

PETITION FOR SPECIAL HEARING

83-135-SPH

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) 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 504.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an extension of time for the utilization of a Special Exception granted in Case No. 80-213-X.

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

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

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (Type or Print Name) _____
 Signature _____
 Address _____
 City and State _____
 Telephone Number _____
 Legal Owner(s): by _____
 President J. A. WATSON, JR.
 (Type or Print Name) _____
 Signature _____
 Address 1215 York Road
 City and State _____
 Name, address and phone number of legal owner, contract purchaser or representative to be contacted _____
 Name _____
 Address _____
 Phone No. _____

ORDERED By The Zoning Commissioner of Baltimore County, this 9th day of November, 1982, 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 14th day of December, 1982, at 10:15 o'clock A.M.

[Signature]
 Zoning Commissioner of Baltimore County.

(over)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William E. Hammond
 TO: Zoning Commissioner
 Norman E. Gerber, Director
 FROM: Office of Planning and Zoning
 SUBJECT: Zoning Petition No. 83-135-SPH
 Sebco Federal Credit Union

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

NEG: JGHalc

cc: Arlene January
 Shirley Hess

[Signature]
 Norman E. Gerber
 Director of Planning and Zoning

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your Petition has been received and accepted for filing this 9th day of November, 1982.

[Signature]
 WILLIAM E. HAMMOND
 Zoning Commissioner

Petitioner: Sebco Federal Credit Union

Petitioner's Attorney John O. Hennegan, Esq. Reviewed by *[Signature]*
 Nicholas S. Commodari
 Chairman, Zoning Plans
 Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 9, 1982

John O. Hennegan, Esquire
 809 Eastern Boulevard
 Baltimore, Maryland 21221

RE: Item No. 89 - Case No. 83-135-SPH
 Petitioner - Sebco Federal Credit Union
 Special Hearing Petition

Dear Mr. Hennegan:

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.

In view of your client's proposal to extend the time for utilization of the special exception granted in conjunction with Case No. 80-213-X, this hearing is required.

At the time of this writing, comments from this Committee were not available. However, I suggest that you review the comments submitted for the original hearing and also contact Mr. Charles Burdham, Department of Permits and Licenses, at 494-3987 to determine if there have been any substantial changes to the building code that would affect the development of this site, and Mr. Jack Wimbley, of Current Planning at 494-3335 for any information on your client's proposal.

If you have any further questions regarding this matter, please feel free to contact this office.

Very truly yours,

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

NBC:bsc

Enclosures

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert V. Dubel, Superintendent

Towson, Maryland - 21204

Date: November 8, 1982

Mr. William F. Hammond
 Zoning Commissioner
 Baltimore County Office Building
 1111 West Chesapeake Avenue
 Towson, Maryland 21204

Z.A.C. Meeting of: November 9, 1982

RE: Item No: 86, 87, 88, 89, 90, 91, 92, 93
 Property Owner:
 Location:
 Present Zoning:
 Proposed Zoning:

District:
 No. Acres:

Dear Mr. Hammond:

All of the above have no bearing on student population.

Very truly yours,

[Signature]
 Mr. Nick Potrovich, Assistant
 Department of Planning

WNP/bp



BALTIMORE COUNTY
 FIRE DEPARTMENT
 TOWSON, MARYLAND 21204
 825-7310

PAUL H. REMOKE
 CHIEF

December 20, 1982

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

Attention: Nick Corvadori, Chairman
 Zoning Plans Advisory Committee

RE: Property Owner: Sebco Federal Credit Union

Location: SE/Cor. York and Greenridge Roads

Item No.: 89

Zoning Agenda: Meeting of November 9, 1982

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 or 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 operation.

(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", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

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

REVIEWED BY *[Signature]*
 Planning Group
 Special Inspection Division

Noted and Approved: *[Signature]*
 Fire Prevention Bureau

12/14/82
 83-135-SPH

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William E. Hammond, Zoning Commissioner
 TO: Office of Planning and Zoning
 FROM: Ian J. Foxcroft
 SUBJECT: Zoning Variance Items

The Baltimore County Department of Health has reviewed the following zoning variance items, and has no specific comments regarding same:

- Item # 87 - Raymond J. Marocco, et al
- Item # 89 - Sebco Federal Credit Union
- Item #100 - Louis F. & Martha E. Kulaga
- Item #109 - William H. & Andrew J. Buchanan, Jr.
- Item #110 - Roy Neal
- Item #111 - Baltimore and Ohio Railroad Co.
- Item #114 - Eugene & Mary Pessagno
- Item #115 - Bernard & Rose Stefanaki
- Item #119 - Michael R. & Andrea W. Hartman
- Item #122 - Diao G. & Mary D. Blapakis

[Signature]
 Ian J. Foxcroft, Director
 BUREAU OF ENVIRONMENTAL SERVICES

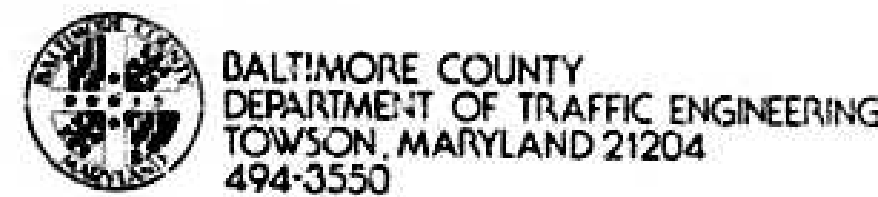
LJF/rh

12/14/82
 83-135

Pursuant to the advertisement, posting of property, and public hearing on the petition and it appearing that by reason of the following finding of facts that on September 5, 1980, Case No. 80-213-X, the petitioner was granted a special exception to expand the existing office building and offices from that previously granted in Case No. 71-12-XA for continued use as a credit union and supporting offices and to provide additional parking areas from that previously granted in Case No. 76-132-SPH, subject, however, to the restrictions contained therein; that the aforementioned Order was silent as to the date and/or time within which the special exception was to have been utilized by the petitioner; that under Section 502.3 of the Baltimore County Zoning Regulations, the period of time for utilization is within two years from the date of the final Order; that on October 8, 1980, John W. Hession, III, People's Counsel for Baltimore County, filed an Order for Appeal to the County Board of Appeals and on January 16, 1981, filed a Motion for Dismissal, pursuant to which the Board dismissed the appeal by Order dated January 20, 1981 (Petitioner's Exhibits 1, 3, and 4); that George Hanson, the petitioner's general manager, testified that upon dismissal of the appeal, he was advised by counsel that the Agreement with Commercial Contractors, Inc. dated April 19, 1978 (Petitioner's Exhibit 5), gave said corporation the right of renewal of its parking rights in that area to be improved and, therefore, the improvements contemplated could not be made; that negotiations were undertaken to secure a release from Commercial Contractors, Inc., but were unsuccessful; that the Agreement expired as of January 1, 1983 and the special exception expired on January 16, 1983, however, the Petition for Special Hearing to extend the time for utilization was filed prior thereto and the hearing was conducted on December 14, 1982; and that to approve the request would be in strict harmony with the spirit and intent of the aforementioned regulations and would not adversely affect the health, safety, and general welfare of the community, and, therefore,

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of April, 1983, that the time for utilization of the special exception granted in Case No. 80-213-X be extended for an additional period of two years measured from January 16, 1983 and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject, however, to compliance with the site plan filed therein and the restrictions contained in said Order, dated September 9, 1980.

[Signature]
Zoning Commissioner of
Baltimore County



STEPHEN E. COLLINS
DIRECTOR

January 5, 1983

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

ZAC Meeting of November 9, 1982
Item Nos. 86, 87, 88, 89, 90, 91, 92, and 93.

Dear Mr. Hammond:

The Department of Traffic Engineering has no comments for item numbers 86, 87, 88, 89, 90, 91, 92, and 93.

[Signature]
Michael S. Flanigan
Traffic Engineering Assoc. II

MSF/cem



HARRY J. PISTEL, P.E.
DIRECTOR

December 29, 1982

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

Re: Item #89 (1982-1983)
Property Owner: Sebco Federal Credit Union
S/E cor. York and Greenridge Roads
Acres: 1.695 District: 9th

Dear Mr. Hammond:

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

General:

The comments which were supplied in connection with the Zoning Advisory Committee review of this property for Item 149 (1979-1980), Case #80-213X, are referred to for your consideration.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 89 (1982-1983).

Very truly yours,

[Signature]
ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:EM:FWT:SS

cc: Jack Wimbley

R-SW Key Sheet
44 NE 1 Pos. Sheet
NE 11 A Topo
61 Tax Map

Attachment

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

Re: Item #149 (1979-1980)
Property Owner: Sebco Federal Credit Union
S/E cor. York Rd. and Greenridge Rd.
Existing Zoning: R-10
Proposed Zoning: Special Exception to allow expansion of offices and office building as originally intended by Case No. 71-12-XA (Item No. 105, 106-1/107).
Acres: 1.695 District: 9th

Dear Mr. Hammond:

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

General:

The comments which were supplied in connection with the Zoning Advisory Committee review of this site for Item 149 (1979-1980) and Item 149 (1982-1983) are referred to for your consideration.

Highways:

York Road (Md. 45) is a state road; therefore, all improvements, intersections, entrances and drainage requirements as they affect the road use 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.

Greenridge Road, an existing public road is proposed to be further improved in the future as a 25-foot closed section roadway on a 40-foot right-of-way (see drawing 17-0494, File 3). Highway right-of-way widening, including a fill area for right distance at the York Road intersection and any necessary reversible easements easements will be required in connection with any grading or building permit application.

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

The construction or reconstruction of concrete sidewalks, curb and gutter, gutters, drains, etc. will be the full responsibility of the petitioner.

IN THE MATTER OF
THE APPLICATION OF
SEBCO FEDERAL CREDIT UNION
FOR SPECIAL HEARING FOR THE
EXTENSION OF TIME FOR THE
UTILIZATION OF A SPECIAL
EXCEPTION
SE CORNER YORK AND
GREENRIDGE ROADS
9th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
NO. 83-135-SPH

OPINION

This case comes before the Board on an appeal filed by the People's Counsel from an Order of the Zoning Commissioner of Baltimore County wherein the Zoning Commissioner had authorized an extension for the time of utilization of a special exception pursuant to the wording of the second sentence of Section 502.3 of the Baltimore County Zoning Regulations.

At the argument before the Board, the parties agreed that there was not a factual dispute; in other words, were it not for the legal impediment of People's Counsel would have no substantive objection to the extension contemplated by the Commissioner's Order. However, the Board has before it as Petitioner's Exhibit #4 the judicial opinions rendered by both the Circuit Court for Baltimore County and an unreported Opinion of the Court of Special Appeals of Maryland (the latter having been introduced by the parties with the acknowledgment that it ordinarily should not be cited as authority but provided for the Board because of the factual recitation contained therein) wherein the decisions have been to the effect that the second sentence of Section 502.3 is unconstitutional and, therefore, of no force and effect. As the Board understands said rulings, the effect is therefore that neither the Commissioner nor the Board has the present authority to grant an extension of the special exception Order under the provisions contained in that sentence of said Section 502.3.

A copy of both Opinions is attached hereto for the convenience of all parties.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 8th day of September, 1983, by the County Board of Appeals, ORDERED that the Order of the

SEBCO FEDERAL CREDIT UNION - #83-135-SPH

Zoning Commissioner, dated April 13, 1983, is hereby REVERSED, and the petition for a special hearing requesting an extension of time for the utilization of a special exception granted in case No. 80-213-X is hereby DENIED.

Any appeal from this decision must be in accordance with Rules 8-1 thru 8-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

[Signature]
William T. Hackett, Chairman

[Signature]
Patricia Phipps

[Signature]
Diana K. Vincent

RE: PETITION FOR SPECIAL HEARING
SE Corner of York & Greenridge Rds.,
9th District
SEBCO FEDERAL CREDIT UNION,
Petitioner

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 83-135-SPH (Item 89)
Petitioner

ORDER FOR APPEAL

Mr. Commissioner:

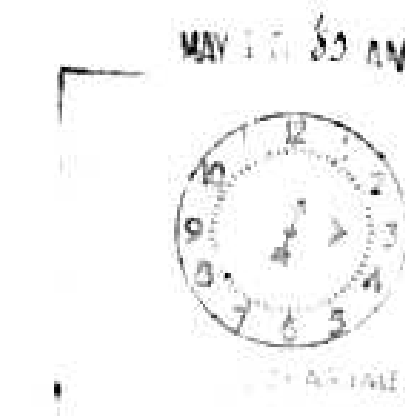
Please note on appeal from your decision in the above-entitled matter, under date of April 13, 1983, to County Board of Appeals and forward all papers in connection therewith to said Board for hearing.

[Signature]
Peter Max Zimmerman
Deputy People's Counsel

[Signature]
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 10th day of May, 1983, a copy of the foregoing Order was mailed to John O. Hennegan, Esquire, Germania Federal Building, 809 eastern Boulevard, Baltimore, Maryland 21221, Attorney for Petitioner.

[Signature]
Peter Max Zimmerman



RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
SE Corner of York and Greenridge
Rds., 9th District : OF BALTIMORE COUNTY
SEBCO FEDERAL CREDIT UNION, : Case No. 83-135-SPH
Petitioner

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 therewith, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 23rd day of November, 1982, a copy of the foregoing Order was mailed to John O. Hennegan, Esquire, 809 Eastern Boulevard, Essex, Maryland 21221, Attorney for Petitioner.

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

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
SE Corner of York and Greenridge Rds.,
9th District : OF BALTIMORE COUNTY
SEBCO FEDERAL CREDIT UNION, : Case No. 83-135-SPH (Item 89)
Petitioner

ORDER FOR APPEAL

Mr. Commissioner:
Please note an appeal from your decision in the above-entitled matter, under date of April 13, 1983, to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 10th day of May, 1983, a copy of the foregoing Order was mailed to John O. Hennegan, Esquire, Germania Federal Building, 909 Eastern Boulevard, Baltimore, Maryland 21221, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF : IN THE
THE APPLICATION OF :
SEBCO FEDERAL CREDIT UNION : CIRCUIT COURT
FOR SPECIAL HEARING FOR THE :
EXTENSION OF TIME FOR THE : FOR
UTILIZATION OF A SPECIAL :
EXCEPTION : BALTIMORE COUNTY
SE CORNER YORK AND :
GREENRIDGE RDS. : AT LAW
9th DISTRICT :
Misc. Doc. No. 15
SEBCO FEDERAL CREDIT UNION, :
PETITIONER-APPELLANT : Folia No. 362
Zoning File No. 83-135-SPH : File No. 83-M-327

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hockett, Patricia Phipps, and Diana K. Vincent, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER
OF BALTIMORE COUNTY

No. 83-135-SPH
November 9, 1981 Petition of Sebco Federal Credit Union for special hearing for an extension of time for the utilization of a special exception granted in Case No. 80-213-X
November 9, 1982 Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for December 14, 1982, at 10:15 a.m.
November 25, 1982 Certificate of Publication in newspaper - filed
November 28, " " Posting of property - filed
November 26, " Comments of Baltimore County Director of Planning - filed
December 9, " Comments of Baltimore County Zoning Plans Advisory Committee - filed
December 14, " At 10:15 A.M. hearing held on petition by Zoning Commissioner

Sebco Federal Credit Union
Case No. 83-135-SPH

April 13, 1983 Order of Zoning Commissioner granting the petition of special hearing subject to compliance with the site plan filed therein and the restrictions contained in said Order, dated Sept. 9, 1980
May 10, 1983 Order for Appeal to County Board of Appeals from Order of Zoning Commissioner
September 8, 1983 Hearing on appeal before County Board of Appeals
September 8, 1983 Order of County Board of Appeals ordering that the Order of the Zoning Commissioner dated April 13, 1983, be REVERSED, and the petition for a special hearing requesting an extension of time for the utilization of a special exception granted in case No. 80-213-X be DENIED

September 26, 1983 Order of Appeal filed in the Circuit Ct. for Baltimore County by John O. Hennegan, Esq., on behalf of Petitioner

September 26, 1983 Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County

September 27, 1983 Certificate of Notice sent to all interested parties

October 25, 1983 Transcript of testimony filed

Petitioner's Exhibit No. 1 - Special Exception granted by the Z. C. on Sept. 9, 1980; Order for Appeal 10/8/80; Motion for Dismissal 1/16/81; and Dismissal dated 1/20/81

" " 2 - Extension for Special Exception granted 4/13/83 by Zon. Commissioner; Order for Appeal by J. W. Hession, Esq., on 5/10/83

" " 3 - Elks case filed Oct. 2, 1980, Unreported

" " 4 - Memorandum Opinion by Judge John E. Raine, Jr., dated Nov. 15, 1978

October 25, 1983 Record of proceedings filed in the Circuit Court for Baltimore County

Record of proceedings pursuant to which said Order was entered

and said Board acted are permanent records of the Zoning Department of Baltimore County, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

Respectfully submitted,

June Holman
June Holman
County Board of Appeals of Baltimore County

CIRCUIT COURT FOR BALTIMORE COUNTY

CATEGORY APPEAL

ATTORNEYS

SEBCO FEDERAL CREDIT UNION
Re: Petition for Special Hearing
SE Corner of York and Greenridge Rds.
9th District

John O. Hennegan
Roadside, Centrus, Hennegan & Poon
809 Eastern Blvd. (21)
696-8274

COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

John W. Hession, III
Peter Max Zimmerman
Room 223, Court House
494-2188 (04)

COSTS

- (1) Sept. 26, 1983 - Plaintiff's Order for Appeal from the Order of the Board of Appeals of Baltimore County and Petition for Appeal fd.
(2) Sept. 26, 1983 - Plaintiff's Motion for Order of Appeal to be Specially Assigned and Request for Hearing fd.
(3) Sept. 27, 1983 Certificate of Notice fd.
(4) Sept. 28, 1983 - App. of John W. Hession, III, Peter Max Zimmerman as attorneys' for the Defendant and same day Answer to Petition on Appeal fd.
(5) Oct. 25, 1983 - Transcript of Record fd.
(6) Oct. 25, 1983 - Notice of filing of record fd.
(7) Nov. 22, 1983 - Defendant's Memorandum Pursuant to Maryland Rule B12 fd.
Nov. 22, 1983 - Order from Judge DeWaters that case is assigned to Judge Raine.
Mar. 20, 1984 - Hon. John E. Raine, Jr. Hearing had. Order to be filed.
(8) Mar. 28, 1984 - Order of Court that the Order and Opinion of the County Bd. of Appeals is reversed and that the Order of the Zoning Commissioner is Affirmed fd. (JER)

RTSC # 83237 #
R 5.00
L 60.00
CHECK TL 65.00
NOV 28 1983 10:12 AM
01/26/84

SEBCO FEDERAL CREDIT UNION : IN THE
Petitioner-Appellant : CIRCUIT COURT
VS. : FOR
BALTIMORE COUNTY
DOCKET NO.: 15
FOLIO NO.: 362
COUNTY BOARD OF APPEALS OF :
BALTIMORE COUNTY : CASE NO.: 83-M-327
Zoning File No.: 83-135SPH

ORDER

This cause having come on for a hearing this 20th day of March, 1984, before the Circuit Court for Baltimore County on an Appeal by Sebco Federal Credit Union, Petitioner-Appellant, from a decision by the County Board of Appeals of Baltimore County and all matters having been read and considered and having conducted oral argument in open Court, it is this 21st day of March, 1984, by the Circuit Court for Baltimore County:

ORDERED That the Order and Opinion of the County Board of Appeals of Baltimore County, dated the 8th day of September, 1983, is hereby reversed and that the Order of the Zoning Commissioner dated April 13, 1983, is hereby affirmed and the Petition for Special Hearing requesting an extension of time for the utilization of a special exception in Case No. 83-135SPH, is hereby granted for the reasons stated on the record on the 20th day of March, 1984, by this Court.

John E. Raine, Jr.
John E. Raine, Jr., JUDGE

IN THE MATTER OF : IN THE
THE APPLICATION OF :
SEBCO FEDERAL CREDIT UNION : CIRCUIT COURT
FOR SPECIAL HEARING FOR THE :
EXTENSION OF TIME FOR THE : FOR
UTILIZATION OF A SPECIAL :
EXCEPTION : BALTIMORE COUNTY
SE CORNER YORK AND :
GREENRIDGE RDS. : AT LAW
9th DISTRICT :
Misc. Doc. No. 15
SEBCO FEDERAL CREDIT UNION, :
PETITIONER-APPELLANT : Folia No. 362
Zoning File No. 83-135-SPH : File No. 83-M-327

CERTIFICATE OF NOTICE

Mr. Clerk:
Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hockett, Patricia Phipps, and Diana K. Vincent, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, J. Wesley Bone, Sebco Federal Credit Union, 1215 York Rd., Lutherville, Md. 21093, Petitioner; John O. Hennegan, Esq., 809 Eastern Blvd., Essex, Md. 21221, Counsel for Petitioner; and John W. Hession, Esq., Court House, Towson, Md. 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.

June Holman
June Holman
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
494-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to J. Wesley Bone, Sebco Federal Credit Union, 1215 York Road, Lutherville, Md. 21093, Petitioner; John O. Hennegan, Esq., 809 Eastern Blvd., Essex, Maryland 21221, Counsel for Petitioner; and John W. Hession, Esq., Court House,

Sebco Federal Credit Union
Case No. 83-135-SPH

Towson, Maryland 21204, People's Counsel for Baltimore County, on this 27th day of September, 1983.

June Holman
June Holman
County Board of Appeals of Baltimore County

RECEIVED
COUNTY BOARD OF APPEALS
MAR 30 1984 10:00 AM

DOCKET 15

PAGE 362

CASE NO. 83-M-327

DOCKET J. BOMANN
ATTORNEY AT LAW
ESSEX, MARYLAND

FILED MAR 28 1984

1364/83m307

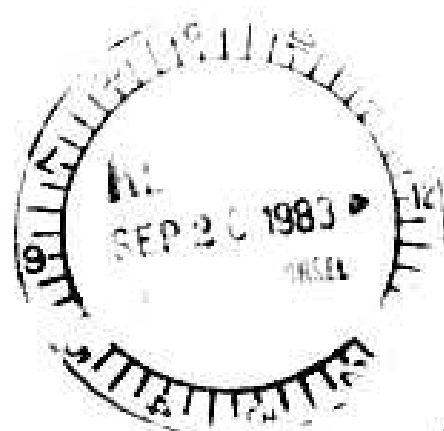
RE: Petition for Special Hearing*
SE Corner of York and Greenridge
Road
9th District
SEBCO Federal Credit Union,
Petitioner

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
MISC. LAW
MISC. DOCKET
CASE NO.: 83-135-SPH
ITEM NO.: 89

ORDER FOR APPEAL

Mr. Clerk:

Please note an appeal from the Order and Memorandum of Board of Appeals of Baltimore County in the above-captioned case.



John O. Hennegan
ROMADKA, CONTRUM, HENNEGAN & FOOS
809 Eastern Boulevard
Baltimore, Maryland 21221
Phone: 686-8274

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this ___ day of ___, 1983, a copy of the foregoing Order for Appeal was mailed to the County Board of Appeals of Baltimore County, Court House, Towson, Maryland 21204. Copies were also mailed to John Hessian and Peter Zimmerman, People's Counsel for Baltimore County, Court House, Towson, Maryland 21204.

John O. Hennegan

RE: Petition for Special Hearing*
SE Corner of York and Greenridge
Road
9th District
SEBCO Federal Credit Union,
Petitioner

IN THE
FOR
BALTIMORE COUNTY
MISC. LAW
MISC. DOCKET
CASE NO.: 83-135-SPH
ITEM NO.: 89

ORDER

The Motion for Order of Appeal to be Specially Assigned having been read and reviewed, it is this ___ day of ___, 1983, by the Circuit Court for Baltimore County

ORDERED

that the above-captioned case is to be specially assigned to Honorable John E. Raine, Jr., for a decision and Order.

JUDGE

RE: PETITION FOR SPECIAL HEARING*
SE Corner of York and Greenridge
Road
9th District
SEBCO Federal Credit Union,
Petitioner

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
MISC. LAW
MISC. DOCKET
CASE NO.: 83-135-SPH
ITEM NO.: 89

PETITION IN SUPPORT BY ORDER FOR APPEAL

NOW COMES SEBCO FEDERAL CREDIT UNION, aggrieved party, by John O. Hennegan, ROMADKA, CONTRUM, HENNEGAN & FOOS, its attorneys, and in accordance to Maryland Rules of Procedure 82, e, respectfully states:

1. That on 13th day of April, 1983, after Notice by publication and posting and a hearing which provided any protestants an opportunity to cross-examine Petitioner, an Order was issued granting Petitioner an extension of two years within which to utilize Special Exception, Exhibit A attached and incorporated herein by reference.

2. Said Order was appealed by People's Counsel for Baltimore County and a hearing was conducted before the County Board of Appeals for Baltimore County and at that time, the decision of the Zoning Commissioner was reversed based on the unconstitutionality of the provision of the Baltimore County Zoning Regulations Section 502.3.

3. That at the hearing before the Board of Appeals evidence established that there was notice by posting and publication and that a hearing open to public was conducted providing any protestants or any other parties with an opportunity to be heard, present witnesses in their own behalf and cross examine Petitioner's witnesses.

WHEREFORE, having shown just cause, your Movant prays that this case be specially assigned to Honorable John E. Raine, Jr.

John O. Hennegan
ROMADKA, CONTRUM, HENNEGAN & FOOS
809 Eastern Boulevard
Baltimore, Maryland 21221
Phone: 686-8274

The Movant requests a hearing on the above Motion.

John O. Hennegan

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ___ day of ___, 1983, a copy of the foregoing Motion for Order of Appeal to be Specially Assigned was mailed to the County Board of Appeals of Baltimore County, Court House, Towson, Maryland 21204. Copies were also mailed to John Hessian and Peter Zimmerman, People's Counsel for Baltimore County, Court House, Towson, Maryland 21204.

John O. Hennegan

4. That the Board, in reversing the decision of the Zoning Commissioner, erred in its ruling in failing to take into consideration that all the constitutional requirements of due process were complied with by the Petitioner as set out in Paragraph 3 above and that the Petitioner complied with the Order and Memorandum of the Honorable John E. Raine, Jr., dated November 15, 1978.

5. That the Board of Appeals otherwise committed errors of law in its decision.

6. That the decision of the Board of Appeals was not based on, nor is it supported by competent material, and substantial evidence in view of the entire record as submitted.

7. That the decision of the Board of Appeals unlawfully affects the property rights of the majority of the members of SEBCO Federal Credit Union.

8. That the decision of the Board of Appeals is arbitrary and capricious.

WHEREFORE, having shown just cause, the Appellant, SEBCO Federal Credit Union, prays that this Honorable Court hold a hearing to review and reverse the Opinion and Order of the Board of Appeals in this case and grant the Appellant an extension of an additional two years within which to utilize its Special Exception.

Respectfully submitted,

John O. Hennegan
ROMADKA, CONTRUM, HENNEGAN & FOOS
809 Eastern Boulevard
Baltimore, Maryland 21221
Phone: 686-8274

Attorneys for SEBCO Federal Credit Union

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this ___ day of ___, 1983, that a copy of the foregoing Petition in Support of Order for Appeal was mailed to the County Board of Appeals of Baltimore County, Court House, Towson, Maryland 21204. Copies were also mailed to John Hessian and Peter Zimmerman, People's Counsel for Baltimore County, Court House, Towson, Maryland 21204.

John O. Hennegan

RE: Petition for Special Hearing*
SE Corner of York and Greenridge
Road
9th District
SEBCO Federal Credit Union,
Petitioner

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
MISC. LAW
MISC. DOCKET
CASE NO.: 83-135-SPH
ITEM NO.: 89

**MOTION FOR ORDER OF APPEAL
TO BE SPECIALLY ASSIGNED**

NOW COMES SEBCO Federal Credit Union, by John O. Hennegan, ROMADKA, CONTRUM, HENNEGAN & FOOS, and request the above-captioned case to be specially assigned and respectfully states:

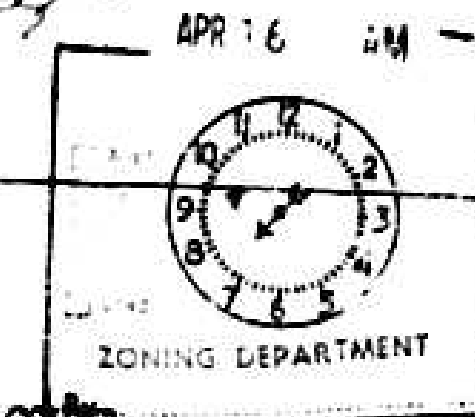
1. That this case involves an Order for Appeal from an Order and Memorandum of the Board of Appeals for Baltimore County in Case No.: 83-135-SPH (Item 89).

2. That said Board adopted and interpreted erroneously an Memorandum and Order of Honorable John E. Raine, Jr., dated November 15, 1978.

3. That in order to clear up the confusion emanating from the decision of Honorable John E. Raine, Jr. in Hessian vs. Dinenna Equity No.: 95842, it will be necessary for Judge Raine to hear all the facts of this case and interpret his Order in accordance with said facts.

4. Failure to assign said case to the Honorable John E. Raine, Jr. will perpetuate the continuing confusion existing as a result of his Order and will result in irreparable harm to this Movant and others and will result in a denial of justice.

9. Jallon
84-734
ZONING FILE NO. 83-135-SPH



1 RE: PETITION FOR SPECIAL HEARING, S.E. CORNER OF YORK ROAD AND GREENRIDGE ROAD, 9TH DISTRICT, SEBCO FEDERAL CREDIT UNION, Petitioner

IN THE
CIRCUIT COURT
FOR BALTIMORE COUNTY
At Law
Misc. 15/362/83M327
March 20, 1984

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

APPEARANCES:

JOHN O. HENNEGAN, Esquire
For the Petitioner

PHYLLIS FRIZDMAN, Esquire
For the Board of Appeals of Baltimore County

Reported by:
R. E. Royal, Jr.

TOWSON REPORTING COMPANY
606 W. Pennsylvania Avenue
Towson, Maryland 21204 (301) 628-4148

THE COURT: In Baltimore Lodge No. 7 of the Elks vs The People's Counsel, the Elks had gotten an extension of the time for complying with the special exception, and that was done by the Zoning Commissioner without any advertisement without any hearing, without any notice at all, and in that case there were people who were vitally interested and who did vigorously oppose the grant of that exception, or the extension thereof, under the regulation, and the matter came before me and I ruled that there had been a denial of constitutional rights, that you just could not, on an ex parte unilateral basis, grant an extension at that time without proper notice and hearing, and I did state that Section 502.3 and its last sentence was null and void and in violation of due process of law.

That case went to the Court of Special Appeals and the decision of this Court was affirmed because the Court of Special Appeals felt that the protestants were denied due process by failure to give notice of the extension of the special exception and have an opportunity to be heard and a right of appeal.

But that Court didn't go as far as the language

used by this Court had gone in the Elks case opinion, and this case, it seems to me, is decidedly different in that it is conceded that there was a proper and adequate notice given and people in the neighborhood had the right to appear before the zoning authorities and be heard, and I declined to rule that this regulation is unconstitutional, per se, even though the language used in the Elks would justify that conclusion. I believe that the Court overspoke itself in the Elks case and that if administrative practice had been such in those days that the people in the Elks case had been given notice, given a hearing, there would have been no problem whatever, and I think that the change in the administrative practice, in that nowadays notice is given and hearings have been held or been available to protestants is a sufficient distinction, and I don't think that this Court ought to go so far as it did in the Elks case with that sort of general language. In the Elks case, if I had merely done what the Court of Special Appeals had done and said these people are denied due process, they weren't given notice, they weren't given a hearing, there would have been no problem, but I just stuck my neck out, so to speak, and said, oh, this is unconstitutional.

Well, it certainly was unconstitutional as it was applied, but I think that the procedure followed in this case has corrected that constitutional deficiency.

Now, this isn't a question of my substituting my judgement for the administrative agency on a question of fact. If they had turned this special exception down and satisfied you through SEBCO I would have had no problem with it, but it's obvious that they reversed the Zoning Commissioner just because they thought that they were bound by what looked like my ruling, but I think to an extent -- first of all, my ruling can always be changed. Consistency is the hobgoblin of little minds, but also if you analyze the opinion by the Court of Special Appeals, they never said this was unconstitutional, they said "we're going to affirm because these people were denied due process."

Now, you will always be available, will you not, to ascertain that if there is a grant of an extension for a special exception that the due process will be afforded?

MRS. FRIEDMAN: Absolutely.

THE COURT: If it's not, you're still in, but you will concede they had due process in the case as far

as notice?

MRS. FRIEDMAN: We'll concede.

THE COURT: I'll pass an order reversing the decision of the Board of Zoning Appeals for this limited basis. Thank you very much.

MR. HENNAGAN: I assume that would be affirming the Zoning Commissioner's order?

THE COURT: Well, the order will reverse the Board of Zoning Appeals and affirming the decision of the Zoning Commissioner for the reason stated in court.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 9th Date of Posting: 5/12/83
Posted for: Board of Appeals
Petitioner: John O. Hennegan, Esquire
Location of property: SE corner of York and Greenridge Roads
Location of Sign: SE corner of York and Greenridge Roads
Remarks: Appeal on Case 83-135-SPH
Posted by: John O. Hennegan, Esquire Date of return: 5/19/83
Number of Signs: 2

ZONING DESCRIPTION

SEBCO Federal Credit Union
Zoning Description

ALL THAT piece or parcel of land situate lying and being in the Ninth Election District of Baltimore County, State of Maryland and described more particularly as follows to wit:

BEGINNING for the same at a point on the easterly side of York Road, Maryland State Route 43 and in the bed of Greenridge Road, running thence and winding in the bed of said Greenridge Road North 63 degrees 17 minutes 00 seconds East 283.17 feet, thence leaving said Greenridge Road and binding on the outlines of the property of the petitioners herein the two following courses and distances South 21 degrees 43 minutes 00 seconds East 770.00 feet and South 69 degrees 17 minutes 00 seconds West 770.51 feet to the easterly side of the aforementioned York Road, thence running and binding on the easterly side of York Road by a line curving toward the right having a radius of 2795.79 feet for a distance of 271.14 feet the chord of said arc bearing North 26 degrees 43 minutes 36 seconds West 271.05 feet to the place of beginning.

CONTAINING 1.691 acres of land more or less.

THE COURSES in the above description are referred to the Baltimore County Metropolitan District Grid Meridian.

PETITION FOR SPECIAL HEARING

9th Election District

ZONING: Petition for Special Hearing
LOCATION: Southeast corner of York and Greenridge Roads
DATE & TIME: Tuesday, December 14, 1982 at 10:15 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 Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an extension of time for the utilization of a Special Exception granted in Case No. 80-213-X

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

Being the property of Sebeco Federal Credit Union, as shown on plat plan filed with the Zoning Department.

Hearing Date: Tuesday, December 14, 1982 at 10:15 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



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

May 11, 1983

John O. Hennegan, Esquire
809 Eastern Boulevard
Essex, Maryland 21221

Re: Petition for Special Hearing
SE/corner of York and Greenridge Roads
Sebeco Federal Credit Union - Petitioner
Case No. 83-135-SPH

Dear Mr. Hennegan:

Please be advised that an appeal has been filed by John W. Hennegan, III, Esquire, Petitioner's Counsel, from the decision rendered by the Zoning Commissioner of Baltimore County, in the above-referenced matter.

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

Very truly yours,

William E. Hammond
William E. Hammond
Zoning Commissioner

WEH:hj

9th District
SE/corner York and Greenridge Rd.
Sebeco Fed. Credit Union
TOWSON

APR 12 1983

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

DATE: 5/16/83 ACCOUNT: R-0-618-000 AMOUNT: \$80.00

RECEIVED: People's Counsel
Appeal on Case 83-135-SPH
FOR: (Sebeco Federal Credit Union)

117610

VALIDATION OR SIGNATURE OF CASHIER

An analog clock face with numbers 1 through 12. The hour hand is between 1 and 2, and the minute hand is at 10. Above the clock, the text "NOV 15 '82 AM" is written. Below the clock, the text "8v" is written.

September 27, 1983

BILLED TO: John O. Hennegan, Esq.
809 Eastern Blvd.
Essex, Md. 21221

Cost of certified documents filed
in Case No. 83-135-SPH \$28.00

Sebco Federal Credit Union
SE/corner York and Greenridge Rds.
9th District

MAKE CHECKS PAYABLE TO: Baltimore County, Md.

REMIT TO: County Board of Appeals
Rm. 200, Court House,
Towson, Md. 21204

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

No. 85134

DATE 10/11/83 ACCOUNT 01-712

AMOUNT \$28.00

RECEIVED FROM Romadka, Contrum, Hennegan & Foos

FOR: Certified copies of documents in file
#83-135-SPH - Sebco Federal Credit Union

8540*****282018 2118F

VALIDATION OR SIGNATURE OF CASHIER

COUNTY BOARD OF APPEALS
Room 200, Court House
Towson, Maryland 21204

Reference: Case No. 83-135-SPH
Sebco Federal Credit Union

Dear Sir:

Enclosed you will find you invoice in the amount
of \$28.00 along with a check in same amount. If you
have any questions, please do not hesitate to contact
me.

Very truly yours,

John O. Hennegan
John O. Hennegan

JOH/dlw

Enclosure

cc: Sebco Federal Credit Union

*Rec'd 10/11/83
10:30 am*

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
September 27, 1983

John W. Hession, Esq.
People's Counsel
Court House
Towson, Md. 21204

Re: Case No. 83-135-SPH
Sebco Federal Credit Union

Dear Mr. Hession:

Notice is hereby given, in accordance with the Rules
of Procedure of the Court of Appeals of Maryland, that an appeal has
been taken to the Circuit Court for Baltimore County from the decision
of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.
cc: J. E. Dyer
A. Jablon
J. Jung
N. Gerber
J. Hoswell

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
September 27, 1983

John O. Hennegan, Esq.
809 Eastern Blvd.
Essex, Md. 21221

Re: Case No. 83-135-SPH
Sebco Federal Credit Union

Dear Mr. Hennegan:

In accordance with Rule 8-7 (a) of the Rules of Procedure of
the Court of Appeals of Maryland, the County Board of Appeals is required
to submit the record of proceedings of the zoning appeal which you have
taken to the Circuit Court for Baltimore County in the above matter within
thirty days.

The cost of the transcript of the record must be paid by you.
Certified copies of any other documents necessary for the completion of
the record must also be at your expense.

The cost of the transcript, plus any other documents, must be
paid in time to transmit the same to the Circuit Court not later than thirty
days from the date of any petition you might file in court, in accordance
with Rule 8-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice
covering the cost of certified copies of necessary documents.

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.
cc: J. Wesley Bone,
Sebco Federal Credit Union

BALTIMORE COUNTY, MARYLAND

TO: William E. Hammond, Esquire
Zoning Commissioner

INTER-OFFICE CORRESPONDENCE

Date: October 15, 1980

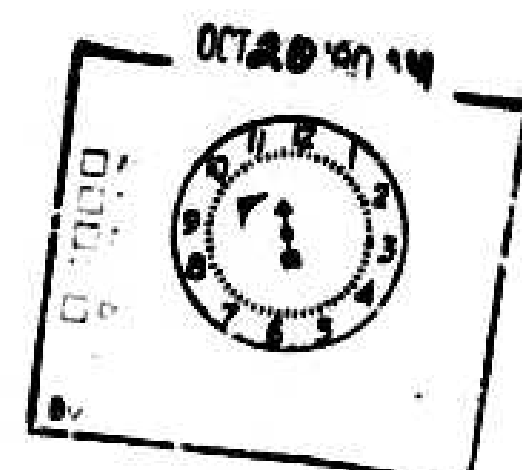
FROM: Office of Law

SUBJECT: Elks Lodge vs. People's Counsel
for Baltimore County

Enclosed please find a copy of the decision of the Court of Special
Appeals in connection with the above.

W. Spencer, Jr.
William F. Spencer, Jr.
Assistant County Solicitor

MFS:jx/sc
Enc.



UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1625

September Term, 1979

BALTIMORE LODGE NO. 7 OF THE
BENEVOLENT AND PROTECTIVE ORDER
OF ELKS, et al

v.

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

Thompson,
Figinski, M. Albert
(Specially Assigned)
Klavan, Stanley
(Specially Assigned)
JJ.

Per Curiam

Filed: October 2, 1980

The appellant, Baltimore Lodge No. 7 of the Benevolent
and Protective Order of Elks (hereinafter designated Elks)
sold certain of its real property in Baltimore City in 1967
and in 1969 purchased certain unimproved property in
Baltimore County adjacent to the Diamond Ridge Area Park
and Golf Course, for the purpose of erecting a new lodge
facility. When the appellant applied for a building permit
it was informed that the County desired to acquire the
property for enlargement of Diamond Ridge and appellant then
entered into a contract for the 17 acre tract involved in
this suit. The contract was contingent on appellant's
ability to obtain a special exception under the Baltimore
County Zoning regulation which would authorize the con-
struction of a facility to function both as a lodge hall
and a community building available for rental to other
groups and individuals. Application for the Special
Exception was heard and granted for a period of two years
by the Zoning Commissioner of Baltimore County on June 25,
1975, subject to certain restrictions which are not per-
tinent to the issues involved in this case.

Appellee appealed the Commissioner's Order granting
the Special Exception to the County Board of Appeals. Said
Board, by Order dated April 28, 1976, affirmed the grant of
the Special Exception, but made it subject to certain addi-
tional restrictions which are not pertinent to the issue

here involved. The Board's Order was not appealed and the
appellant settled on the property.

Section 502.3 of the Baltimore County Zoning Regu-
lations, provides as follows:

"A Special Exception which has not
been utilized within a period of two years
from the date of the final order granting
same, or such longer period not exceeding
five years, as may have been specified
therein, shall thereafter be void. The
Zoning Commissioner or, on appeal, the
County Board of Appeals, in connection
with the grant of any Special Exception,
shall fix within the foregoing limits,
the period of time for its utilization.
Any party to the proceedings may, by so
specifying, appeal from either the order
of the Zoning Commissioner or of the County
Board of Appeals as the case may be,
solely as to the reasonableness of the
period of time determined in conjunction
with any appeal from the grant or refusal
of the application for a Special Exception.
After a final order granting a Special
Exception the Zoning Commissioner, at any
time prior to expiration of the period of
time authorized for its utilization, may
grant one or more extension of such period,
provided that a maximum time for utilization
of the Special Exception is not thereby
extended for a period of more than five
years from the date of the final order
granting same. [B.C.Z.R., 1955; Bills
No. 42, 1962; N9. 65, 1967.]"

On April 25, 1978 appellant's counsel submitted a
request by letter to the Zoning Commissioner for a three
year extension of the Special Exception. No copies of the
letter were circulated to appellee or to individual prot-
estants of record in the case.

Appellant engaged engineers and other professional assistance to design its proposed facility. Appellee, responding to an inquiry from one of the protestants of record in the case, found the request for the extension for the Special Exception and the resultant Order in the file of the Zoning Commissioner and filed a Bill of Complaint for Declaratory and Injunctive relief.

After the suit was docketed and served on the defendants and after the defendants, Elks and Zoning Commissioner had filed pleadings, the Elks sought and obtained a building permit from Baltimore County, and proceeded with and partially completed construction. The Elks incurred obligations for the partially completed improvements in the amount of \$21,471.00 as against a total cost for the improvements of \$111,200.00. The contract for the improvements had been entered into on January 19, 1978, prior to the docketing of the suit, but no work began prior thereto. Appellee filed a Motion for Interlocutory Injunction to enjoin the construction work, but appellant voluntarily halted said work and has not further undertaken construction.

The matter was heard by Judge John E. Raine, Jr. who granted the Motion for Summary Judgment filed by appellee.

Judge Raine held that the concluding sentence of Section 502.3 of the Baltimore County Zoning Regulations was null and void, in violation of due process of law, for

lack of provision of notice, hearing and cross-examination in connection with a quasi-judicial act. He further held that the Special Exception granted on April 28, 1976, by the Board of Appeals of Baltimore County was null and void, the right to its utilization having expired pursuant to Section 502.3 of the Baltimore County Zoning Regulations on April 28, 1978.

Both appellants, Elks and the Zoning Commissioner of Baltimore County contend that the Special Exception could be extended without notice and hearing and argue that the necessity for affording due process, in terms of notice and hearing, is determined by the character of the proceedings; the nature of the right or interest of the person seeking relief; and the nature of the power exercised. They go on to state that as general rule, notice and hearing are not essential where the administrative official acts in an executive, administrative or legislative capacity as opposed to a judicial or quasi-judicial capacity.

The question of determining the difference between legislative and judicial function has been examined by the Court of Appeals in Hyson v. Montgomery County Council, 242 Md. 55, 217 A2d 578 (1966); Union Investors, Inc. v. Montgomery County, 244 Md. 585, 227 A2d 453 (1966); Montgomery County v. Woodward & Lothrop, 280 Md. 686, 376 A2d 483 (1977).

Both the Zoning Commissioner of Baltimore County and the County Board of Appeals have detailed Rules of Practice

enjoined from making any use of the land contrary to the applicable use restrictions in a residential zone.

The Court will assume, without deciding, that People's Counsel has standing to bring this action. The question is not raised in the pleadings and it would be futile and impractical for the Court to base a decision on the question of standing for, inevitably, concerned protestants would immediately file a new proceeding. There is no allegation that the facts as determined by the County Board of Appeals in 1976 have changed, so it would be expected that upon reapplication, the Elks could obtain a new special exception. Nevertheless, the Court is constrained to grant the relief prayed. The Courts have long held that due process requirements such as notice, hearing, and cross examination, are applicable to quasi-judicial proceedings by an administrative agency. Union v. Montgomery County, 244 Md., 585. The Court concludes that the last sentence of Regulation 502.3, is unconstitutional and void, in that it purports to give to the Zoning Commissioner the power to take actions affecting property rights of others without any notice or hearing and without any enunciated criteria for the exercise of the power. It should be noted that the regulation gives a party the right to appeal solely on the issue of the reasonableness of the time period specified during which the special exception is viable. To contend that the Zoning Commissioner could negate the action of the County Board of Appeals or any Court acting in an appellate capacity is completely untenable. The severability provisions of the Zoning Regulations permit the Court to strike down the last sentence of Regulation 502.3 without affecting the preceding provisions.

The Elks contend that there has been a failure to exhaust administrative remedies. The answer to this contention is that no administrative remedy is available to attack an Order passed by the Zoning Commissioner back on May 23, 1977. It is argued that the Complainant had constructive notice of the zoning records and regulations. Certainly, the Complainant is charged with knowledge

and Procedure. The Board of Appeals maintains dockets, has reporters, operates under rules, makes findings of fact and decisions on the record in adversary proceedings. To argue that the granting of a Special Exception is a judicial function, but the extension is a legislative function is not, in our opinion, either persuasive or logical. This is particularly true where both the granting of the special exception and its duration are both appealable issues.

The cases and the record herein all support the Chancellor's conclusion that the appellee was denied due process by failure to be given notice of the extension of the special exception with an opportunity to be heard and a right of appeal.

The Elks argue that the Chancellor failed to recognize its vested rights and the equities of the case. The simple answers to these arguments are that appellant had no vested right and the equities of the case are with the appellee.

Appellants concede that more than just obtaining a building permit is needed in order to claim a vested right. Colwell v. Howard County, 31 Md. App. 8, 354 A2d 210 (1975); Rockville Fuel v. Gaithersburg, 266 Md. 117, 291 A2d 672 (1972).

Appellant, Elks, in speaking of vested rights and equities does so with full knowledge that it failed to secure a building permit until after the original period for the Special Exception had expired and after the suit

of the expiration of the period for the Special Exception. Appellant had no actual notice that the power purportedly given to the Zoning Commissioner had been exercised and to charge all interested parties with constructive notice of all ex parte acts by the Zoning Commission would be carrying the idea of constructive notice beyond acceptable limits. As counsel for the Elks points out, administrative practice of long standing can be utilized in construing a statute or regulation. Assuming, for the sake of argument, that there had been a long standing practice by the Zoning Commissioner of granting special exception extensions without notice or hearing, the argument is of no help to the Elks, for this is not simply a matter of construing an ambiguous statute or regulation. An administrative practice cannot breathe life into a regulation that is constitutionally infirm.

As indicated in the oral argument, the equities of the case favor the Elks as against property owners who did not appeal a finding that they would not be adversely affected by the special exception but this Court must adhere to applicable principles of constitutional law.

People's Counsel is directed to present to this Court for signature, a Decree in accordance with the foregoing.

John E. Raine, Jr.
JOHN E. RAINE, JR.
CHIEF JUDGE

November 15, 1978

against it was docketed and it had notice of same. The expenditure of \$21,471, under these circumstances, does not help appellant as it embarked on construction on a calculated risk. City of Hagerstown v. Long Meadow Shopping Center, 264 Md. 481, 287 A2d 242 (1972).

We affirm the decision of the Chancellor.

JUDGMENT AFFIRMED.
COSTS TO BE PAID BY APPELLANTS.

ROBERT J. ROMADKA
ATTORNEY AT LAW
809 EASTERN HIGHLAND
BETHESDA, MARYLAND 20814
ESSEX, MARYLAND 21221

June 27, 1983

Mr. William T. Hackett
BALTIMORE COUNTY BOARD OF APPEALS
Courthouse
Towson, Maryland 21204

Reference: Petition for Special Exception
SE Corner of York and Greenbridge
Sebo Federal Credit Union
Case Number 83-135-SPH

Dear Mr. Hackett:

It is my understanding that Mr. Hessian has been in touch with you concerning setting the above referenced case in for a hearing as soon as possible. As I am sure you are aware, this matter will be presented on an agreed statement of facts so that an appeal may be filed. This matter will then be presented to Judge Raine for a decision in accordance with a previous ruling of his. Therefore, I estimate that this matter will not take more than 15 minutes of your time and would not require any live testimony.

Since my client is anxious to have this matter resolved, I would appreciate your attention and consideration to my request.

Very truly yours,

John O. Hennegan
John O. Hennegan

JOH/dlw

cc: Mr. George Hanson

*Rec'd 6:30 PM
10-45 AM*

7/28/83 - Notified of appeal hearing scheduled for THURSDAY, SEPTEMBER 8, 1983 at 9:30 a.m.

John O. Hennegan, Esq.
John W. Hession, III, Esq.
J. Wesley Bone

494-3180

County Board of Appeals

Room 200, Court House
Towson, Maryland 21204

(Hearing Room #218)

July 28, 1983

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 83-135-SPH

SEBCO FEDERAL CREDIT UNION

SPH - For extension of time for utilization of SE

SE corner York and Greenridge Roads

9th District

4/13/83 - ZC GRANTED PETITION

ASSIGNED FOR:

THURSDAY, SEPTEMBER 8, 1983 at 9:30 a.m.

cc: John O. Hennegan, Esq. ✓

Counsel for Petitioner

J. Wesley Bone

Petitioner

John W. Hession, III, Esq. ✓

People's Counsel

Mr. J. E. Dyer

Mr. W. E. Hammond

Mr. N. E. Gerber

Mr. J. G. Hoswell

Edith T. Eisenhart, Adm. Secretary



County Board of Appeals of Baltimore County

Room 200 Court House

Towson, Maryland 21204

(301) 494-3180

September 8, 1983

John W. Hession, III, Esquire
People's Counsel of Baltimore County
Courthouse
Towson, Md. 21204

Re: Case No. 83-135-SPH
Sebco Federal
Credit Union

Dear Mr. Hession:

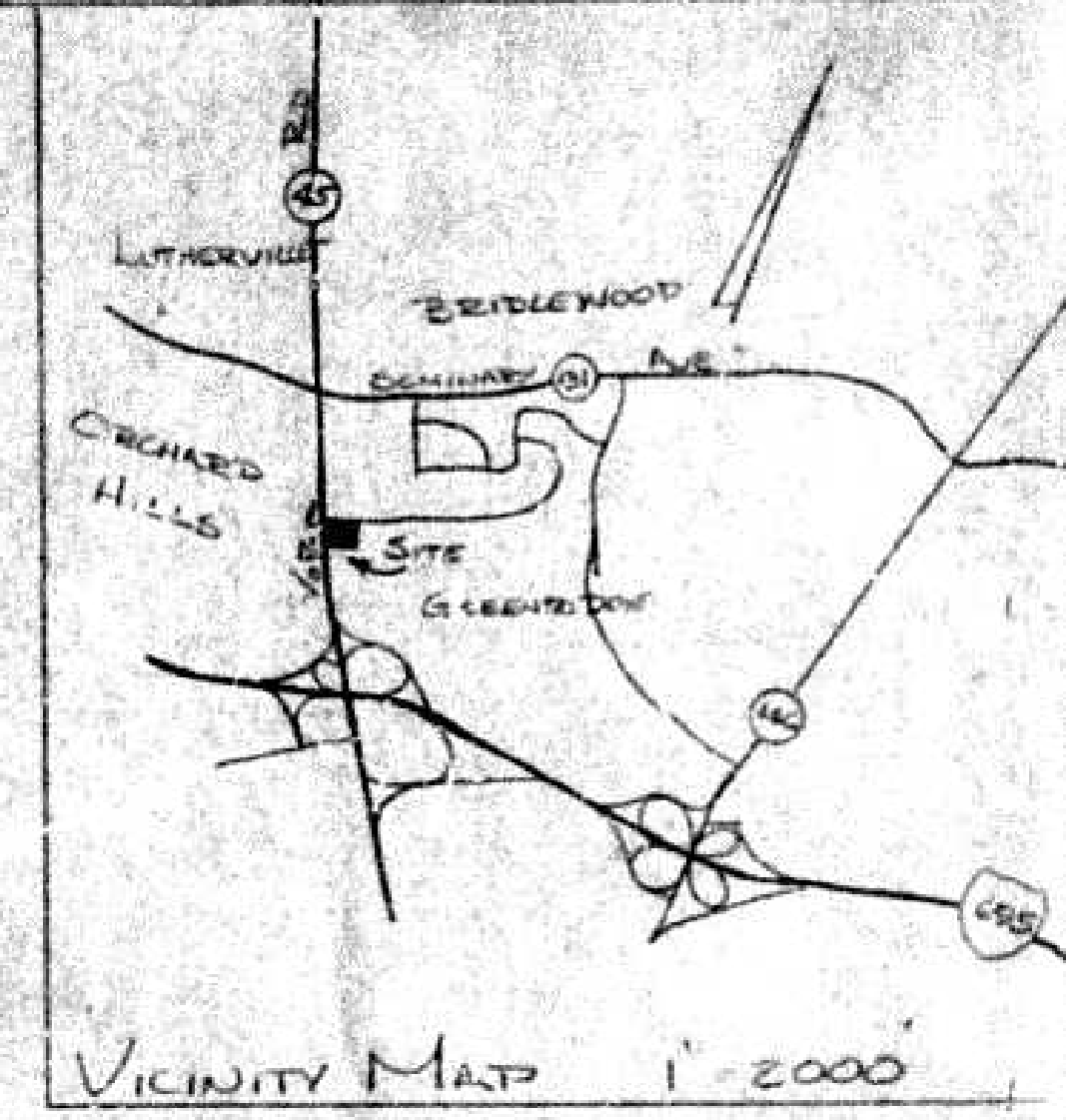
Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

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

Encl.

cc: John O. Hennegan, Esquire
J. E. Dyer
A. E. Joblon
N. E. Gerber
J. G. Hoswell
J. Wesley Bone



GENERAL NOTES

PROPOSED ADDITION SITE PLAN
SEBCO FEDERAL CREDIT UNION

9TH ELECTION DISTRICT BALTIMORE CO.
SCALE 1" = 200'

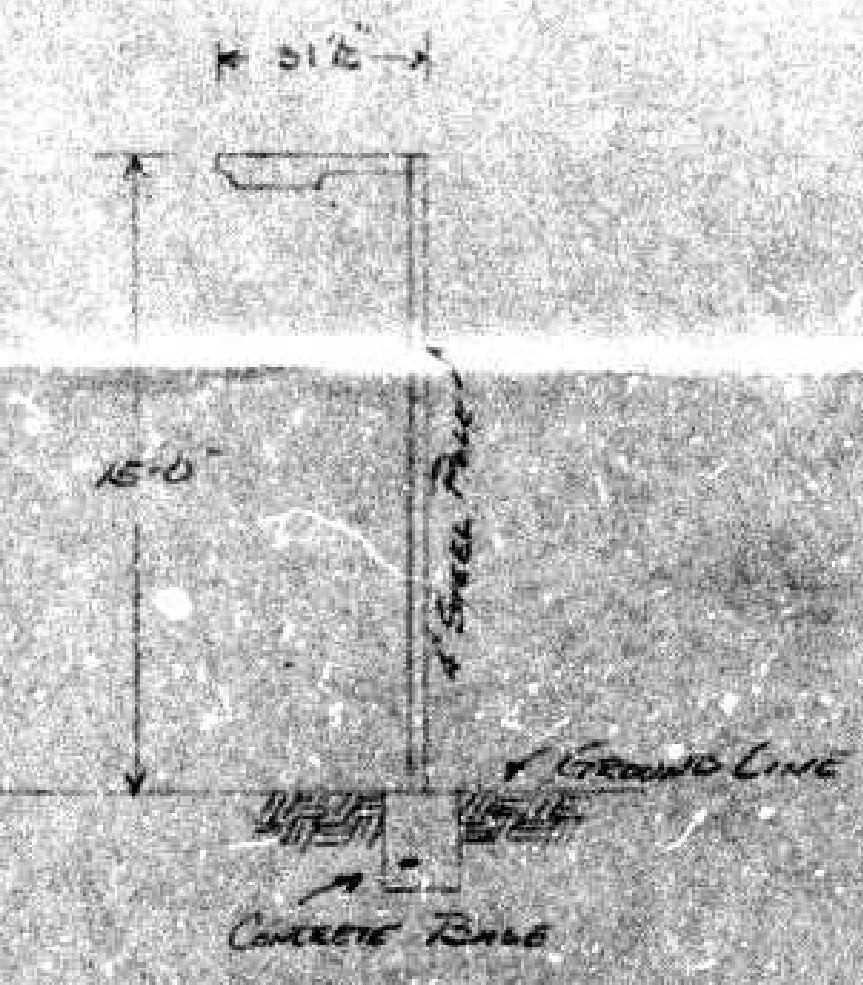
NOTES:

EXISTING ZONING DR 16
PROPOSED ZONING No CHANGE

- PARKING SPACES**
 EXISTING BLDG.
 1ST FLOOR 4,000 - 500 = 10 SPACES REQ.
 2ND FLOOR 4,000 - 500 = 8 SPACES REQ.
 PROPOSED ADDITION
 1ST FLOOR 6,000 - 300 = 20 SPACES REQ.
 2ND & 3RD FLOOR 12,000 - 500 = 14 SPACES REQ.
 TOTAL 52 SPACES REQ.
 PARKING PROVIDED
 EXISTING 56 SPACES
 PROPOSED 21 SPACES
 TOTAL PROVIDED 77 SPACES
 (EXCESS PROVIDED FOR ALTERNATES)
- PROVIDE EVERGREEN SCREENING** ALONG PERIMETER AS SHOWN. SCREENING MINIMUM 6' HIGH.
- PROVIDE LIGHTING FOR PARKING** AS SHOWN. LIGHTING Poles 15' HIGH, LIGHTING TO BE LOW PRESSURE (LED) LIGHTS.
 RECOMMENDED STYLE: PL 101, 255 50K MANUFACTURED BY TETRA LUMEN CORPORATION, NORCROSS, GEORGIA OR SIMILAR.

■ DENOTES EXISTING LIGHT STANDARDS
 □ DENOTES PROPOSED LIGHT STANDARDS

TYPICAL LIGHT MOUNTING & SCALE



PETITIONER'S EXHIBIT 2

APR 17, 1980 16 PDC Bldg.
 FEB 18, 1980 16 PDC SEBCO
 AUGUST 1, 1979 16 PDC Bldg. Co.

CHESAPEAKE CONSULTANTS INC.
 ENGINEERS & LAND SURVEYORS
 REAL ESTATE DEVELOPMENT CONSULTANTS
 2330 YOUNG ROAD
 JAYCOCK, MARYLAND



FILE NO. 98-004

MICROFILMED

