

DATE & TIME: Tuesday, October 23, 1979 at 10:30 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue,
Towson, Maryland

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

Petition for a Special Hearing under Section 500.7 of
the Zoning Regulations of Baltimore County, to determine
whether or not the Zoning Commissioner and/or Deputy
Zoning Commissioner should approve this request for a
three year extension of Special Exception (Case No.
78-92-XA) 3521 Meadowside Road

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

Being the property of Ronald Lee, et ux, as shown on plat plan filed with the
Zoning Department

Hear Date: Tuesday, October 23, 1979 at 10:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue,
Towson, Maryland

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

LEGALS

PETITION FOR SPECIAL HEARING

2nd District
ZONING: Petitioner for Special Hearing
for extension of Special Exception
LOCATION: Southeast side of Meadowside
Road, 374.42 feet Southwest of
Liberty Heights Avenue
DATE & TIME: Tuesday, October 23, 1979
at 10:30 A.M.
PUBLIC HEARING: Room 106, County
Office Building, 111 W. Chesapeake
Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore
County, by authority of the Zoning Act
and Regulations of Baltimore County,
will hold a public hearing:
Petition for a Special Hearing under
Section 500.7 of the Zoning Regu-
lations of Baltimore County, to deter-
mine whether or not the Zoning Com-
missioner and/or Deputy Zoning Com-
missioner should approve this request
for a three year extension of Special
Exception (Case No. 78-92-XA) 3521
Meadowside Road.

All that parcel of land in the Second
District of Baltimore County,
being the property of Ronald Lee, et ux,
as shown on plat plan filed with the
Zoning Department.

Hearing Date: Tuesday, October 23, 1979
at 10:30 A.M.
Public Hearing: Room 106, County Of-
fice Building, 111 W. Chesapeake
Avenue, Towson, Maryland.

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

CERTIFICATE OF PUBLICATION

NOV 06

Pikesville, Md., Oct. 11, 1979

THIS IS TO CERTIFY, that the annexed advertisement
was published in the NORTHWEST STAR, a weekly
newspaper published in Pikesville, Baltimore
County, Maryland before the 23rd day
of Oct. 1979

the first publication appearing on the

4th day of Oct. 1979

the second publication appearing on the

day of Oct. 1979

the third publication appearing on the

day of Oct. 1979

THE NORTHWEST STAR

John W. Hessian, III
John W. Hessian, III, Esq., People's Counsel

Cost of advertisement, 10.80

1 PETITION OF * BEFORE THE
2 RONALD LEE, ET UX * COUNTY BOARD OF APPEALS
3 Request for a 3-Year * FOR
4 Extension of Special * BALTIMORE COUNTY
5 Exception, Southeast Side *
6 of Meadowside Road, * MR. REITER, Chairman;
7 374.42 Feet Southwest of * MR. STURRIER and MRS. MILLHOUSER
8 Liberty Heights Avenue, * CASE NO. 80-106-SPH
9 2nd District. *
10 * * * * *

Tuesday, May 20, 1980, Towson, Maryland

HEARING ROOM - COURT HOUSE

10:00 A.M.

11 APPEARANCE:
12
13
14 JOHN W. HESSIAN, III, Esq., People's Counsel,
15 on behalf of Baltimore County, Maryland.
16
17
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21

Reported by: Lillian G. Sealat - Board of Appeals,
Court House, Towson, Maryland 21204

THE CHAIRMAN: For the record, we have assigned at this time Case No. 80-106-SPH, which is an appeal by the petitioners, Ronald Lee and wife, who request a three-year extension of special exception on the southeast side of Meadowside Road, 374.42 feet southwest of Liberty Heights Avenue in the Second Election District.

The Lees requested that a special exception be extended. Their request was filed with the Zoning Commissioner, Mr. Hammond. The extension was granted, and the appeal of that decision by Mr. Hammond was taken to this Board by the People's Counsel, who is present this morning in the person of Mr. Hessian.

Mr. and Mrs. Lee are present here without counsel.

We also have present and we welcome a group of students from Loch Raven High School.

Mr. Hessian, do you have an opening statement concerning your appeal?

MR. HESSIAN: Yes, sir. As the Commissioner has fully set out in his order granting the extension, the Petitioners, on November 22, 1977, were granted a special exception for the establishment and operation of a nursery

school on the property that is the subject of this proceeding. There were a number of restrictions that were placed in the original order. I might add, for the record, that the Planning Department reviewed those restrictions at the time and found that the special exception, as tailored and thus as granted, raised no planning factors.

The file indicates that Mr. and Mrs. Lee did have a problem with regard to the building code but that is not, in our opinion, a factor in this particular case.

Primarily, as I understand it, because of difficulties in complying with the building code, they were not able to implement this special exception within the two years' limitation that is granted automatically by the provisions of Section 502 of the Baltimore Code of Zoning Regulations.

In November, or seasonably, last year, they came in and applied for an extension for the additional time -- three years, I think it was. Although that is not the point here this morning, that is permissible under Section 502, during which time they might implement the special exception.

The problem that arises is out of a prior legal case filed in the Circuit Court by People's Counsel vs. DiNenna,

where the question of the procedure and the total question of the constitutionality of the extension proceeding, itself, was brought before the Court. In that case, the Circuit Court of Baltimore County ruled that the extension provision contained in Section 502 of the Baltimore County Code of Zoning Regulations was unconstitutional and therefore had no force and effect.

Left standing, the effect of the order of the Circuit Court for Baltimore County in that case means that the entire procedure that we have here this morning, resulting in the granting of an extension, any extension to any special exception including this one, is based on an unconstitutional and therefore void provision of the law.

The posture of the Circuit Court case is that it has been appealed by the individual respondents of the Elks Club that owned the property that was involved in that case. The record has been filed with the Court of Special Appeals. It has been fully briefed and assigned for oral argument sometime, I think, in the second week of June.

I suggest to the Board that the Court of Special Appeals' opinion or expression of opinion on the matter will

probably be available somewhere around August or perhaps, hopefully, before Labor Day.

The situation as I see it is that since there are no planning factors involved and since the purpose of our appeal was to coordinate with the ruling of the Circuit Court that the entire proceeding would be unconstitutional, and since I am making a statement against interest to the effect that there are no planning factors involved, if the Court of Special Appeals should reverse the Circuit Court, and assuming that the Court of Appeals eventually affirms that ruling, I am perfectly prepared to dismiss this appeal, there being no factual basis, an entirely legal basis, for the maintenance of it.

If, on the other hand, the Court of Special Appeals and, by action on a petition for certiorari, the Court of Appeals has the effect of sustaining this decision of the Court that the extension is unconstitutional, we would have to, of necessity, take the position that this is an entirely void proceeding of extension.

THE CHAIRMAN: What is your position in the pending case before the Court of Special Appeals?

MR. HESSIAN: Mr. Chairman, let me say that our position is, truthfully, the maintenance of the Court's opinion. In the case involving the Elks Club, we filed suit based on the complaint that the Commissioner had passed an order, to wit, an order extending the life of the special exception in that case without there being a duly advertised hearing.

There was an application through counsel for an extension. A formal order was passed and no one was notified that he had passed a formal order in the case. It was said that was quite improper.

The Circuit Court in that case, I think, was agreeing with us that a public notice and a public hearing was requisite, but about nine tenths of the way through the legal argument, suddenly, it turned to the question of the constitutionality of the entire procedure for extension. The Court's written opinion and finding was that it avoided the question of the procedural aspect and went into the question of constitutionality, and I would be less than candid if I didn't tell you we don't anticipate going to that extent.

The way it came up was that my brother counsel --

whom I refer to as the Harvard man -- leaned over to me during the argument and said in a stage whisper, not anticipating dead silence would fall in the courtroom and that his whisper carried up to the bench, he said, "I think this is unconstitutional and violating due process."

That triggered the Court into that aspect. So our position is necessarily that we have to support the Court.

I will point out to you, sir -- then, I would be finished insofar as the factual input for your consideration -- that in this case our initial complaint about the Elks matter has been satisfied because the Commissioner did duly advertise this and did duly post it, and there was the aspect of due process.

I can tell you that if the Court or Special Appeals should rule -- I have two fallbacks -- if they merely approach the question of constitutionality and say the Court was wrong, that is constitutional, and doesn't go to the question of whether due process is necessary, we have all the due process requirements complied with in this case.

If they fall back and say, "We think it is constitutional, but in reading other aspects or other provisions

of the Zoning Regulations, it is obvious to us that there should have been a public notice, etc. --" here again, we are safe in this case.

Then, again, a third alternative is that if they say it is not constitutional but no public hearing is necessary, you are overprotected in this case. So there being no planning factors --

THE CHAIRMAN: What if it decides it is unconstitutional?

MR. HESSIAN: Well, this is void.

THE CHAIRMAN: Then, as far as situations like the subject, if there are any others, what is your feeling as to the need for legislative action?

MR. HESSIAN: That, of course, is up to the Planning Board. As you know, under our law, the County Council cannot initiate legislative action. He can direct the Planning Board to investigate the matter, and if the Planning Board fails to respond, I think, within six months --

THE CHAIRMAN: Your position is there should be a procedure for extensions and it should include a public hearing?

MR. HESSIAN: Well, as the Chairman has propounded the question to me, I respectfully suggest I wouldn't touch that with a ten-foot pole, because you are asking me for a legislative opinion.

THE CHAIRMAN: Thank you, Mr. Hessian.

Mr. Lee, do you have a response or statement?

MR. LEE: Not really, sir. I wasn't aware of the case before the Special Appeals Court, and just by listening to People's Counsel, it seems like it would be to my advantage to wait for the results of the Court of Appeals.

THE CHAIRMAN: Yes, I would be inclined to agree with you. So procedurally, I suppose we have Mr. Hessian's statement that his appeal is solely predicated upon the constitutionality of the provision that allows or does not allow for extensions, and that if the Court of Special Appeals and subsequently, the Maryland Court of Appeals, finds in the Elks case that there is enabling legislation available to grant this special exception as Mr. Hammond did, that the People's Counsel would dismiss their appeal in this case, and the order of the Zoning Commissioner in this case would then become final. So that is the posture of the People's Counsel.

80-106-SPH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District 2nd Date of Posting Dec. 7, 1979
 Posted for: APPEAL
 Petitioner: RONALD LEE ET UX
 Location of property: SE/4 OF MEADOWSIDE RD. 374.42' SW OF
LIBERTY HEIGHTS AVENUE
 Location of Signs: FRONT 3521 MEADOWSIDE RD.
 Remarks: _____
 Posted by Thomas E. Poland Date of return: Dec.
 Signature

1-Sign

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <u>DI/NBC</u> Revised Plans: _____ Change in outline or description: <u>Yes</u> Previous case: <u>78-92XA</u> Map # _____ <u>No</u>										

49

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your Petition has been received this 14th day of August, 1979.*

Filing Fee \$ 25.00 Received: ☒ Check

☐ Cash

☐ Other

William E. Hammond
 William E. Hammond, Zoning Commissioner

Petitioner Ronald & Carolyn Lee Submitted by Ronald Lee

Petitioner's Attorney _____ Reviewed by Diana Allen

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



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

No. 83278

DATE November 27, 1979 ACCOUNT 01-662

AMOUNT \$10.00

RECEIVED FROM John W. Hession, III, Esquire

FOR Filing Fee for Appeal of Case No. 80-106-SPH

8625100 28

40.0000

VALIDATION OR SIGNATURE OF CASHIER

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

No. 83202

DATE September 25, 1979 ACCOUNT 01-662

AMOUNT \$25.00

RECEIVED FROM Ronald Lee

FOR Filing Fee for Case No. 80-106-SPH

1113200 26

25.0000

VALIDATION OR SIGNATURE OF CASHIER

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

No. 83238

DATE Oct 23, 1979 ACCOUNT 01-662

AMOUNT \$65.55

RECEIVED FROM Ronald Lee

FOR Posting & advertising property Case No. 80-106-SPH

1161200 23

65.5500

VALIDATION OR SIGNATURE OF CASHIER

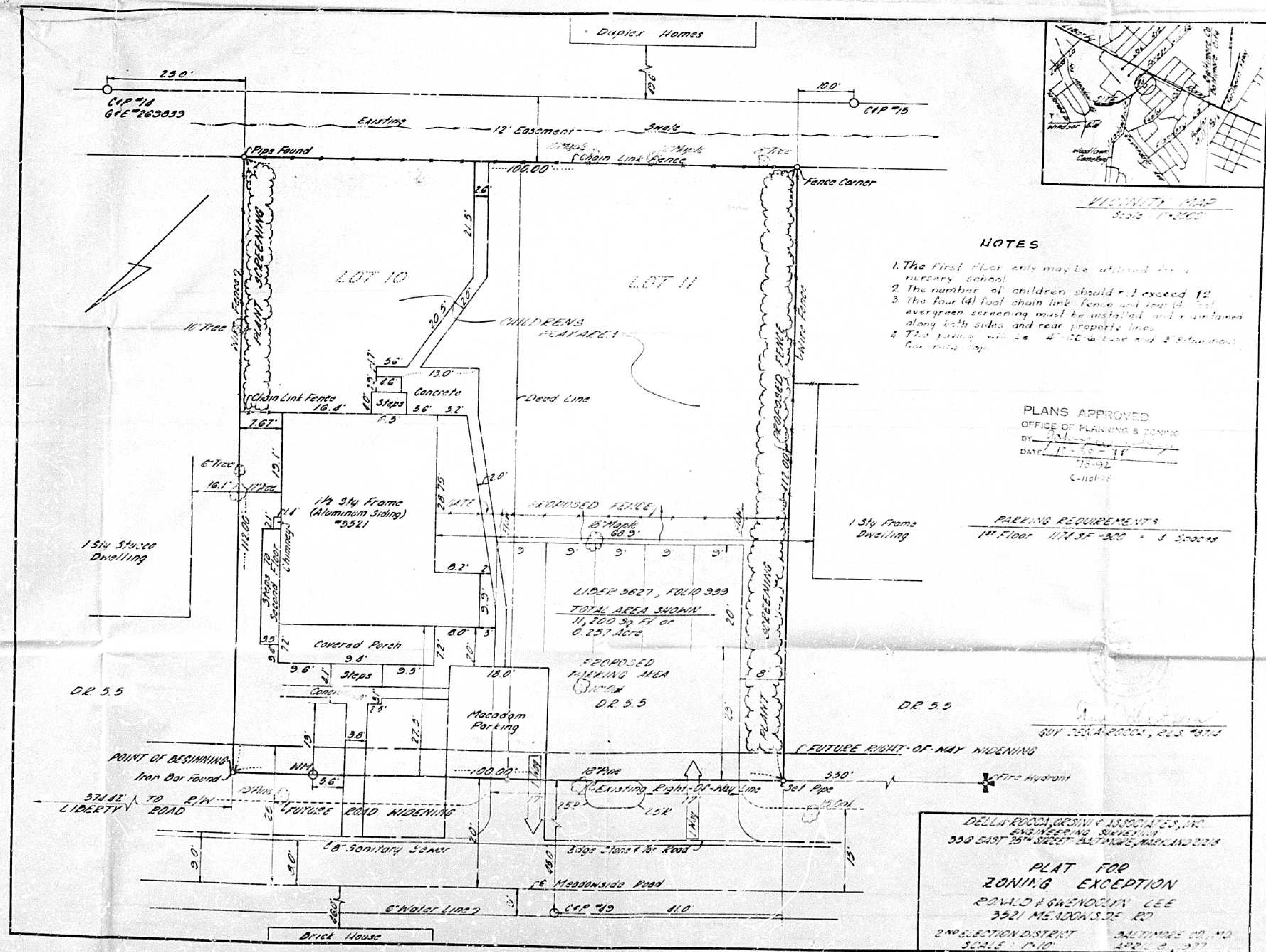
Surveying

COCCA, ORSINI & ASSOCIATES, INC.
122 North Highland Avenue
Baltimore, Maryland 21224
(301) 327-1400
October 17, 1978

houses
the building

Re: DOWNSIDE APTS. #1101-78
Change of Occupancy (to Nursery)
3521 Meadowside Road
27000, 61 Liberty Road
Permit #00748
District 1

by Mr. Robert A. Morton, P.E., Chief, Bureau
we have made the following changes on the site
added:
only may be utilized for a nursery school.
fence should not exceed 12'
chain link fence and four (4) foot evergreen
screening must be installed and maintained along both sides and rear property lines.
4" CR-6 Base and 2" Bituminous Concrete Top.
concerning this matter, please call us at



NOTES

1. The first floor only may be utilized for a nursery school.
2. The number of children should not exceed 12.
3. The four (4) foot chain link fence and four (4) foot evergreen screening must be installed and maintained along both sides and rear property lines.
4. The parking will be 4" CR-6 base and 2" bituminous concrete top.

PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY: [Signature]
DATE: 11-15-78
78-92
C-101-12

PARKING REQUIREMENTS
1st Floor 1174 SF - 200 + 3 Spaces

DR 5.5

GUY TERRA 20001, EUS 1974

DELLA-ROCCA, ORSINI & ASSOCIATES, INC.
ENGINEERING DIVISION
350 EAST 19th STREET BALTIMORE, MARYLAND 21202
PLAT FOR ZONING EXCEPTION
RAWLDS & GARDNER LEE
3521 MEADOWSIDE RD
2ND ELECTION DISTRICT BALTIMORE CO., MD
304.5 17.10 1978 2, 277

Ronald Lee
#80-106-SPH