[redacted]

MAP 3C
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1000 ✓
DP

83-276-SPH #175

Continued Hearing 7-6-83 9:30 A.M.

83-276-SPH #175

Paul Farace, et al 83-276-SPH
S/S Hart Rd., 225' SE of c/l of Denby Road 9th

PETITION FOR SPECIAL HEARING 83-276-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 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

a non-conforming riding stable

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 are 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

Attorney for Petitioner:
Millard D. Bloom
(Type or Print Name)
Signature
208 W. Pennsylvania Avenue
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 828-0010

Legal Owner(s):
Paul Farace
(Type or Print Name)
Paul Farace
Signature
Robin A. Mofe
(Type or Print Name)
Robin A. Mofe
Signature
1102 Hart Rd. 821-5383
Address Phone No.
Towson Md.
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
~~Robin Mofe~~
Name
~~1102 Hart Rd 821-5383~~
Address Phone No.
S. Eric D. Nenna 825-1630
406 W Pennsylvania Ave 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 19th day of April, 1983, 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 9th day of June, 1983, at 1:30 o'clock P.M.

Thurs June 9, 1983 1:30 P.M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1 (over)

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

ARNOLD JABLON
ZONING COMMISSIONER

March 5, 1984

S. Eric DiNenna, Esquire
208 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing
S/S Hart Rd., 225' SE of the center line of Denby Rd. - 9th Election District
Paul Farace, et al - Petitioners
NO. 83-276-SPH (Item No. 175)

Dear Mr. DiNenna:

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

Very truly yours,

JEAN M.H. JUNG
Deputy Zoning Commissioner

JMHJ/mc

Attachments

cc: George S. Barhight, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

Mr. Donald Busick
2400 Hartfell Road
Timonium, Maryland 21093

People's Counsel

RE: PETITION FOR SPECIAL HEARING
S/S of Hart Rd., 225' SE of the center line of Denby Rd. - 9th Election District
Paul Farace, et al - Petitioners
NO. 83-276-SPH (Item No. 175)

BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

::: ::: ::: ::: ::: ::: :::

The herein petitioners seek to establish the existence of a nonconforming riding stable on the subject property.

Testimony presented on behalf of the petitioners included a deposition from Mrs. Lucille Bridenstein indicating that in 1917 she moved to the Bridenstein farm, a 185 acre farm, which contained the 5.47 acres of the subject site. Horses were boarded and/or a riding school has been in existence on the farm continuously from the 1930's until the present. The subject property was a part of the Bridenstein family farm for over [illegible] years until it was sold to the present owners. Various members of the Bridenstein family held title to this and other tracts but the area remained known as the Bridenstein farm, and the riding stable was a part of that farm on a continuous basis.

Several witnesses, in support of the subject petition, testified to the existence of the boarding and/or keeping for hire of horses continuously from 1945. Bromley's 1915 Atlas and aerial photographs from 1953 and 1961 showed the existence of several barns/stables/farm buildings on various portions of the original farm.

A nearby property owner and protestant testified that from about 1956 to 1960 there were no horses on the farm and that there were no buildings on the 5.47 acre subject site until after a house was built in 1957.

Without reviewing the testimony and evidence further, in the opinion of the Deputy Zoning Commissioner, the very nature of riding stables and farming may require the owner/operator to rotate or move the specific uses from field to field in order to better preserve and/or utilize the land.

ORDER RECEIVED FOR FILING
DATE March 5, 1984
BY Mary Campagna (Clerk)

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 5th day of March, 1984, that a nonconforming use for a riding stable has existed and has been conducted on the property since the 1930's and, as such, should be and the same is hereby GRANTED the right to continue from and after the date of this Order, subject, however, to the following:

1. Abandonment or discontinuance for a period of one year or more shall terminate the nonconforming use herein granted.
2. The total number of horses shall not exceed 48.
3. There shall be no more than 3 benefit rides per year.
4. Outside lighting, other than security lights, shall be directed downward and shall be arranged as to reflect the light away from adjacent residential properties.
5. A farm conservation plan, prepared by the Baltimore County Soil Conservation District, shall be implemented according to the schedule established and maintained for the life of the riding stable use.
6. The driveway and parking area shall be of previous material as shown on Petitioner's Exhibit 6. The parking area shall be delineated by barriers such as railroad ties.
7. The area for storage of manure shall be indicated on the site plan.
8. Compliance with Health Department comments dated May 9, 1983.
9. Any horses from the stable shall not be ridden on private land belonging to other than the petitioner.
10. The buildings shall be limited to those shown on Petitioner's Exhibit 6 and the proposed 50' x 30' block garage intended for storage of tractor, wagon, truck and farm equipment to be used in running the stable. This proposed building shall be indicated on the site plan and, when built, will totally use up the 25% expansion area allowed under Section 104.1 of the Baltimore County Zoning Regulations.
11. A revised site plan shall be submitted and approved by the Office of Planning and Zoning.

Deputy Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
DATE March 5, 1984
BY Mary Campagna (Clerk)

(2)

PETITION FOR SPECIAL HEARING

9th Election District

ZONING: Petition for Special Hearing

LOCATION: South side of Hart Road, 225 ft. Southeast of the centerline of Denby Road

DATE & TIME: Thursday, June 9, 1983 at 1:30 P.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 a nonconforming riding stable

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

Being the property of Paul Farace, et al, as shown on plat plan filed with the Zoning Department.

Hearing Date: Thursday, June 9, 1983 at 1:30 P.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

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

CARL L. GERHOLD
PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
GORDON T. LANGDON

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG

March 3, 1983

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 as follows to wit:

Beginning for the same at a point on the south edge of the paving of Hart Road, distant 225 feet measured southeasterly along Hart Road from the center of Denby Road and running thence and binding in the bed of Hart Road, the seven following courses and distances viz: South 73 degrees 48 minutes East 120.85 feet, South 78 degrees 25 minutes East 89.20 feet, South 55 degrees 50 minutes East 90 feet, South 70 degrees 14 minutes East 140 feet, South 59 degrees 51 minutes East 121.15 feet, South 74 degrees 48 minutes East 186.30 feet and North 85 degrees 45 minutes East 7.25 feet, thence leaving said Hart Road and binding on the property line of the petitioners herein, the three following courses and distances viz: North 4 degrees 15 minutes West 565.39 feet, South 77 degrees 34 minutes 30 seconds West 584.70 feet and South 26 degrees 16 minutes West 200 feet to the place of beginning.

Containing 5.47 Acres of land more or less.

Being the property of the petitioners herein and shown on a plat filed with the Zoning Department.

STATE OF MARYLAND REGISTERED LAND SURVEYOR

RE: PETITION FOR SPECIAL HEARING
S/S of Hart Rd., 225' SE of the Centerline of Denby Rd., 9th Dist.
PAUL FARACE, et al., Petitioners

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Case No. 83-276-SPH

:::::::

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

Peter Max Zimmerman
Deputy People's Counsel

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

I HEREBY CERTIFY THAT ON THIS 17th day of May, 1983, a copy of the foregoing Order was mailed to Millard D. Bloom, Esquire, 208 W. Pennsylvania Ave., Towson, Maryland 21204, Attorney for Petitioners.

John W. Hessian, III

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:

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

WILLIAM E. HAMMOND
ZONING COMMISSIONER

June 2, 1983

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
S/S of Hart Rd., 225' SE of the
c/l of Denby Rd.
Paul Farace, et al - Petitioners
Case No. 83-276-SPH

Dear Mr. DiNenna:

This is to advise you that $60.95 is due for advertising and posting of the above property.

Please make the check payable to Baltimore County, Maryland, and remit to Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Very truly yours,

WILLIAM E. HAMMOND
Zoning Commissioner

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

No. 119407

DATE 7/6/83 ACCOUNT R-01-615-000

AMOUNT $60.95

RECEIVED FROM: S. Erick DiNenna, Esquire

FOR: Posting and Advertising for Case #83-276-SPH
Paul Farace, et al

(Cash) C 083******6095:b 6072A

VALIDATION OR SIGNATURE OF CASHIER

PETITION FOR SPECIAL HEARING
9th Election District

ZONING: Petition for Special Hearing
LOCATION: South side of Hart Road, 225 ft. Southeast of the centerline of Denby Road
DATE & TIME: Thursday, June 9, 1983 at 1:30 P.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 a nonconforming riding stable.

All that parcel of land in the Ninth District of Baltimore County
Beginning for the same at a point on the south edge of the paving of Hart Road, distant 225 feet measured [illegible] along Hart Road from the [illegible] and running [illegible] in the bed of Hart Road, the seven following courses and distances viz: [illegible] thence leaving said Hart Road and binding on the property line of the petitioners herein, the three following courses and distances viz: [illegible] to the place of beginning.

Containing [illegible] Acres of land more or less.

Being the property of Paul Farace, et al, as shown on plat plan filed with the Zoning Department.
Hearing Date: Thursday, June 9, 1983 at 1:30 P.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
May 19.

83-276-SPH

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 19, 1983

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., ~~once in each~~ of one time ~~successive weeks~~ before the 9th day of June, 1983, the first publication appearing on the 19th day of May, 1983.

THE JEFFERSONIAN,
D. Frank Struthers
Manager.

Cost of Advertisement, $ 26.25

PETITION FOR SPECIAL HEARING
[illegible] District
ZONING: Petition for Special Hearing
LOCATION: South side of Hart Road, 225 ft Southeast of the centerline of Denby Road
DATE & TIME: Thursday, June 9, 1983 at 1:30 P.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland
[illegible]
BY ORDER OF WILLIAM E. HAMMOND
ZONING COMMISSIONER OF
BALTIMORE COUNTY

CERTIFICATE OF PUBLICATION

TOWSON, MD. 5/23 1983

THIS IS TO CERTIFY, that the annexed advertisement was published in THE TOWSON TIMES, a weekly newspaper distributed in Towson, Baltimore County, Md., once a week for 1 successive weeks, the first publication appearing on the 18th day of May 1983

THE TOWSON TIMES

Cost of Advertisement, $ 29.70

83-276-SPH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9 Date of Posting 5/20/83
Posted for: Petition for Special Hearing
Petitioner: Paul Farace, et al
Location of property: S/S Hart Rd., 225' SE of the c/l of Denby Rd.
Location of Signs: entrance of property facing Hart Rd.
Remarks:
Posted by Liam L. Coleman (Signature) Date of return: 5/27/83
Number of Signs: 1

S. Eric DiNenna, Esquire
406 W. Pennsylvania Ave
Towson, Md. 21204

Gerhold, Cross & Etzel
412 Delaware Avenue
Towson, Md. 21204

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 19th day of April, 1983.

WILLIAM E. HAMMOND
Zoning Commissioner

Petitioner Robin Morfe, et al
Petitioner's Attorney S. Eric DiNenna, Esq.
Reviewed by: Nicholas B. Commodari
Chairman, Zoning Plans Advisory Committee

May 11, 1983

Millard D. Bloom, Esquire
208 West Pennsylvania Avenue
Towson, Maryland 21204

NOTICE OF HEARING
Re: Petition for Special Hearing
S/S of Hart Road, 225' SE of the
c/l of Denby Road
Paul Farace, et al - Petitioners
Case No. 83-272-SPH

TIME: 1:30 P.M.

DATE: Thursday, June 9, 1983

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

cc: S. Eric DiNenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

ZONING COMMISSIONER OF
BALTIMORE COUNTY

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

No. 115094

DATE 3/7/85 ACCOUNT R-01-615-000

AMOUNT 100.00

RECEIVED FROM Farace

FOR filing fee for Item #175

073******10000:b 8048A

VALIDATION OR SIGNATURE OF CASHIER

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

ARNOLD JABLON
ZONING COMMISSIONER

April 5, 1984

S. Eric DiNenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
S/S Hart Rd., 225' SE of the c/l of Denby Rd.
Paul Farace, et al - Petitioners
Case No. 83-276-SPH

Dear Mr. DiNenna:

Please be advised that an appeal has been filed by G. Scott Barhight, attorney for protestants, from the decision rendered by the Deputy Zoning Commissioner of Baltimore County, in the above referenced matter.

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

Very truly yours,

Arnold Jablon
Zoning Commissioner

AJ:aj

cc: Donald Busick
2400 Hartfell Road
Timonium, Maryland 21093

Phyllis Cole Friedman, Esquire
People's Counsel for Baltimore County

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

WILLIAM E. HAMMOND
ZONING COMMISSIONER

June 13, 1983

Millard D. Bloom, Esquire
208 West Pennsylvania Avenue
Towson, Maryland 21204

Re: Continued Hearing
Case No. 83-276-SPH
Paul Farace, et al - Petitioners

Dear Mr. Bloom:

This is to notify you that the continued hearing for the above captioned matter will be Wednesday, July 6, 1983 at 9:30 A.M. If there are any questions, please advise.

Very truly yours,

William E. Hammond
Zoning Commissioner

WEH:aj

cc: S. Eric DiNenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

G. Scott Barhight, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

Mr. Donald Busick
2400 Hartfell Road
Timonium, Maryland 21093

85-651
NBC-RS

S. Eric DiNenna, P.A.
Attorney at Law

406 W. Pennsylvania Avenue
Towson, Maryland 21204

301-823-1630
301-296-6820

March 29, 1985

The Honorable William E. Hammond
Office of the Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: 1102 Hart Road, et al
Paul Farace, Owner
Petition for Special Hearing
Item No. 175

Dear Commissioner Hammond:

In accordance with my coversation with Mr. Commadari of your office, please enter my appearance as counsel for the Petitioners and I request that you forward all correspondence to my attention.

Please set this matter in for hearing at your earliest convenience.

Very truly yours,

S. ERIC DiNENNA

SED:wjt

cc: Mr. and Mrs. Paul Farace

MAR 30 '85 AM

13823
Ag-file

S. Eric DiNenna, P.A.
Attorney at Law

406 W. Pennsylvania Avenue
Towson, Maryland 21204

301-823-1630
301-296-6820

April 19, 1983

The Honorable William E. Hammond
Office of the Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: 1102 Hart Road
Paul Farace, et al, Owner
Petition for Special Hearing
Item No. 175

Dear Mr. Commissioner:

I have entered my appearance in the above captioned matter and request that prior to setting the matter in for hearing your office contact me so as to avoid any potential conflicts with my position as Master in Chancery for the Circuit Court for Baltimore County.

Very truly yours,

S. ERIC DiNENNA

SED:wjt

cc: Mr. Nicholas Commadari

Mr. and Mrs. Paul Farace

APR 20 '83 AM
ZONING DEPARTMENT

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

Nicholas B. Cormodari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

May 27, 1983

S. Eric DiNenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 175 - Case No. 83-276-SPH
Petitioner - Robin Morfe, et al
Special Hearing Petition

Dear Mr. DiNenna:

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 clients' proposal to prove that the existing riding stable is a nonconforming use, this hearing is required.

For information on the comments from the Health Department, you should contact Mr. Rob Powell at 494-2762.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Nicholas B. Commodari bsc

NICHOLAS B. COMMODARI, Chairman
Zoning Plans Advisory Committee

NBC:bsc
Enclosures
cc: Gerhold, Cross & Etzel
412 Delaware Avenue
Towson, Md. 21204

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

May 2, 1983

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

Re: Item #175 (1982-1983)
Property Owner: Paul Faraca & Robin Morfe
S/S Hart Rd. 225' S/E from centerline of Denby Rd.
Acres: 5.47 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:

Hart Road, an existing public road, is proposed to be further improved in the future as a 30-foot closed section roadway on a 50-foot right-of-way.

This property is utilizing a private onsite sewage disposal facility. Public 8-inch sanitary sewerage exists offsite. Sanitary Manhole 45274 is located approximately 400 feet southerly of Hart Road and 100 feet easterly of Denby Road, see Drawing #73-0521, File 1.

Very truly yours,

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

RAM:EAM:FWR:ss

R-SE Key Sheet
44 NE 10 & 11 Pos. Sheets
NE 11 C Topo
61 Tax Map

May 9, 1983
Date

BALTIMORE COUNTY DEPARTMENT OF HEALTH

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

Zoning Item # 175, Zoning Advisory Committee Meeting of March 15, 1983
Property Owner: Paul Faraca & Robin Morfe
Location: S/S Hart Road District 9
Water Supply Public Sewage Disposal Private

COMMENTS ARE AS FOLLOWS:

( ) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.

( ) Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.

( ) A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.

( ) A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.

( ) Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.

( ) Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support Services.

( ) Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.

( ) If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

SS 20 1082 (1)

Zoning Item # 175
Page 2

( ) Any existing underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled.

( ) Soil percolation tests have been conducted.
( ) The results are valid until ______.
( ) Revised plans must be submitted prior to approval of the percolation tests.

( ) Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.

( ) In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
( ) shall be valid until ______.
( ) is not acceptable and must be retested. This must be accomplished prior to conveyance of property or approval of Building Permit Applications.

( ) All roads and parking areas should be surfaced with a dustless, bonding material.

( ) No health hazards are anticipated.

(X) Others 1) The existing septic system appears to be functioning properly. 2) There are two abandoned drilled wells onsite that should be properly abandoned and backfilled under the supervision of a Health Department representative.

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

SS 20 1080 (2)

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
CHIEF

April 11, 1983

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

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Paul Faraca and Robin Morfe

Location: S/S Hart Road 225' S/E from centerline of Denby Road

Item No.: 175 Zoning Agenda: Meeting of March 15, 1983

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.

( ) 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.

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

REVIEWER: Capt. Joseph Kelly 4-14-83
Planning Group
Special Inspection Division

Noted and Approved: George M. Weigandt
Fire Prevention Bureau

JK/mb/cm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Malcolm F. Spicer, Jr., County Attorney
Thomas Bollinger, Asst. County Attorney Date: March 6, 1984

FROM: Peter Max Zimmerman, Deputy People's Counsel

SUBJECT: Paul Farace, et al, Petitioners - Zoning Case No. 83-276-SPH (Item 175)

It appears that this case, being a special hearing upon nonconforming use, is within the jurisdiction of your office rather than ours. Please note that if an appeal is desired, the time limit for filing is Wednesday, April 4, 1984.

Peter Max Zimmerman
Deputy People's Counsel

Enclosure:
Order dtd. 3-5-84

PMZ:sh

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Malcolm F. Spicer, Jr., County Attorney
Thomas Bollinger, Asst. County Atty. Date: April 6, 1984

FROM: Peter Max Zimmerman, Deputy People's Counsel

SUBJECT: Paul Farace, et al., Petitioners - Zoning Case No. 83-276-SPH (Item 175)

The above-entitled decision by the Deputy Zoning Commissioner dated March 5, 1984, was previously referred to you on March 6, 1984 (see attached). We have just received the enclosed Order for Appeal and are sending it to you for your case file.

Peter Max Zimmerman
Deputy People's Counsel

Enclosures

PMZ:sh

cc: CBA

RECEIVED
COUNTY BOARD OF APPEALS
1984 APR -6 AM 11:07

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William E. Hammond, Zoning Commissioner — Date: May 17, 1983

FROM: Norman E. Gerber, Director, Office of Planning and Zoning

SUBJECT: Zoning Petition No. 83-276-SpH, Paul Farace, et al

In view of the type of issue being considered (i.e., non-conforming status), this office offers no comment.

Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:SIC

cc: Arlene January
Shirley Hess

Case No. 83-276-SPH
Item No. 175
Date: April 3, 1984

S/S Hart Rd., 225' SE of the c/l of Denby Road - 9th Election District
Paul Farace, et al - Petitioners

SH-Non-conforming riding stable

- ✓x 1. Copy of Petition
- ✓x 2. Copy of Description of Property
- ✓x 3. Copy of Certificate of Posting (1 sign)
- ✓x 4. Copy of Certificates of Publication
- ✓x 5. Copy of Zoning Advisory Committee Comments
- ✓x 6. Copy of Comments from the Director of Planning
- ___ 7. Planning Board Comments and Accompanying Map
- ✓x 8. Copy of Order to Enter Appearance
- ✓x 9. Copy of Order - ~~XXXXX~~/Deputy Zoning Commissioner - 3/5/84, GRANTED w/restrictions
- ✓x 10. Copy of Plat of Property
- ___ 11. 200' Scale Location Plan
- ___ 12. 1000' Scale Location Plan
- ___ 13. Memorandum in Support of Petition
- ___ 14. Letter(s) from Protestant(s)
- ___ 15. Letter(s) from Petitioner(s)
- ✓x 16. Protestants' Exhibits 1 to 3 x 2
- ✓x 17. Petitioners' Exhibits 1 to 13b
- ✓x 18. Letter of Appeal, 4/3/84 by Scott Barhight, Esq., on behalf of Protestants

S. Eric DiNenna, Esquire, 406 W. Pennsylvania Avenue, Towson, Maryland 21204 — Attorney for Petitioner

Paul Farace, et al, 1102 Hart Road, Towson, Maryland 21204 — Petitioners

~~Gregory Wilcox~~ M. Scott Barhight, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204 — Attorney for Protestants

Donald Busick, 2400 Hartwell Road, Timonium, Maryland 21093 — Protestant

~~Arlene Gee Fleming~~ — ~~People's Counsel~~ OUT

Norman E. Gerber — Request Notification
James Hoswell — " "
Jean M. H. Jung — " "
James E. Dyer — " "
A. Jablon
~~T. A. Bollinger, Esq.~~ P. Paul Corcoros
Law Office

*Michael E. Krompholz, 1315 Denby Rd. - (21204) — Protestant-Appellant

HLV

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent — Towson, Maryland – 21204

Date: March 15, 1983

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

Z.A.C. Meeting of: March 15, 1983

RE: Item No: 169, 170, 171, 172, 173, 174, 175, 176
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,
Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Nicholas Commodari, Planning and Zoning — Date: March 21, 1983

FROM: Building Plans Review

SUBJECT: Zoning Advisory Committee Meeting of March 15, 1983

Item #169	See Comments
Item #170	See Comments
Item #171	Standard Comments
Item #172	See Comments
Item #173	Standard Comments
Item #174	Standard Comments
Item #175	No Comments
Item #176	See Comments

Charles E. Burnham
Plans Review Chief

dgl

PAUL FARACE, ET AL — #83-276-SPH

S/s Hart Rd., 225' SE of c/l of Denby Rd. — 9th District

SH--Non-conforming riding stable.

Apr. 13, 1983	Petition filed
June 9	Hearing before D.Z.C.
March 5, 1984	Order of D.Z.C. GRANTING the special hearing subj. to restrictions
Apr. 3	Order for Appeal to C.B. of A. from Scott Barhight, Esq., on behalf of Protestants.
Oct. 16	Hearing on appeal before the Board
Dec. 5	Continued hearing
Dec. 26	" "
March 26, 1985	Order of the Board AFFIRMING D.Z.C.'s Order, and GRANTING the special hearing
Apr. 24	Order for Appeal filed in Cir. Ct. by Scott Barhight, Esq., on behalf of M. E. Krompholz, Protestant.
Apr. 24	Certificate of Notice sent out
June 5, 1985	Record of proceedings filed in the Circuit Court for Baltimore County
EJ Nov. 25	Board AFFIRMED by Judge Wm. R. Buchanan, Sr.*
EJ Dec. 18	Order for Appeal filed in the Court of Special Appeals by Appellant-Protestant
EJ July 2, 1986	Board AFFIRMED by Court of Special Appeals

*3/6/86 - see ltr cc to: Baldwin, Bettye, Boudwell, Law, Corcoran

7/3/86 - cc: A. Jablon, B. DuBois, J. Hoswell, Law, P. Corcoros

---

Bettye Du Bois

97.42

CASE NO. 83-276-SPH

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1575
September Term, 1985

JUL 7 '86

MICHAEL E. KROMPHOLZ

v.

PAUL FARACE, ET AL.

Adkins
Bloom
Karwacki,
JJ.

PER CURIAM

Filed: July 2, 1986

RECEIVED
COUNTY BOARD OF APPEALS
MAR 26 -3 A 9 33

A Baltimore County Deputy Zoning Commissioner granted the petition of appellees, Paul Farace and Robin Morfe, for a determination that the use of their 5.47 acre tract on Hart Road as a riding stable was a lawful, pre-existing nonconforming use. Appellant, Michael E. Krompholz, appealed the Deputy Commissioner's decision to the Board of Appeals, which, after a de novo hearing, affirmed the ruling. Undaunted, Mr. Krompholz appealed that decision to the Circuit Court for Baltimore County. The court affirmed the Board of Appeals. Undoubtedly discouraged but by no means willing to concede defeat, Mr. Krompholz has appealed to this court. He will have no greater success here than he has heretofore experienced.

When appellees acquired the subject property in 1980, it was being used to board, stable, and hire out riding horses. Appellees have continued the same use of the property. The evidence adduced before the Board of Appeals showed that appellees' property was once part of a much larger tract, containing approximately 184 acres, that was formerly known as the Bridenstein Farm. The Bridenstein family acquired that large tract of land in 1916 and began using it to board, stable, and hire out horses somewhere around 1930. Baltimore County first enacted a zoning ordinance in 1945, so it was incumbent upon appellees to show a continuous use of their land as a riding stable from before 1945. Mr. Krompholz contended below that the evidence actually showed that the part of the Bridenstein Farm

acquired by appellees was never used to stable horses and that, even if it was occasionally so used, that use was not continuous but interrupted at least once when the land was used to garage school buses.

On appeal Mr. Krompholz argues that the decision of the Board of Appeals was arbitrary and capricious for a variety of reasons. We feel that the matter is a rather simple one and that we need only be satisfied that the decision of the Board of Appeals was based on substantial evidence. "The zoning authority is presumed to possess the expertise necessary for deciding the matters brought before it and if its decision is based on substantial evidence then the courts may not substitute their judgment for that of the zoning authority." Brouillett v. Eudowood Shopping Plaza, Inc., 249 Md. 606, 608 (1968). See also Prince George's County, Maryland v. Meininger, 264 Md. 148, 154 (1972); Snowden v. Mayor and City Council of Baltimore, 224 Md. 443, 445 (1961).

The "substantial evidence test" was examined by the Court of Appeals in Board of County Commissioners of Prince George's County v. Oak Hill Farms, Inc., 232 Md. 274 (1963). There the Court noted that Justice Frankfurter in Universal Camera Corp. v. National Labor Relations Board (340 U.S. 474)(1951) "pointed out that substantial evidence had been held to mean more than a scintilla and was such evidence 'as a reasonable mind might accept as adequate to support a conclusion *** and enough to justify, if the trial were to a jury, a refusal to direct a

verdict ***.'" 232 Md. at 280. The Court noted the similarities between the "substantial evidence test" and the "against the weight of the evidence test" and concluded as follows:

> Whether the test of substantial evidence on the entire record or the test of against the weight of all the evidence is followed, the courts have exercised restraint so as not to substitute their judgments for that of the agency and not to choose between equally permissible inferences or make independent determinations of fact, because to do so would be exercising a nonjudicial role. Rather, they have attempted to decide whether a reasoning mind could reasonably have reached the result the agency reached upon a fair consideration of the fact picture painted by the entire record.

Id. at 283.

With these considerations in mind, we examine the record below. We shall not summarize all the testimony presented to the Board of Appeals, for we need only note that there was evidence, through the deposition of Lucille Bridenstein, which was corroborated in many respects by the testimony of other witnesses, that the Bridenstein family acquired the 184 acre farm around 1916 and, sometime during the thirties, began to use the entire farm to stable, board, and rent out horses for riding. Over the course of the years, various portions of the farm were conveyed away. After each conveyance the boarding and stabling operations continued on the remaining acreage until all of the activities involving horses were eventually condensed into the last piece of property, the 5.47 acres purchased by appellees.

It is true that there was some evidence to indicate that for certain extended periods there were no horses on the 5.47

acre parcel bought by appellees. Some evidence suggested that for some period of time appellees' property was used exclusively to garage school buses. The blunt fact of the matter, however, is that there was also competent evidence that the property in question had been continuously used as a riding stable since the 1930's. Which evidence we find more compelling is irrelevant, for when equally competent evidence is presented in favor of both sides, as it was here, we shall not disturb the conclusion of the Board of Appeals. We are satisfied that the evidence upon which the Board based its decision, principally the deposition of Lucille Bridenstein, satisfied the "substantial evidence test." Accordingly, we affirm the judgment of the circuit court.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANT.

A. Jablon

M-1790 dated

MAR 7

ZONING DEPT.

RECEIVED COUNTY BOARD OF APPEALS '85 FEB 27 A 10:40

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE S/S HART ROAD, 225' S/E OF C/L OF DENBY ROAD 9th DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
MICHAEL E. KROMPHOLZ, Appellant-Protestant	*	
Zoning File No. 83-276-SPH	*	Case No. 10/13/85-CG-1278

* * * * * * * * * *

OPINION

This is an appeal by Michael E. Krompholz, Appellant-Protestant, from an Order of the Board dated the 26th day of March, 1985, granting the existence of a nonconforming use on the above captioned property.

The case was heard de novo by the Board. The Petitioner-Appellee, Paul Farace, et al, requested a special hearing for the approval of a nonconforming riding stable on property located on the south side of Hart Road, 225 feet southeast of the center line of Denby Road in the 9th Election District of Baltimore County, constituting aproximately 5.47 acres.

On October 28, 1985, counsel for the parties were heard in open court. All the transcripts of the testimony before the Board having been read by the court and after reviewing these transcripts and reviewing the numerous exhibits in this case, the memorandum and reply memorandum filed by counsel for the parties in this case, the court cannot find that the Board was erroneous, arbitrary or capricious in the interpretation and the finding of fact and the conclusions from those facts, nor in the application of the law to the facts as it had before it evidence legally sufficient to support its decision.

Also, the Board's decision states that there was no positive testimony between the years 1957 and 1959 concerning the lack of horses nor was there any positive testimony that the horses were there. The first witness in the May 11, 1983 testimony was Lucille Bridenstine. This elderly lady testified in effect on page 13 that there had always been riding and boarding of horses on the property. In Feldstein v. Zoning Board, 246 Md. 204, clearly states on page 210 . . . "because the temporary disuse of a nonconforming use does not amount to a surrender of the use, an owner of property will not be deemed to have lost his right to the nonconforming use until the relinquishment thereof has been clearly indicated by evidence of intention, action or inaction for a reasonable period of time."

The evidence in this case does not clearly indicate that the nonconforming use was discontinued. Therefore, the decision of the Board of Appeals of Baltimore County is **AFFIRMED**.

Wm. R. Buchanan, Sr.
William R. Buchanan, Sr.
Judge

November 22, 1985

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE S/S HART ROAD, 225' SE OF C/L OF DENBY ROAD 9th DISTRICT	:	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
	:	NO. 83-276-SPH

::::::::::::::::::::::::::::::::

OPINION

This case comes before the Board on an appeal from a decision of the Deputy Zoning Commissioner, dated March 5, 1984, granting the existence of a nonconforming use and citing restrictions to this use. The case was heard de novo by this Board and consumed all or part of three days of testimony.

Petitioners requested a Special Hearing for the approval of a nonconforming riding stable on property located on the south side of Hart Road 225 feet southeast of the center line of Denby Road, in the Ninth Election District of Baltimore County.

Testimony and evidence was received from sixteen witnesses which is now part of the record in this case and, therefore, will not be summarized, per se, in this Opinion. The record will speak for itself. The following deductions have been made by careful consideration of all the testimony and evidence.

The subject property, known as the Bridenstein property, was owned by the Bridensteins prior to 1920 and consisted of some 100 to 180 acres of land. Mr. John Etzel, land surveyor, testified that this tract was subdivided in 1944, and further subdivided in 1947. There is no dispute as to the fact that horses were kept and

boarded on this property up until at least 1947. Mrs. Flora Chrest testified that in June, 1956, there were horses on the Bridenstein property, but in the Providence Road area and not the Hart Road area. In 1955, Ida Bridenstein died and the administration of the estate deeded the Hart Road portion of the farm to Leonard and Ruth Bridenstein. Testimony from an eyewitness, Mrs.Chrest, now establishes the presence of horses on the tract in 1957, but still in the Providence Road area and still on the Bridenstein tract. In 1957, Leonard Bridenstein moved into a new residence on the 5+ acres that is the subject of this hearing, and in 1958 or 1959 erected a "pole barn" on the site and then in 1959 horses for hire or boarding appeared on this Hart Road site. The presence of these horses on this site has continued from that time until the present. In 1980, Paul Farace took title to this 5.7 acre tract and has continued to operate a riding stable thereon.

There was testimony as to the storage of school buses on the subject site and testimony as to inspection reports dating as far back as 1968, but these issues are not this Board's primary concern. This Board must decide whether a nonconforming use existing since 1945, meeting all the requirements of the Baltimore County Zoning Regulations (BCZR), §101 and §104, is or is not a fact. Had the original Bridenstein tract remained intact, the boarding of horses could legally have been conducted on any portion of the site since the use obviously existed in 1945, and obviously continued until 1957 or thereabouts. Now the original tract is being diminished by subdivision but portions are still retained by the Bridenstein family and heirs and, therefore,

the nonconforming use could continue. From testimony, in 1959 horses for board or hire appeared on the Leonard Bridenstein parcel located on Hart Road, this parcel being part of the original holdings. There was no positive testimony that between 1957 and 1959 there were no horses on any portion of the Bridenstein holdings, nor was there any positive testimony that horses were there. There is testimony, however, that for 38 of the 40 years since 1945, horses have been boarded and kept for hire on some portion of the Bridenstein holdings and there is no positive evidence either way on the other two years.

Therefore, this Board is of the opinion that the existence of a nonconforming use as a riding stable has been evidenced and will so order.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this 25th day of March, 1985, by the County Board of Appeals, ORDERED that the Order of the Deputy Zoning Commissioner, dated March 5, 1984, is AFFIRMED, and that the petition for special hearing to determine a nonconforming use for a riding stable be and the same is hereby GRANTED, subject to the restrictions contained in the Order of the Deputy Zoning Commissioner.

Any appeal from this decision must be in accordance with Rules B-1

through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt
Lawrence E. Schmidt

Diana K. Vincent
Diana K. Vincent

85-184

Ind Dept

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

March 26, 1985

MAR 27 AM
ZONING DEPARTMENT
By .....

G. Scott Barhight, Esquire
204 W. Pennsylvania Avenue
Towson, MD 21204

Re: Case No. 83-276-SPH
Paul Farace, et al

Dear Mr. Barhight:

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

Enclosure

cc: S. Eric DiNenna, Esquire
Paul Farace, et al
Donald Busick
Thomas J. Bollinger, Esquire
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE S/S HART ROAD, 225' SE OF C/L OF DENBY ROAD 9th DISTRICT	:	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY NO. 83-276-SPH

OPINION

This case comes before the Board on an appeal from a decision of the Deputy Zoning Commissioner, dated March 5, 1984, granting the existence of a nonconforming use and citing restrictions to this use. The case was heard de novo by this Board and consumed all or part of three days of testimony.

Petitioners requested a Special Hearing for the approval of a nonconforming riding stable on property located on the south side of Hart Road 225 feet southeast of the center line of Denby Road, in the Ninth Election District of Baltimore County.

Testimony and evidence was received from sixteen witnesses which is now part of the record in this case and, therefore, will not be summarized, per se, in this Opinion. The record will speak for itself. The following deductions have been made by careful consideration of all the testimony and evidence.

The subject property, known as the Bridenstein property, was owned by the Bridensteins prior to 1920 and consisted of some 100 to 180 acres of land. Mr. John Etzel, land surveyor, testified that this tract was subdivided in 1944, and further subdivided in 1947. There is no dispute as to the fact that horses were kept and

boarded on this property up until at least 1947. Mrs. Flora Chrest testified that in June, 1956, there were horses on the Bridenstein property, but in the Providence Road area and not the Hart Road area. In 1955, Ida Bridenstein died and the administration of the estate deeded the Hart Road portion of the farm to Leonard and Ruth Bridenstein. Testimony from an eyewitness, Mrs. Chrest, now establishes the presence of horses on the tract in 1957, but still in the Providence Road area and still on the Bridenstein tract. In 1957, Leonard Bridenstein moved into a new residence on the 5+ acres that is the subject of this hearing, and in 1958 or 1959 erected a "pole barn" on the site and then in 1959 horses for hire or boarding appeared on this Hart Road site. The presence of these horses on this site has continued from that time until the present. In 1980, Paul Farace took title to this 5.7 acre tract and has continued to operate a riding stable thereon.

There was testimony as to the storage of school buses on the subject site and testimony as to inspection reports dating as far back as 1968, but these issues are not this Board's primary concern. This Board must decide whether a nonconforming use existing since 1945, meeting all the requirements of the Baltimore County Zoning Regulations (BCZR), §101 and §104, is or is not a fact. Had the original Bridenstein tract remained intact, the boarding of horses could legally have been conducted on any portion of the site since the use obviously existed in 1945, and obviously continued until 1957 or thereabouts. Now the original tract is being diminished by subdivision but portions are still retained by the Bridenstein family and heirs and, therefore,

the nonconforming use could continue. From testimony, in 1959 horses for board or hire appeared on the Leonard Bridenstein parcel located on Hart Road, this parcel being part of the original holdings. There was no positive testimony that between 1957 and 1959 there were no horses on any portion of the Bridenstein holdings, nor was there any positive testimony that horses were there. There is testimony, however, that for 38 of the 40 years since 1945, horses have been boarded and kept for hire on some portion of the Bridenstein holdings and there is no positive evidence either way on the other two years.

Therefore, this Board is of the opinion that the existence of a nonconforming use as a riding stable has been evidenced and will so order.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this 26th day of March, 1985, by the County Board of Appeals, ORDERED that the Order of the Deputy Zoning Commissioner, dated March 5, 1984, is AFFIRMED, and that the petition for special hearing to determine a nonconforming use for a riding stable be and the same is hereby GRANTED, subject to the restrictions contained in the Order of the Deputy Zoning Commissioner.

Any appeal from this decision must be in accordance with Rules B-1

through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt
Lawrence E. Schmidt

Diana K. Vincent
Diana K. Vincent

A. Jablon
1-174
cc: file

1/0K to file
S

MAR 7 AM
ZONING DEPARTMENT

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL. FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE S/S Hart Road, 225' S/E of C/L of Denby Road 9th District	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
MICHAEL E. KROMPHOLZ, Appellant-Protestant	:	
Zoning File No. 83-276-SPH	:	Case No. 10/13/85-CG-1278

ORDER FOR APPEAL

Mr. Clerk:

Please enter an Appeal to the Court of Special Appeals on behalf of Michael E. Krompholz, Appellant-Protestant, from the Order of the Circuit Court for Baltimore County (Buchanan, J.) dated November 22, 1985 affirming the decision of the Board of Appeals of Baltimore County.

STEPHEN J. NOLAN

NOLAN, PLUMHOFF & WILLIAMS, CHARTERED
402 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

RECEIVED
CLERK OF THE COURT OF APPEALS
FEB 27 A.D. 1986

PETITION FOR SPECIAL HEARING S/S OF HART ROAD, 225' SE OF THE CENTER LINE OF DENBY RD.- 9TH ELECTION DISTRICT PAUL FARACE, ET AL-PETITIONERS NO. 83-276-SPH (ITEM NO. 175)	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

* * * * * * * * * *

MAR 3 AM
ZONING DEPARTMENT
By

ORDER FOR APPEAL

Mr. Zoning Commissioner:

Please enter an Appeal on behalf of Michael E. Krompholz and other Protestants, from the Order of the Deputy Zoning Commissioner dated March 5, 1984, in the above referenced case to the Board of Appeals for Baltimore County. A check in the amount of $80.00 for filing costs is attached.

G. Scott Barhight

Nolan, Plumhoff & Williams, Chartered
Nolan, Plumhoff & Williams, Chartered
204 West Pennsylvania Avenue
Towson, Maryland 21204
Attorneys for Appellants

cc: S. Eric DiNenna, Esquire
Mr. Donald Busick
Peoples Counsel

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

CERTIFICATION OF MAILING

I HEREBY CERTIFY that on this 18 day of Mar, 1985, that a copy of the foregoing was mailed to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Appeller-Petitioner.

STEPHEN J. NOLAN

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL GENERAL

DOCKET 10 PAGE 13 CASE NO. 85-CG-1278 CATEGORY APPEAL

	ATTORNEYS
IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE S/S HART ROAD, 225' S/E of C/L of Denby Road 9th District	S. Eric DiNenna P.A. 406 W Penna. Avenue (04) 296-6820
MICHAEL E. KROMPHOLZ - Appellant-Protestant	Nolan, Plumhoff & Williams G. Scott Barhight 204 W. Penna. Ave (04) 823-7800
	P Paul Cocoros 1029 St. Paul Street (02) 576-0700
BOARD OF APPEALS OF BALTIMORE COUNTY	

Co. 2 #909

2/13/86

2/18/86 S/E & Bd of appeals

CENTRAL ACCOUNTING

(1) April 24, 1985 - Appellant's-Protestant's Order for Appeal from the Order of the Board of Appeals of Baltimore County fd.

(2) April 24, 1985 - Certificate of Notice fd.

(3) May 6, 1985 - Protestant-Appellant's Petition fd.

(4) May 23,1985- App. of S. Eric DiNenna as attorney for the Petitioner/Appellee and same day Answer to Petition of Pro-Testant-Appellant fd.

(5) June 5,1985- Transcript of Record fd.

(6) June 5,1985- Notice of filing of record fd.

(7) July 5, 1985 - Appellant's Memorandum fd.

(8) Aug. 20, 1985 - Petitioner-Appellee's Memorandum fd.

(9) Sept. 4, 1985 - Applant's Reply Memorandum fd.

Oct. 28, 1985 Hon. William R. Buchanan, Sr. Hearing had, opinion held Sub-curia. Order to be filed.

(10) Nov. 25, 1985 - Opinion & Order of Court that the decision of the Board of Appeals of Baltimore County is Affirmed fd. (WRB)

(11) Dec. 18, 1985 - Appellant-Protestant's Order for Appeal to the Court of Special Appeals fd. (App. no. 3/127)

(12) Dec 27,1985- Order of Court from the Special Court or Appeals the the above captioned appeal proceed without a prehearing conference (WAM)

(13) Feb 4,1986- Notice to enter the app. of the law office of P. Paul Cocoros on behalf of Michael Krompholz appellant fd.

CV GEN 051278 H
CV GEN 30.00
CKCHECK TL 40.00
M25064 C001 R02 T13:41 12/18/85

CV GEN 051278 H
POST 4.00
CKCHECK PB 4.00
M26680 C001 R02 T11:32 01/21/86

DOCKET 10 PAGE 13 CASE NO. 85 CG- 1278

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL FOR SPECIAL HEARING TO APPROVE A NON-CONFORMING RIDING STABLE S/S HART ROAD, 225' SE OF C/L OF DENBY ROAD 9th DISTRICT

Michael E. Krompholz, Protestant-Plaintiff

Zoning File No. 83-276-SPH

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CG Doc. No. 10

Folio No. 13

File No. 85-CG-1278

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Lawrence E. Schmidt, 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, S. Eric DiNenna, Esq., 406 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for the Petitioners; Paul Farace, et al, 1102 Hart Rd., Towson, Md. 21204, Petitioners; G. Scott Barhight, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants; Michael E. Krompholz, 1315 Denby Rd., Towson, Md. 21204, Protestant-Appellant; Donald Busick, 2400 Hartfell Rd., Timonium, Md. 21093, Protestant; and Thomas J. Bollinger, Esq., Court House, Towson, Md. 21204, Assistant County Attorney for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

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

Paul Farace, et al
Case No. 83-276-SPH

2.

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to S. Eric DiNenna, Esq., 406 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for the Petitioners; Paul Farace, et al, 1102 Hart Rd., Towson, Md. 21204, Petitioners; G. Scott Barhight, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants; Michael E. Krompholz, 1315 Denby Rd., Towson, Md. 21204, Protestant-Appellant; Donald Busick, 2400 Hartfell Rd., Timonium, Md., 21093, Protestant; and Thomas J. Bollinger, Esq., Court House, Towson, Md. 21204, Assistant County Attorney for Baltimore County, on this 24th day of April, 1985.

June Holmen
June Holmen
County Board of Appeals of Baltimore County

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

Howard E. Friedman, Clerk
Court of Special Appeals of Maryland
Annapolis, MD 21401-1698

Re: Pre-hearing Conference
#909
Delivered 2/13/86
Paul Farace, et al v.
Michael E. Krompholz

Dear Mr. Friedman:

Please forward to this office a copy of the Opinion in the above entitled case when it is filed by the Court of Special Appeals. We would appreciate it if you would note our request in your file on this case. Thank you.

Very truly yours,

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

494-3180

County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

April 24, 1985

S. Eric DiNenna, Esq.
406 W. Pennsylvania Ave.
Towson, Md. 21204

Re: Case No. 83-276-SPH
Paul Farace, et al

Dear Mr. DiNenna:

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: Paul Farace, et al
Thomas J. Bollinger, Esq.
Norman E. Gerber
James Hoswell
Jean Jung
Arnold Jablon
James Dyer

APR 26 AM
Area
Rec'd
Rec'd
Cmd
Cmd
ZONING DEPARTMENT
By

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL. FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE S/S Hart Road, 225' S/E of C/L of Denby Road 9th District

MICHAEL E. KROMPHOLZ,

Appellant-Protestant

Zoning File No. 83-276-SPH

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Case No. 10/13/85-CG-1278

ORDER FOR APPEAL

Mr. Clerk:

Please enter an Appeal to the Court of Special Appeals on behalf of Michael E. Krompholz, Appellant-Protestant, from the Order of the Circuit Court for Baltimore County (Buchanan, J.) dated November 22, 1985 affirming the decision of the Board of Appeals of Baltimore County.

STEPHEN J. NOLAN

NOLAN, PLUMHOFF & WILLIAMS, CHARTERED
402 W. Pennsylvania Avenue
Towson, Maryland 21204
(301 823-7800

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

RECEIVED COUNTY BOARD OF APPEALS 85 FEB 21 A 10 40

CERTIFICATION OF MAILING

I HEREBY CERTIFY that on this 18 day of Feb, 1985, that a copy of the foregoing was mailed to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Appeller-Petitioner.

STEPHEN J. NOLAN

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

-2-

To: Edith Eisenhart, County Board of Appeals
Court House
Towson, Maryland 21204

From: S. ERIC DINENNA, P.A.
ATTORNEY AT LAW
406 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-1830

SUBJECT Farace Case No.: 10/13/85-CG-1278

DATE 2-25-86

MESSAGE

Dear Edith:

As per your request, enclosed herewith please find the Circuit Court decision and the Order for Appeal concerning the above-captioned matter.

Very truly yours,

S. ERIC DINENNA
SIGNED

REPLY
DATE

RECEIVED COUNTY BOARD OF APPEALS 86 FEB 27 A 10 40

THIS COPY RETURNED TO SENDER

County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

May 2, 1984

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. 83-276-SPH — PAUL FARACE, ET AL

S/S Hart Rd., 225' SE of the c/l of Denby Road

9th District

SH-Non-conforming riding stable

3/5/84 - D.Z.C.'s Order-GRANTED with restrictions

ASSIGNED FOR: THURSDAY, JULY 26, 1984, at 10 a.m.

cc: S. Eric DiNenna, Esq. — Counsel for Petitioner
Paul Farace, et al — Petitioners
G. Scott Barhight, Esq. — Counsel for Protestants
Donald Busick — Protestant
Phyllis C. Friedman — People's Counsel
N. Gerber
J. Hoswell
J. Jung
J. Dyer
A. Jablon
T. J. Bollinger, Esq. — Law Office

June Holmen, Secy.

494-3180

County Board of Appeals
Room 219 Court House
TOWSON, MARYLAND 21204

July 10, 1984

NOTICE OF POSTPONEMENT and REASSIGNMENT

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

CASE NO. 83-276-SPH — PAUL FARACE, ET AL

S/S Hart Rd., 225' SE of c/l of Denby Rd.

9th District

SH-Nonconforming riding stable

DZC's Order - 3/5/84 GRANTED w/restrictions

The above case set for hearing on Thursday, August 30, 1984, at 10 a.m., has been POSTPONED by the Board at the request of Counsel for the Protestants, and

REASSIGNED FOR: TUESDAY, OCTOBER 16, 1984, at 10 a.m.

cc: S. Eric DiNenna, Esq. — Counsel for Petitioners
Paul Farace, et al — Petitioners
G. Scott Barhight, Esq. — Counsel for Protestants
Donald Busick — Protestant
~~Phyllis C. Friedman — People's Counsel~~ OUT
N. Gerber
J. Hoswell
J. Jung
J. Dyer
A. Jablon
T. J. Bollinger, Esq. — Law Office

June Holmen, Secretary

street from the entrance on Hart Road, but lives elsewhere, testified that he had observed this property for many, many years but would do nothing as far as filing any complaints because he "feared" the former owner, Bridenstein. Now that we have owners of the property whom he does not "fear" he not only files a complaint with the Baltimore County Zoning office but protests an operation which is upgraded from that which existed prior to 1980. Several other residents in the area testifed that they do not recall horses on the property at different times, but the preponderance of the evidence that was presented to the board was that since at least the early 1930's, the property had been used for the boarding and riding of horses.

The Deputy Zoning Commissioner in ordering that a non-conforming use for a riding stable exist on the subject property, by Order and Opinion dated March 5, 1984, was correct.

Let it be noted that the Petitioners, Farace, have no objections to the restrictions that were imposed by the Deputy Zoning Commissioner.

ARGUMENT

A non-conforming use, was defined in the Baltimore County Zoning Regulations, as adopted in 1945, as:

> "24. Non-conforming use: a building or land occupied by a use that does not conform to the provisions of the regulations for the zone in which it is located."

It is note worty to say that it does not only include buildings but also land.

Section XI of the 1945 Regulations indicates that:

> "A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use to a conforming use, or any attempt to change from such non-conforming use to a different non-conforming use or any discontinuance of such non-conforming use for a period of one year, or in case a non-conforming structure shall be damaged by fire or otherwise to extent of seventy-five (75%) per cent of its value, the right to continue to resume such non-conforming use shall terminate, provided, however, that any such lawful non-conforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original non-conforming use."

The Zoning Regulations as adopted in 1955 and as amended in 1976, defines a non-conforming use as:

> "A legal use that does not conform to use regulations for the zone in which it is located or to a special regulation applicable to such use. A specifically named use described by the adjective 'non-conforming' is a non-conforming use." Baltimore County Zoning Regulations, 1955, as amended.

County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

December 5, 1984

NOTICE OF ASSIGNMENT

(CONTINUED HEARING)

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. 83-276-SPH — PAUL FARACE, ET AL

S/S Hart Road 225' SE of Denby Rd.

9th District

SPH - Nonconforming riding stable

3/5/84 - DZC Granted Petition

ASSIGNED FOR: WEDNESDAY, DECEMBER 26, 1984, at 11 A.M.

cc: S. Eric DiNenna, Esq. — Counsel for petitioners
Paul Farace, et al — Petitioners
G. Scott Barhight, Esq. — Counsel for protestants
Donald Busick — Protestant
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean Jung
James Dyer
Thomas J. Bollinger, Esq.

June Holmen, Secy.

Section 104 of the Baltimore County Regulations, indicates:

> "A non-conforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) per cent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, struture, or parcel of land, shall hereafter be extended more than 25% of the ground floor area of building so used. [B.C.Z.R.; 1955, as amended]

It should be noted that between 1945 and 1955, a nonconforming use could be expanded 100%. In the case at bar, we have a deduction in the square footage used for the boarding and riding of horses. Originally we had 184 acres, which was later reduced, and is presently confined to the 5.47 acres of land. There has not been an expansion of the use of the riding stable but a reduction.

Intensification of a use is not an expansion. Here we not only not have an intensification of the use, but a reduction of acres of land from the original size of the property to its present size. In fact, some of the Protestants in this matter, live in homes that were developed and built on property that was originally the overall Bridenstein farm.

Where the evidence has conclusively established that a property owner before and at the time of the adoption of the original zoning ordinance (1945 and as amended in 1955) was using in a then lawful manner substantially all of this tract of land for a use which by the legislative action became non-permitted, the owner or subsequent owner had established a lawful nonconforming use. Board of Zoning Appeals of Howard County vs. Meyer, 207 Md. 389 (1955).

The burden of proving a nonconforming use is on the claimant of the use, in this case, Farace. This burden necessarily includes the burden of establishing the existence of a nonconforming use at the time of the passage of the prohibiting zoning ordinance. An important way of meeting this burden is to show that the existence of the use was known to the neighbors at the critical time. Calhoun vs. County Board of Appeals of Baltimore County, 262 Md. 265 (1971).

In the instance case, various neighbors and former neighbors and

RE: PETITION FOR SPECIAL HEARING
S/S of Hart Road, 225' SE of the Centerline of Denby Road, 9th District
PAUL FARACE, et al,
Petitioners

BEFORE THE COUNTY BOARD OF APPEALS
Case No.: 83-276-SPH

* * * * * * * * * * * * * * * *

PETITIONERS' MEMORANDUM

Paul and Robin Farace, in support of their Petition for a special hearing to determine a non-conforming use, by S. Eric DiNenna, P.A., and S. Eric DiNenna, files this Memorandum:

BACKGROUND

The Petitioners request a determination as to whether or not their property, known as 1102 Hart Road, Towson, Maryland 21204, enjoys a non-conforming use under the Baltimore County Zoning Regulations. Farace bought the property on July 1, 1980 from the family known as Bridenstein. At the time of the purchase of this property, the various structures on the property were in a very dilapidated condition, and the property was being operated as a riding stable, as defined in the Baltimore County Zoning Regulations. The property contains 5.47 acres of land more or less and was part of an original tract of land, containing approximately 184 acres, other portions of the said 184 acres having been sold off in parcels for other uses including subdivision and construction of housing. This matter came before the Deputy Zoning Commissioner for Baltimore County and by Opinion and Order dated March 5, 1984, determined that a non-conforming use for riding stable has existed and been conducted on the property, subject to certain restrictions that the Deputy Zoning Commissioner imposed.

TESTIMONY

It is uncontradicted testimony, by all proponents of this Petition, that horses had been borded and/or ridden on the overall 100 to 184 acres since as far back as 1917. The deposition of Mrs. Lucille Bridenstein, taken on behalf of the Petitioners, on May 11, 1983, said deposition not being contradicted, indicates that Mrs. Bridenstein had come to the property as a child bride, that horses were being borded and/or ridden on that property at that time and until

individuals who used the Bridenstein farm as well as the Farace riding stable, boarded their horses there, rode there, and established the existence of this use prior to 1945. (See the Bridenstein deposition and picture exhibits in Zoning Commissioner's file). The individuals now complaining and protesting move to their respective homes, well after 1945. Again one of the tests for determining the existence of a nonconforming use is whether such use was known in the neighborhood. The evidence before this board indicates that it was known in 1945 and thereafter. Any temporary disuse of a nonconforming use does not amount to a surrender of the use and a property owner will not lose his right to such a use until relinquishment thereof has clearly been indicated by the evidence of intention, action or inaction for a reasonable period of time. (Emphasis added). Feldstein vs. Lavale Zoning Board, 246 Md. 204 (1967). The evidence presented to the Board dictates that there was not cessation of the use or an abandonment of this use for any long period of time. IN fact, the testimony is overwhelming that the propert was continuously used for the riding and boarding of horses since the 1930's.

The Bridenstein's bought the subject property in 1917, and conveyed the property to Farace's in 1980. They had established a riding stable on their property many many years ago, well before 1945. This is not an expansion of a use but a reduction of a use, it is not an abandonment or cessation of a use, but a transfer from one portion of the property to the other. This is a valid non-conforming use which meets the requirements as set forth in 104.1 of the present Baltimore County Zoning Regulations.

Counsel for Farace, at the hearing, moved that the appeal by the Protestants be dismissed in that they failed to comply with Section 3a of the Board's rules. The order for appeal only stated names. NO addresses were listed.

Again, Farace requests that the appeal be dismissed.

Accordingly, your petitioners respectfully request that this Honorable Board pass an Order finding that the subject property enjoys a nonconforming use for a riding stable as defined in the Baltimore County Zoning Regulations.

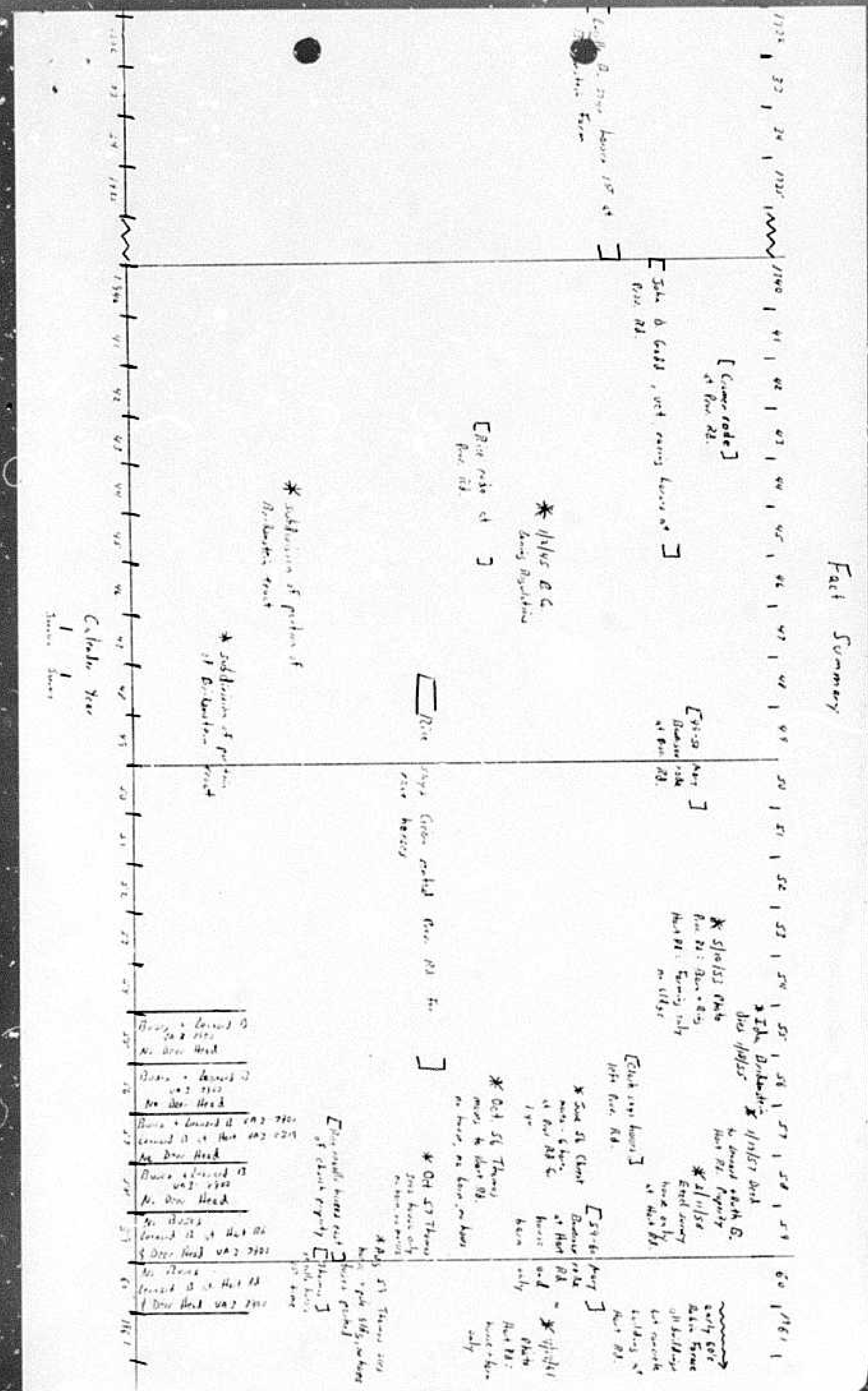
Respectfully submitted,

S. ERIC DINENNA
Attorney for Petitioners

I HEREBY CERTIFY that on this 13th day of February, 1985, a copy of the aforegoing Petitioners' Memorandum was mailed to G. Scott Barhight, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204

S. ERIC DINENNA
406 W. Pennsylvania Avenue
Towson, Maryland 21204
296-6820

RECEIVED
COUNTY BOARD OF APPEALS
1985 FEB 13 P 1:59



CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21204-0754

Kathy Rushton — 494-2660
Assignment — Jury — Motions
Marcia Fennell
Assistant Clerk Typist

Irene Summers — 494-2661
Assignment — Non-Jury — Motions
Freddie Grove
Assistant Clerk Typist

Jobi Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Harris — 494-2662
Masters Assignment Clerk
Medical Records

RECEIVED
COUNTY BOARD OF APPEALS
1985 SEP -9 P 12:46

TO: S. Eric Di Nenna, Esq
G. Scott Barhight, Esq.
County Board of Appeals of B.C.
Thomas J. Bollinger, Esq.

RE: NON JURY - 85CG 1278 - PAUL FARACE ET AL VS BOARD OF APPEALS OF B.C.

HEARING DATE: Monday, October 28, 1985, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 1 hour

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments — Joyce Grimm — 494-3497.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CICONE. Please direct all inquiries to the attention of Jobi Adams

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL. FOR SPECIAL HEARING TO APPROVE A NON-CONFORMING USE RIDING STABLE	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Zoning Case No. 83276-SPH	*	CIVIL GENERAL File No. 85-CG1278

* * * * * * * * * * * * * *

APPELLEE'S MEMORANDUM

Paul Farace, et al. Petitioner-Appellee by his attorneys, S. Eric DiNenna, S. Eric DiNenna, P.A. and DiNenna, Mann & Breschi hereby files, pursuant to Rule B12, their Memorandum and states:

BACKGROUND

The Petitioners (Farace) filed a Petition for a hearing to determine a non-conforming use before the Zoning Commissioner of Baltimore County and by Order of the Deputy Zoning Commissioner of Baltimore County of March 5, 1984, determined that "a non-conforming use for a riding stable has existed and has been conducted on the property since 1930's and, as such, should be and is hereby granted the right to continue from and after the date of this Order, subject, however....", to certain restrictions.

An Appeal was filed by Michael E. Krompholz and a hearing was held before the County Board of Appeals of Baltimore County which resulted in an Opinion and Order dated March 26, 1985, granting the existence of a non-conforming use for riding stable subject to the restrictions contained in the Deputy Zoning Commissioner's Order.

The subject property was bought by Farace on July 1, 1980 from the family known as Bridenstein. At the time of the purchase the property was being operated as a riding stable. The subject property contains 5.47 acres of land, more or less, which was part of an original tract of land, containing 184 acres, the other portions of the said 184 acres having been sold off in parcels for other uses including subdivision and construction of housing.

TESTIMONY

At the outset of the hearing before the County Board of Appeals, the Appellee, made a Motion to Dismiss the Appeal for failure for the Appellant, Krompholz, to comply with Rule 3a of the Rules of Practice and Procedure of Baltimore County Board of Appeals. The Appeal was taken in name of Michael E. Krompholz but did not state his address. The Chairman of the Board of Appeals overruled the Motion but the Chairman stated "Well, the Board is going to overrule Mr. DiNenna's objection, even though its very, very well taken." The Chairman further stated "If I was to grant Mr. DiNenna's objection, which is technically probably correct, what we would be doing, in effect is the same thing as freeing a convicted murderer because the jury had to swear their allegiance to God and I don't believe that." (Emphasis added). (Book 1 page 11 and 12).

The present location of the riding stable, was part of a larger tract of land owned by the Bridensteins as far back as 1917 (see Petitioner's Exhibit 1, 2, 3, 4 and 5.). Witnesses testified that since the 30's, the Bridensteins had operated a riding stable on the subject property as evidenced by the testimony

of Mr. Albert G. Kraemer who rode horses on the subject property in 1942 and 1943 on hundreds of acres (Book 1 pg. 51 and 52, also see the deposition of Lucille Bridenstein pg. 16 and 17.) Mr. John Etzel, a land surveyor, recalls in the 1950's, that the horses were all over the total property. He remembers this when working for a surveyor and surveying some of the land for the subsequent sub-division of the property. (Book 2, pg. 4 and 5.) Mrs. Marie Freeman and Mrs. Viola Berry, some longtime residents of the area, testified that horses had been housed, rented and ridden on the property as far back as they can remember. Each of these persons were in their 70's (Book 2, pg. 15-23 and Book 2 pg. 25-28). Mrs. Mary Kay Bowersox, recalls when she went with her grandfather to the subject property, when approximately five years old and thereafter. She recalls the barns and outhouses being off of Providence Road on the total Bridenstein property. She further remembers a riding ring which was very large on the Bridenstein property. (Book 2 pg. 30 and 31). Mrs. Betty Rice, a long term resident of the area, was very familiar with the property, having been born and raised in the area. She indicated that the subject property was used for the boarding of horses when the old barn was on Providence Road and she herself and her husband rode horses on the subject property and recalls that the horses had been boarded and hired for rent since and prior to 1945. (Book 3 pg. 5 and 6.)

All the Protestants' witnesses, acknowledge the use of the property for riding of horses during this total period of time. Several of the witnesses indicate that during a short period of

time of 1957-1959, the exact 5.47 acres of land did not have any buildings on it. But what they failed to realize, was that the old barn on the Providence Road portion of the property, was being used for the housing, boarding and riding of horses and then it was transferred on the same property to the subject 5.47 acres.

With reference to expansion of use, Mr. John Etzel, surveyor, upon studying the area for photographs, (Protestants' Exhibit 9 and 10), was able to determine that on the Bridenstein property where the barns were located previously the structures used were 12,000 square feet and the ring located thereon was approximately 17,000 square feet. He testified that the subject property improvements have a total square footage of 7,064 (Book 2 pg. 134 and 135.)

Mr. C. Edgar Thomas, a witness for the Appellant, testified that when he moved to the subject property, in 1956, he indicated there was nothing on the Bridenstein property. Unfortunately, he was unable to see across the hills and valleys of the Bridenstein farm to the vast barn, buildings and ring located on the property. After having a confrontation with the then owner, Bridenstein, he complained to the Zoning Commissioner for Baltimore County. A review of their records do not indicate any prosecution by Baltimore County against Bridenstein for the operation of a riding stable at that time. He indicated that he did not pursue the matter because he was afraid of Mr. Bridenstein. (Book 2 pg. 57.) It is interesting to note that the Appellant in this matter, Mr. Krompholz did not move to this location until August of 1971. He admits being familiar with the riding stable since that time. (Book 3 pg. 30).

ARGUMENT

A non-conforming use, was defined in the Baltimore County Zoning Regulations, as adopted in 1945, as:

> "24. Non-conforming use: a building or land occupied by a use that does not conform to the provisions of the regulations for the zone in which it is located."

It is note worry to say that it does not only include buildings but also land.

Section XI of the 1945 Regulations indicates that:

> "A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use to a conforming use, or any attempt to change from such non-conforming use to a different non-conforming use or any discontinuance of such non-conforming use for a period of one year, or in case a non-conforming structure shall be damaged by fire or otherwise to extent of seventy-five (75%) percent of its value, the right to continue to resume suchnon-conforming use shall terminate, provided, however, that any such lawful non-conforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original non-conforming use."

The Zoning Regulations as adopted in 1955 and as amended in 1976, defines a non-conforming use as:

> "A legal use that does not conform to use regulations for the zone in which it is located or to a special regulation applicable to such use. A specifically named use described by the adjective 'non-conforming' is a non-conforming use."

Baltimore County Zoning Regulations, 1955, as amended.

Section 104 of the Baltimore County Regulations, indicates:

> "A non-conforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such non-conforming use to any other use whatsoever, or any abandonment or discontinuance of such non-conforming use for a period of one year or more, or in

> case any non-conforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such non-conforming use shall terminate. No non-conforming building or structure and no non-conforming use of a building, structure, or parcel of land, shall hereafter be extended more than 25% of the ground floor area of building so used. (B.C.Z.R.; 1955, as amended).

It should be noted that between 1945 and 1955, a non-conforming use could be expanded 100%. In the case at bar, we have a deduction in the square footage used for the boarding and riding of horses. Originally we had 184 acres, which was later reduced, and is presently confined to the 5.47 acres of land. There has not been an expansion of the use of the riding stable but a reduction.

Intensification of a use is not an expansion. Here we not only have an intensification of the use, but a reduction of acres of land from the original size of the property to its present size. In fact, some of the Protestants in this matter, live in homes that were developed and built on property that was originally the overall Bridenstein farm.

Where the evidence has conclusively established that a property owner before and at the time of the adoption of the original zoning ordinance (1945 and as amended in 1955) was using in a then lawful manner substantially all of this tract of land for a use which by the legislative action became non-permitted, the owner or subsequent owner had established a lawful non-conforming use. Board of Zoning Appeals of Howard County vs. Meyer, 207 Md. 389 (1955).

The burden of proving a non-conforming use is on the claimant of the use, in this case, Farace. This burden necessarily

includes the burden of establishing the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinace. An important way of meeting this burden is to show that the existence of the use was known to the neighbors at the critical time. Calhoun vs. County Board of Appeals of Baltimore County, 262 Md. 265 (1971).

In the instance case, various neighbors and former neighbors and individuals who used the Bridenstein farm as well as the Farace riding stable, boarded their horses there, rode there, and established the existence of this use prior to 1945. (See the Bridenstein deposition and picture exhibits in Zoning Commissioner's file). The individuals now complaining and protesting moved to their respective homes, well after 1945. Again one of the tests for determining the existence of a non-conforming use is whether such use was known in the neighborhood. The evidence before this Board indicates that it was known in 1945 and thereafter. Any temporary disuse of a non-conforming use does not amount to a surrender of the use and a property owner will not lose his right to such a use until relinquishment thereof has clearly been indicated by the evidence of intention, action or inaction for a reasonable period of time. (Emphasis added). Feldstein vs. Lavale Zoning Board, 246 Md. 204 (1967). The evidence presented to the Board indicates that there was not cessation of the use or an abandonment of this use for any long period of time. In fact, the testimony is overwhelming that the property was continuously used for the riding and boarding of horses since the 1930's.

The Bridensteins bought the subject property in 1917, and

conveyed the property to Farace in 1980. They had established a riding stable on their property many, many years ago, well before 1945. This is not an expansion of a use but a reduction of a use, it is not an abandonment or cessation of a use, but a transfer from one portion of the property to the other. This is a valid non-conforming use which meets the requirements as set forth in 104.1 of the present Baltimore County Zoning Regulations.

Rule 3a of the Rules of Practice and Procedure of County Board of Appeals states:

> "No Appeal shall be entertained by the Board of Appeals unless the notice of appeal shall state the names and addresses of the persons taking such Appeal."

The Court will note from the record that the Appeal was taken on behalf of Michael E. Krompholz. No address was given. Though it may appear minor in nature, if the reverse occurred, with no name but an address, it would definitely be an improper Appeal. Accordingly, the Appellee, requests that the Appeal be dismissed for lack of compliance to the County Board of Appeals when that Appeal was filed from the Deputy Zoning Commissioner's Order.

The Court is well aware of the law in its review power of an Administrative Board's Decision. The question on judicial review is whether or not such action is arbitrary, discriminatory or fairly debatable. Stratakis vs. Beauchamp, 268 Md. 643 (1973).

> "It is not the function of the Courts to zone or rezone and the Courts will not substitute their judgment for the expertise of the zoning officials. Only when there is no room or reasonable debate or where the record is the void of substantial supporting facts, are the Courts justified in revising a Decision of an administrative body or in declaring its action arbitrary, capricious or illegal."

Germanko vs. County Board of Appeals of Baltimore County, 257 Md. 706 - pg. 711, (1970).

See also, France v. Shapiro, 248 Md. 335, (1968).

Furthermore, in order to justify a reversal of an administrative Board's decision, the record in the proceedings would have to show that it's action was unsupported by competent material and substantial evidence. Prince George's County v. Meininger, 264 Md. 148 (1972).

The most explicit definition of "substantial evidence test" is found in the case of Board of County Commission of Prince George's County v. Oak Hill Farms, Inc., 232 Md. 274, (1963), where at page 280, the Court said:

> "... substantial evidence has been held to mean more than a scintilla and was such evidence 'as a reasonable mind might accept as adequate to support a conclusion'... and enough to justify, if the trial were to jury, a refusal to direct a verdict..."

Furthermore, "fairly debatable" can be defined as testimony from which a reasonable man could come to a different conclusion. In such a matter, the Court will not substitute its judgment for that of the administrative body. Edgar v. Stove, 253 Md. 533, (1969).

There was "substantial evidence" presented by the Petitioner and the issues were "fairly debtable". Therefore, the Board's decision was not arbitrary, capricious or illegal.

The substantial evidence presented before the Board was that there were horses between 1957-1959 as testified to by the several witnesses that indicated that they were on the Bridenstein property.

With reference to the expansion of a non-conforming use, between 1945-1955, they could be expanded 100% and thereafter 25%. You will note that we are reducing in size from 184 acres to 5.47 acres and the testimony of Mr. John Etzel, the surveyor, indicates a total square footage of use at the original site of the barn ring and other outhouses in excess of 29,000 square feet where the subject property 5.47 acres, the buildings comprise 7,064 square feet. The Board did not permit an extension of the non-conforming riding stable use from the old Bridenstein farm to the Farace property; the Farace property was part and parcel of the Bridenstein farm. Because of the subsequent subdivision development of homes and other sales of portions of the original Bridenstein property, the residual 5.47 acres is that which is left for the purpose of a riding stable.

For the above reasons, your Appellee, Petitioner, requests that the Board of Appeals for Baltimore County's Decision of March 26, 1985 be affirmed.

Respectfully submitted,

S. ERIC DINENNA
S. ERIC DINENNA
DINENNA, MANN & BRESCHI
406 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 296-6820
Attorneys for Petitioners

RECEIVED
COUNTY BOARD OF APPEALS
'85 AUG 20 A 10 31

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of August, 1985, a copy of the foregoing Appellee's Memorandum was mailed, postage prepaid to G. Scott Barhight and Nolan, Plumhoff & Williams, Chartered, 204 West Pennsylvania Avenue, Towson, Maryland 21204, Attorneys for Protestant-Appellant and County Board of Appeals, Court House, Towson, Maryland 21204.

S. ERIC DINENNA

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND 21204

(301) 296-6820

August 19, 1985

Clerk
Circuit Court for Baltimore County
County Courts Building
P. O. Box 6754
Towson, Maryland 21204

RE: In the Matter of the Application of Paul Farace, et al. for Special Hearing to Approve a Non-Conforming Use Riding Stable
Case No. 85-CG1278

Dear Clerk:

Enclosed herewith for filing please find the Appellee's Memorandum with regard to the above-captioned matter.

Thank you for your anticipated cooperation.

Very truly yours,

S. ERIC DINENNA

SED:bk
Enclosure
cc: G. Scott Barhight, Esquire
County Board of Appeals

COPY

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COUNTY BOARD OF APPEALS
'85 AUG 21 A 10 31

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-7800

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM M. HESSON, JR.*
THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
STEPHEN J. NOLAN*
G. SCOTT BARHIGHT
**BERT L. HANLEY, JR.
ROBERT S. CUSHMAN

*ALSO ADMITTED IN D.C.

OF COUNSEL
RALPH E. DEITZ
8026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 922-2181
RUSSELL J. WHITE

June 14, 1985

Ms. Carolyn Peatt
42 Wyegate Court
Owings Mills, Maryland 21117

Re: Case No. 83-276-SPH
Paul Farace, et al.

Dear Ms. Peatt:

Pursuant to our telephone conversation of June 10, 1985, enclosed is a check made payable to you in the amount of $208.50. This amount reflects the balance due for the costs of the transcript preparation in the above case. These amounts are being paid by this office on behalf Mr. Michael Krompholz, the protestant-appellant.

Should you have any questions or comments, please do not hesitate to contact me. Thank you for your cooperation.

Very truly yours,

G. Scott Barhight

GSB:ylm

Enclosure

cc: Mr. Michael Krompholz
Mr. Alex A. Wolfi
Mr. C. E. Thomas, Jr.
Mr. Michael Semenuk
Ms. June Holmen

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COUNTY BOARD OF APPEALS
'85 JUN 18 A 10 39

Form C42

Jobi Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Marie Harris — 494-2662
Masters Assignment Clerk
Medical Records

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21204-0754
June 11, 1985

Kathy Rushton — 494-2660
Assignment — Jury — Motions
Marcia Fennell
Assistant Clerk Typist

Irene Summers — 494-2661
Assignment — Non-Jury — Motions
Freddie Grove
Assistant Clerk Typist

RECEIVED
COUNTY BOARD OF APPEALS
1985 JUN 12 P 12:42

TO: S. Eric DiNenna, Esq.
G. Scott Barhight, Esq.
County Board of Appeals of Baltimore County
Thomas J. Bollinger, Esq.

RE: Non-Jury 85-CG-1278- In the matter of the Application of Paul Farace (Krompholz) vs. Board of Appeals of Baltimore County

HEARING DATE: Thursday, September 5, 1985, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 1 hour

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments — Joyce Grimm — 494-3497.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CICONE. Please direct all inquiries to the attention of Jobi Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL FOR SPECIAL HEARING TO APPROVE A NON-CONFORMING RIDING STABLE S/S HART ROAD, 225' SE OF C/L OF DENBY ROAD 9th DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
MICHAEL E. KROMPHOLZ, PROTESTANT-PLAINTIFF	:	CG Doc. No. 10
	:	Folio No. 13
ZONING FILE NO. 83-276-SPH	:	File No. 85-CG-1278

: : : : : : : : : : : : : : :

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. Hackett, Lawrence E. Schmidt, 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

Case No. 83-276-SPH

April 19, 1983	Petition of Paul Farace, et al, for special hearing to approve a non-conforming riding stable on property located on the south side of Hart Rd., 225' SE of the c/l of Denby Rd., 9th District
April 19, 1983	Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for June 9, 1983, at 1:30 p.m.
May 19, 1983	Certificate of Publication in newspaper - filed
May 20, 1983	Certificate of Posting of property - filed

May 17, 1983	Comments of Baltimore County Director of Planning - filed
May 27, 1983	Comments of Baltimore County Zoning Plans Advisory Committee - filed
June 9, 1983	At 1:30 p.m. hearing held on petition by Deputy Zoning Commissioner
March 5, 1984	Order of Deputy Zoning Commissioner stating that a non-conforming use for a riding stable has existed and has been conducted on the property since the 1930's and, as such, should be and the same is GRANTED the right to continue from and after the date of the Order, subject to restrictions.
April 3, 1984	Order for Appeal to County Board of Appeals from Order of Deputy Zoning Commissioner by G. Scott Barhight, Esq., on behalf of Protestants.
	Amended Order for Appeal filed by G. Scott Barhight, Esq., on behalf of Protestants.
October 16, 1984	Hearing on appeal before County Board of Appeals
December 5, 1984	Continued hearing before the Board
December 26, 1984	Continued hearing before the Board
March 26, 1985	Order of County Board of Appeals ordering that the Order of the Deputy Zoning Commissioner, dated March 5, 1984, is AFFIRMED and that the petition for special hearing to determine a nonconforming use for a riding stable be and the same is GRANTED, subject to the restrictions contained in the Order of the Deputy Zoning Commissioner.
April 24, 1985	Order for Appeal filed in the Circuit Ct. for Baltimore County by G. Scott Barhight, Esq., on behalf of Michael E. Krompholz, Protestant-Appellant.
May 6, 1985	Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County
April 24, 1985	Certificate of Notice sent to all interested parties
June 5, 1985	Transcript of testimony filed - 3 volumes

Petitioners' Exhibit No. 1 - Copy of survey map (1915)
" " " 2 - Deed, 7/29/16, Helds to Breidenstein

Petitioners' Exhibit No. 3 - Deed, 1/19/57, Breidensteins and E. June Shock, straw deed
" " " 4 - Deed, 1/19/57, Shock to Breidensteins, 5.47 acres
" " " 5 - Deed, 1/19/57, Shock to August Breidenstein, 20 acres
" " " 6A - Letter, 9/30/77, from Z.C. office
" " " 6B - Letter, 10/17/77, from Z.C. office

Board of Appeals' Exhibit No. 1 - Case File #83-276-SPH

Protestant's Exhibit No. 1 - Title 15, Dept. of Agriculture, Regulations
" " " 2 - Inspection Report by State Board of Inspection of Horse Riding Stables
" " " 3 - Inspection Report by Board
" " " 4 - Inspection Report by Board
" " " 5 - Inspection Report
" " " 6 - Inspection Report
" " " 7 - Plat, 5/31/57 by Dollenburg Bros., Surveyors.
" " " 8 - Field book of Dollenberg Bros., Book 113, Page 140
" " " 9 - Balto. Co. Aerial photo of area, 5/10/53
" " " 10 - Balto. Co. Aerial photo of area
" " " 11 - 10/17/84, Receipt from Enoch Pratt Library
" " " 12 A - G - 1955, 1956, 1957, 1958, 1959, 1960, 1965, Telephone Book
" " " 13 - Xerox of tax map, not to scale
" " " 14 - Picture of stable, 4 photos together

June 5, 1985 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 Holmen
June Holmen
County Board of Appeals of Baltimore County

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL. FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE South side Hart Road, 225' Southeast of Centerline of Denby Road 9th District	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
	*	C.G. Docket No. 10
	*	Folio No. 13
MICHAEL E. KROMPHOLZ Protestant-Appellant	*	File No. 85-CG-1278
Zoning File No. 83-276-SPH	*	

* * * * * * * * * * * *

ANSWER TO PETITION OF PROTESTANT-APPELLANT

Now comes, PAUL FARACE, ET AL., Petitioner/Appellee, by S. ERIC DiNENNA, P.A. and S. ERIC DiNENNA and DiNENNA, MANN & BRESCHI, pursuant to Rule B9 of the Maryland Rules of Procedure, in answer to the Petition of Appeal, says:

1. That your Petitioner/Appellee admits the allegations contained in Paragraph 1 of said Petition.

2. That your Petitioner/Appellee denies the allegations contained in Paragraph 2 and every subparagraph thereof.

WHEREFORE, your Petitioner/Appellee, having fully answered the Petition on Appeal, prays:

A. That the Appeal be dismissed with prejudice and costs against the Appellant;

B. That your Petitioner/Appellee pray for such other and further relief as their cause may require.

RECEIVED
COUNTY BOARD OF APPEALS
1985 MAY 23 P 3:01

Respectfully submitted,

/s/
S. ERIC DiNENNA, P.A.
S. ERIC DiNENNA, ESQUIRE
DiNENNA, MANN & BRESCHI
406 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 296-6820
Attorneys for Petitioner/Appellee
Paul Farace, et al.

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 22nd day of May, 1985, a copy of the aforegoing Answer to Petition of Protestant-Appellant was mailed, postage prepaid, to Nolan, Plumhoff & Williams, Chartered, Attention: G. Scott Barhight, 204 West Pennsylvania Avenue, Towson, Maryland 21204, Attorneys for Protestant-Appellant; Thomas J. Bollinger, Esquire, Attorney at Law, Courthouse, Towson, Maryland 21204; County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204.

/s/
S. ERIC DiNENNA
Of Counsel for Paul Farace, et al.

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-7800

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM M. HESSON, JR.*
THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
STEPHEN J. NOLAN*
G. SCOTT BARHIGHT
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW

*ALSO ADMITTED IN D.C.

OF COUNSEL
RALPH E. DEITZ
9026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 922-2121
RUSSELL J. WHITE

May 8, 1985

Ms. Carolyn Peatt
42 Wyegate Court
Owings Mills, Maryland 21117

Re: Case No. 83-276-SPH
Paul Farace, et al.

Dear Ms. Peatt:

Pursuant to our telephone conversation of April 29, 1985, enclosed is a check made payable to you in the amount of Four Hundred Eighty ($480.00) Dollars. This amount reflects eighty (80%) percent of your estimate of the cost of the transcript preparation in the above case. As you are aware, this office represents Mr. Michael E. Krompholz, the Protestant-Appellant.

Should you have any questions regarding this request, please contact me. Your cooperation in this matter is greatly appreciated.

Very truly yours,

G. Scott Barhight

GSB/tms

Enclosure

cc: Mr. Michael Krompholz
Mr. Alex A. Nolfi
Mr. C. E. Thomas, Jr.
Mr. Michael Semeruk
Ms. June Holman, Secretary
County Board of Appeals

RECEIVED
COUNTY BOARD OF APPEALS
1985 MAY 10 A 9:51

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE S/S HART ROAD, 225' S/E OF C/L OF DENBY ROAD 9TH DISTRICT	:	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY No. 83-276-SPH

ORDER FOR APPEAL BY PROTESTANT-APPELLANT

MR. CLERK:

Please enter an appeal, pursuant to Rule B2, on behalf of MICHAEL E. KROMPHOLZ, 1315 Denby Road, Towson, Maryland 21204, Protestant-Appellant, from the Opinion and Order of the Board of Appeals of Baltimore County, passed in the above case on March 26, 1985.

The undersigned certifies that on April 24, 1985, a copy of this Order for Appeal was served on the Board of Appeals of Baltimore County prior to the filing of this Order for Appeal.

G. SCOTT BARHIGHT

NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800
Attorneys for Protestant-Appellant

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

CERTIFICATION OF MAILING

I HEREBY CERTIFY that on this 24TH day of April, 1985, that a copy of the foregoing was mailed postage prepaid to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioner - Appellee and J. Bollinger, Esquire, Office of Law

G. SCOTT BARHIGHT

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COUNTY BOARD OF APPEALS
1985 APR 24 A 11:47

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

GSB:ylm
4/24/85

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL. FOR SPECIAL HEARING TO APPROVE A NONCONFORMING RIDING STABLE South side Hart Road, 225' Southeast of Centerline of Denby Road 9th District	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
MICHAEL E. KROMPHOLZ Protestant-Appellant	:	C. G. Docket No. 10 Folio No.: 13
Zoning File No. 83-276-SPH	:	File No.: 85-CG-1278

PETITION OF PROTESTANT-APPELLANT

Michael E. Krompholz, Protestant-Appellant, pursuant to Rule B2.e. petitions the Court regarding the March 26, 1985 Opinion and Order of the County Board of Appeals of Baltimore County and says:

1. By Opinion and Order dated March 26, 1985, (the "Order"), the County Board of Appeals of Baltimore County (the "Board") granted the existence of a nonconforming use for a riding stable subject to the restrictions contained in the March 5, 1984 Order of the Deputy Zoning Commissioner.

2. The Protestant-Appellant submits that the Board's Order is erroneous in that:

A. The Board's decision is in conflict with Maryland law regarding nonconforming uses.

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

B. The Board's legal decision is not supported by its findings of fact.

C. The Board's decision is illegal, invalid, arbitrary and capricious.

WHEREFORE, Protestant-Appellant petitions this Court to reverse the Board's Order of March 26, 1985 and grant Protestant-Appellant such other and further relief as his cause may require.

Respectfully submitted,

G. Scott Barhight

NOLAN, PLUMHOFF & WILLIAMS, CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

Attorneys for Protestant-Appellant

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

CERTIFICATION OF MAILING

I HEREBY CERTIFY that on this 6TH day of May, 1985 a copy of the foregoing was mailed postage pre-paid to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioner-Appellee; Thomas J. Bollinger, Esquire, Office of Law, Court House, Towson, Maryland, 21204; Donald Busick, 2400 Hartfell Road, Timonium, Maryland 21093 Protestant; and County Board of Appeals, Room 200, Court House,

Towson, Maryland 21204.

G. SCOTT BARHIGHT

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COUNTY BOARD OF APPEALS
1985 MAY -8 A 11:07

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

GSB:ylm

IN THE MATTER OF THE APPLICATION OF PAUL FARACE, ET AL FOR SPECIAL HEARING TO APPROVE A NON-CONFORMING RIDING STABLE S/S HART ROAD, 225' SE OF C/L OF DENBY ROAD 9th DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Michael E. Krompholz, Protestant-Plaintiff	:	CG Doc. No. 10 Folio No. 13
Zoning File No. 83-276-SPH	:	File No. 85-CG-1278

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Lawrence E. Schmidt, 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, S. Eric DiNenna, Esq., 406 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for the Petitioners; Paul Farace, et al, 1102 Hart Rd., Towson, Md. 21204, Petitioners; G. Scott Barhight, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants; Michael E. Krompholz, 1315 Denby Rd., Towson, Md. 21204, Protestant-Appellant; Donald Busick, 2400 Hartfell Rd., Timonium, Md. 21093, Protestant; and Thomas J. Bollinger, Esq., Court House, Towson, Md. 21204, Assistant County Attorney for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

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

Paul Farace, et al
Case No. 83-276-SPH

2.

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to S. Eric DiNenna, Esq., 406 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for the Petitioners; Paul Farace, et al, 1102 Hart Rd., Towson, Md. 21204, Petitioners; G. Scott Barhight, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants; Michael E. Krompholz, 1315 Denby Rd., Towson, Md. 21204, Protestant-Appellant; Donald Busick, 2400 Hartfell Rd., Timonium, Md., 21093, Protestant; and Thomas J. Bollinger, Esq., Court House, Towson, Md. 21204, Assistant County Attorney for Baltimore County, on this 24th day of April, 1985.

June Holmen
County Board of Appeals of Baltimore County

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

April 24, 1985

G. Scott Barhight, Esq.
204 W. Pennsylvania Ave.
Towson, Md. 21204

RE: Case No. 83-276-SPH
Paul Farace, et al

Dear Mr. Barhight:

In accordance with Rule B-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 B-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, Secretary

Encls.
cc: Michael E. Krompholz
Donald Busick

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM M. HESSON, JR.*
THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR
STEPHEN J. NOLAN*
G. SCOTT BARHIGHT
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW

*ALSO ADMITTED IN D.C.

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823 7800

OF COUNSEL
RALPH E. DEITZ
9026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 922-2121
RUSSELL J. WHITE

April 30, 1985

Ms. June Holmen
Secretary
County Board of Appeals
Court House
Towson, Maryland 21204

Re: Case No. 83-276-SPH
Paul Farace, et al

Dear Ms. Holmen:

In response to your April 24, 1985 enclosed is a check made payable to Baltimore County, Maryland in the amount of $20.00. It is my understanding that this payment is for the cost of certified documents in the above referenced case.

Should you have any questions, please contact me. Thank you for your cooperation.

Very truly yours,

G. Scott Barhight

GSB:ylm

cc: Mr. Michael Krompholz
Mr. Alex A. Nolfi
Mr. C. E. Thomas, Jr.
Mr. Michael Semenuk

RECEIVED
COUNTY BOARD OF APPEALS
1985 MAY -6 A 10:03

April 24, 1985

BILLED TO: G. Scott Barhight, Esq.
204 W. Pennsylvania Ave.
Towson, Md. 21204

Cost of certified documents in
Case No. 83-276-SPH . . . . $ 20.00
Paul Farace, et al
S/s Hart Rd., 225' SE of c/l
of Denby Rd., 9th District

MAKE CHECKS PAYABLE TO: Baltimore County, Maryland

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. 35185

DATE May 6, 1985 ACCOUNT 01-712

AMOUNT $20.00

RECEIVED FROM G. Scott Barhight, Esq., 204 W. Penna. Ave. (21204)

FOR: Cost of certified documents in Case No. 83-276-SPH, Paul Farace, et al

B B034******2000:a 6368F

VALIDATION OR SIGNATURE OF CASHIER

B30266

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

March 26, 1985

G. Scott Barhight, Esquire
204 W. Pennsylvania Avenue
Towson, MD 21204

Re: Case No. 83-276-SPH
Paul Farace, et al

Dear Mr. Barhight:

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, Adm. Secretary

Enclosure

cc: S. Eric DiNenna, Esquire
Paul Farace, et al
Donald Busick
Thomas J. Bollinger, Esquire
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer

PETITION FOR SPECIAL HEARING S/S OF HART ROAD, 225' SE OF THE CENTER LINE OF DENBY ROAD 9th Election District PAUL FARACE, et al.	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Petitioners	*	Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** **

PROTESTANT/APPELLANT'S MEMORANDUM OF LAW

The Protestant/Appellant, MICHAEL E. KRUMPHOLZ, by his attorneys, G. Scott Barhight and Nolan, Plumhoff & Williams, Chartered, respectfully submits the following Memorandum of Law:

A. NONCONFORMING USES

The Baltimore County Zoning Regulations, BCZR. Section. 101, defines a "nonconforming use" as a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. Section 104.1 of the BCZR further states as follows:

> A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75) percent of its replacement cost at the the (sic.) time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more

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NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

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COUNTY BOARD OF APPEALS

> than 25% of the ground floor area of buildings so used.

By definition, nonconforming uses are inherently incompatible with permitted uses in a zone. Boyce v. Sembly, 25 Md. App. 43, 59 (1975).

Nonconforming uses, or land uses that do not conform to the zoning ordinance due to their inharmonius character or impact, are considered detrimental to the municipality's comprehensive plan, neighborhood stability and property values. Schnidman, Handling the Land Use Case, Section 9.19.1. Although there is statutory protection for a legitimate nonconforming use, the underlying premise for such zoning regulations is to restrict, rather than expand, such uses. Id. at Section 9.19.2.

Nonconforming uses should not be perpetuated any longer than necessary. Colati v. Jirout, 186 Md. 652, 657 (1946). Nonconforming uses are usually continued after passage of a zoning ordinance with the expectation that such uses will eventually disappear. Schiff v. Board of Zoning Appeals, 207 Md. 365, 368 (1955). The zoning authorities should make constant efforts to move them into the use districts where they properly belong. Colati. The earnest aim and ultimate purpose of zoning is to reduce nonconformance as speedily as possible. County Council v. Gardner, 293 Md. 259 (1982).

B. BURDEN OF PROOF

The burden of proving a nonconforming use is on the claimant of the use. Calhoun v. County Board of Appeals, 262 Md. 265, 267 (1977). Therefore, in the present case, the burden falls on the Petitioners, Paul Farace, et al., to prove the existence of the nonconforming use.

In order to prove the existence of a nonconforming use, evidence

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must be presented demonstrating:

> (1) The use was a lawful use prior to the adoption of a zoning regulation or amendment to the regulation. This generally may be accomplished through the introduction of authenticated versions of the zoning ordinance text to show the law as it existed on the date prior to the regulation making the use (or building) nonconforming.
> (2) The use existed prior to the enactment of the restrictive ordinance. This may be accomplished through testimony of neighboring property owners, and tax and licensing records.
> (3) The use has continued without abandonment or cessation for the statutorily prescribed period, and there has been no change or extension of the use.

Schnidman, at Section 9.19.2.

It is incumbent upon the Board to determine, factually, whether the present use represents a permitted intensification of the original use or an actual change from what existed before the adoption of zoning regulations "to any other use whatsoever". BCZR, Section 104.1. If there is a change to any other use whatsoever, the right to continue a nonconforming use shall terminate. In deciding whether the current use is within the scope of the pre-zoning ordinance use, the Board must consider the following factors:

> (1) To what extent does the current use of the property reflect the nature and purpose of the original nonconforming use;
> (2) Is the current use merely a different manner of utilizing the original nonconforming use, or does it constitute a use different in character, function, and kind;
> (3) Does the current use have a substantially different effect upon the neighborhood;
> (4) Is the current use a "drastic enlargement or extension of the original nonconforming use.

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McKemy v. Baltimore County, 39 Md. App. 257, 269 (1978).

C. RIDING STABLES

A riding stable is defined as a building where riding horses are boarded or kept for hire. BCZR, Section 101. It is the building, according to the Zoning Regulations, which is the focus of the definition of a riding stable.

The property is presently zoned D.R. 1. Commercial riding stables are permitted in the D.R. 1 and D.R. 2 zones by special exception. BCZR, Section 1B02.1. By way of comparison, farms are permitted as a matter of right in the D.R. zones. BCZR, Section 1B01.1.

The Petitioners are attempting to assert a nonconforming use when a special exception is available. The rights and interests of the community would be better served by the special exception process. See BCZR, Section [illegible].

D. BALTIMORE COUNTY ZONING REGULATIONS

On January 2, 1945, the first set of Zoning Regulations for Baltimore County became effective. Riding stables (whether public or private) and riding academies were not permitted as a matter of right. Public stables (riding stables) and Riding Academies were permitted in residential zones by special permit (special exception).

The subject property has always been zoned residentially. No special permit or special exception for a riding stable has been granted relative to the subject property.

Even the original definitions of the 1945 BCZR relating to stables focused on the buildings being used and not the land. A private stable

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was defined as:

> An accessory building used only for the stabling or keeping of horses, and/or other animals, (not more than three in number) for private use only and not for livery or hire. BCZR, Section 1.28 (1945).

A public stable was defined as:

> An accessory building and/or other building, other than a private stable where horses and/or other animals are kept for livery or hire. BCZR, Section 1.29 (1945).

E. THE FACTS
(by Witness, in order of appearance)

1.) The Deeds: By Deed dated January 19, 1957, Leonard and Ruth Bridenstein took title to the 5.47 acre tract of land now known as the Dunroman Stables property. By Deed dated July 15, 1980, Paul Farace and Robin Morfe (Farace) took title to this same parcel of land.

2.) Beverly Raymond: Ms. Raymond is an agricultural inspector for the Maryland Department of Agriculture. She has personal knowledge of the Dunroman Stables since 1978. She has records in her files which relate to the riding stables on Hart Road back to 1968. Her records indicated only 31 horses in 1978 (Prot. Exhibit 2) and a high of 55 horses in 1977 (Prot. Exhibit 3).

3.) Albert G. Cramer: Mr. Cramer, age 61, was familiar with the Providence Road riding stable in 1942-43 when he was 18 or 19 years old. He has no recollection of the Providence Road riding stable before 1942 or after 1943. His knowledge of the Hart Road riding stables does not begin until the 1960's.

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4.) James T. Manning: Mr. Manning has no personal knowledge of the Hart Road riding stables prior to 1968. He did, however, testify to a large concrete building which has been erected in addition to the buildings indicated on the Petitioner's Zoning Plat which is being used in conjunction with the riding stables.

5.) Robin Farace: Mrs. Farace, one of the owner-operators of the Hart Road riding stables, has personal knowledge of these stables since the early 1960's. She testified that all the present buildings, with the exception of the new concrete building mentioned by Mr. Manning, were present in the early 1960's. The new concrete building is 30 foot x 50 foot in size, or 1,500 square feet.

6.) John Etzel: Mr. Etzel is a land surveyor with Gerhold, Gross and Etzel. Mr. Etzel testified that portions of the Bridenstein farm were subdivided in 1944 and again in 1947. On March 11, 1958, he performed a field survey of the Hart Road property. His notes (Prot. Exhibit 8) indicate that the house (frame dwelling) was located on the property. His notes do not indicate the location of any other structure, nor does he have any specific recollection of any buildings other than the house at that time.

Mr. Etzel calculated the square footage of the buildings shown on Petitioner's Zoning Plat as follows:

a.)	Frame dwelling and car port	1,415 square feet
b.)	Block and frame barn	1,682 " "
c.)	Frame barn	3,085 " "
d.)	Frame building	384 " "
e.)	Metal and frame building	496 " "
		7,062 square feet

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7.) Marie Freemen: Ms. Freemen, age 72, testified that she has been familiar with the Providence Road - Hart Road area all her life. She resided in Baltimore City for twenty or thirty years before moving to Hart Road in 1962. She testified that the barns and other buildings on Hart Road were erected about twenty years ago, i.e., 1964.

She made a conclusory statement that horses were in the Providence Road - Hart Road area on a continuous basis as long as she could remember. However, this conclusory statement must be disregarded, or at least discounted. She has no specific recollection of the dates of construction of any building or appearance of horses on different areas of land. All of her factual testimony was cloudy, ambiguous and disjointed.

8.) Wyola Berry: Ms. Berry, age 72, is the cousin of Ms. Freemen. In the 1950's or 1960's she moved from the Loch Raven/Cromwell Bridge area to Baltimore City.

She, like her cousin, made a conclusory statement that horses were on the property all during her recollection. However, also like her cousin, she cannot remember any significant events. She does not remember when horses appeared on Hart Road, when any buildings were erected, if and when any school buses were located on the Hart Road property, or even the year (or decade for that matter) when she moved to Baltimore City. Her conclusory remarks must be disregarded.

9.) Mary C. Bowersox: Mrs. Bowersox, age 40, has several specific recollections of horses in the Providence Road - Hart Road area. When she was 5, in 1949 or 1950, she took a pony ride at the Providence Road

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riding stable. In high school, around 1959 or 1960, she recalls the frame dwelling and the frame barn. There were no other buildings present to her recollection.

10.) John D. Gadd: Mr. Gadd, a veterinarian, performed services at the Providence Road riding stable between 1940 and 1945. He does not recall the boarding of any horses. The horses that he recalls were racing horses being trained for the track.

11.) Lucille Bridenstein Deposition: Prior to the Deputy Zoning Commissioner hearing, and without any counsel for Protestants present, counsel for Petitioner took a deposition of Mrs. Lucille Bridenstein. Numerous leading questions were posed during the deposition. Additionally, there is no way to ascertain the discussions which were held prior to the deposition or during the off the record discussion during the deposition.

Mrs. Bridenstein was 86 at the time of the deposition (p.2). She has been familiar with the Providence Road - Hart Road area since 1917 (p.3). Horses were not boarded at the stables until the 1930's (p.5).

On page 6 the following discussion occurred:

> Q. I will refer to the pictures in a moment, but since the 1920's, are you saying that the property on Hart Road, now had the riding stable, has had horses boarded and riden on it?
> A. I don't know there (sic) business back there. I didn't know Leonard's business because I didn't run over there, but I did know he had a riding stable. I mean, riding horses and boarders, and so did you, honey, didn't you.
> Q. Now, that was in --
> A. In the 1930's.
> Q. So there were horses boarded and riden on this riding stable property prior to 1945, is that correct?

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> A. Yes, about that time. How old was mommom? I have to think back. I think that's right.

Either Mrs. Bridenstein's memory on this point is faulty or she does not understand the question. We know for the testimony of numerous witnesses, as well as from the Baltimore County aerial photographs that there were no buildings at all on the Hart Road property until the late 1950's. It is impossible for a riding stable to have been present on Hart Road in the 1930's and during 1945. However, it appears that she probably meant the Providence Road riding stable. It is important to note that in regard to Leonard Bridenstein's she states, "I don't know there (sic) business back there."

Mrs. Bridenstein, like Ms. Freemen and Ms. Berry, also makes a broad conclusory remark about the continuous appearance of horse in the area. However, the following exchange on pages 16 and 17 points out her memory problem:

> Q. Do you know whether the Orioles won or lost?
> A. I think they won. I forgot what the score was. It was one to -- I think it was -- I heard it, too, and then I forgot it. This old head can't remember too much.
> Q. It remembers pretty well, I think.
> A. It remembers some things, but I can't remember what happened yesterday, hardly.
> Q. Mrs. Bridenstein, let me ask you, you do remember, Mrs. Bridenstein, that the property that Mr. and Mrs. Farace own has been used as a riding stable since the '930's, is that correct.
> A. Yes.
> Q. That's definite in your mind?
> A. Yes, sure, every bit.

First, Mrs. Bridenstein states that she has a poor memory. Then, she proves it in her answer to Mr. DiNenna's leading question. She states

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that the Farace (Hart Road) property has been used as a riding stable since the 1920's. In reading the entire deposition, it is obvious that she never makes a clear distinction between the Providence Road stable and the newer Hart Road stables.

12.) C. Edgar Thomas, Jr.: Mr. Thomas moved to his residence directly across the street from the Hart Road property in October, 1956. At that time, there were no buildings on the Petitioner's property. In October, 1957, Mr Thomas specifically recalls that only one (1) building, a frame dwelling, was located on the Hart Road property as he watched for Sputnik.

In August, 1959, when Mr. Thomas had an "altercation" with Mr. Bridenstein, he specifically recalls a house and a pole building. The pole building was used for the parking of Mr. Bridenstein's school buses. Mr. Thomas first recalls seeing horses on the Hart Road property late in 1959 or early 1960.

13. Beverly Clark: Mrs. Clark, who lives on Providence Road just North of the Old Providence Road riding stable, testified that the horses left the Bridenstein farm in 1956 or 1957. As to the Hart Road property, she testified that a house was built, then buses were parked on the property, then horses appeared.

14. Flora Chrest: Mrs. Chrest moved to Providence Road, just north of the Providence stable in June, 1956. Upon her arrival, she saw about six 6) horses at the Providence Road barn for a period of approximately one (1) year. Then, the area was farmed.

After the horses left, the Bridenstein property was subdivided. Then a house appeared at the Hart Road property. Then, buses were

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parked on the Hart Road property, and later, horses appeared at Hart Road.

15. Jack Brown: In 1950, Mr. Brown moved to the Providence Road area. When he arrived, there were 2 or 3 horses and several colts in the barn at Providence Road. Later, he noticed a house at the Hart Road property. Buses were parked on the property. A barn was erected later, and then horses came to the Hart Road property.

16. Eugene Harrigan Aerial Photographs: Mr. Harrigan introduced two (2) aerial photographs of the Providence Road - Hart Road area. The first photograph, dated May 10, 1953, shows a barn and a ring off Providence Road. The photo shows that the area now known as Dunrovan Stables was being farmed in 1953.

The second photograph dated April 14, 1961, shows a house and one (1) barn at the Hart road property.

Mr. Harrigan testified that the scale for the aerial maps are 2,000 feet equals one (1) inch. Later, after Mr. Harrigan contacted counsel for protestant, it was stipulated before the Board that the proper scale is 1,600 feet equals one (1) inch.

17. Ralph Clayton - Telephone Books: Mr. Clayton introduced selected portions of the White and Yellow pages of the Baltimore telephone books. A summary of the phone books are attached and are described as follows:

1955 Suburban	Baynesville Bus Co.	VA.3-7900
	Briedenstein Leonard C. buses	VA.3-7900
	No "Deer Head Farms" listing	
1955 Yellow Pages	Baynesville Bus Co.	VA.3-7900

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	No "Deer Head Farms" listing	
1956 City & Suburban	Baynesville Bus Co.	VA.3-7900
	Bridenstein Leonard C. buses	VA.3-7900
	No "Deer Head Farms" listing	
1956 Yellow Pages	Baynesville Bus Co.	VA.3-7900
	No "Deer Head Farms" listing	
1957 City & Suburban	Baynesville Bus Co.	VA.3-7900
	Bridenstein Leonard C. buses	VA.3-7900
	Bridenstein Leonard C. Hart Rd.	VA.3-0319
	No "Deer Head Farms"	
1957 Yellow Pages	No "Deer Head Farms" listing	
1958 Suburban	Baynesville Bus Co.	VA.3-7900
	Bridenstein, Leonard C. buses	VA.3-7900
	No "Deer Head Farm" listing	
1958 Yellow Pages	Baynesville Bus Co.	VA.3-7900
	No "Deer Head Farm" listing	
1959 Suburban	No Baynesville Bus Co. listing	
	Bridenstein Leonard C. Hart Rd.	VA.3-7900
	Deer Head Farms Hart Road	VA.3-7900
1959 Yellow Pages	Deer Head Farms Hart Road	VA.3-7900
1960 Suburban	No Baynesville Bus Co. listing	
	Bridenstein Leonard C. Hart Road	VA.3-7900
1960 Yellow Pages	Deer Head Farms Hart Road	VA.3-7900

18. Betty Sims Rice: Ms. Rice, age 47, recalls that when she was six, seven or eight (1943-45) she rode horses at the Providence Road stable. She cannot remember exact dates, but stated that after the

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Providence Road barn was torn down, Leonard Bridenstein began a riding stable on Hart Road.

She recalls that horses came to Hart Road sometime in 1957, '58 or '59. She also testified that one Mr. Cicero rented the stables for his race horses from the late 1940's until 1955.

Ms. Rice did make a conclusory statement that horses were in this area from the beginning of her memory to the present. However, when questioned about the specific location of the horses that she recalled seeing in the mid to late 1950's, after Cicero left the Providence Road barn, she indicated a location other than Petitioner's property. Ms. Rice was asked to locate the horses on a tax map (Prot. Exhibit 13). She testified that the horses she saw in the mid to late 1950's were housed north of Hart Road, east of that is now the Baptist Church property - far from the Petitioner's property. She specifically testified that the horses were across Hart Road from where the radio towers are now located.

F. FACT SUMMARY

Attached to the Memorandum is a Fact Summary sheet showing a chronology of events. Reference to this summary will hopefully help to provide a chronological picture of the events regarding the Providence Road and Hart Road properties.

It appears that horses were boarded and kept for hire at the Providence Road barn until sometime around 1955. Ida Bridenstein, the owner of what remained of the farm died on January 18, 1955. After administration of the estate, Leonard and Ruth Bridenstein were deeded the Hart Road property on January 19, 1957. Between the death of Ida

Bridenstein and the deed to Leonard and Ruth, the Bridenstein tract, including the Hart Road property, was rented out for farming.

In 1957, Leonard Bridenstein moved to a house on Hart Road. From 1955 to 1958, Leonard operated the Baynesville Bus Company. After moving to Hart Road, he would often park several school buses on the Hart Road property. In 1958 and/or 1959, a pole building was used by Leonard to house several buses. Late in 1959, Leonard brought horses to the Hart Road property for hire.

Since 1959, the riding stable use has expanded from a frame barn (3,085 square feet) by adding a block and frame barn (1,682 square feet), a frame building (384 square feet), a metal and frame building (496 square feet), and most recently, a concrete building (1,500 square feet). This represents an expansion of over 130% from the original use in 1959.

G. ISSUES

1. Whether the nonconforming riding stable use which existed off Providence Road extended to the buildings presently owned by Petitioners.

2. Whether, assuming arguendo the nonconforming riding stable use extended to the Petitioners' property, the nonconforming use was changed to any other use whatsoever, or abandoned or discontinued for a period of more than one (1) year.

3. Whether, assuming arguendo the existence of a nonconforming riding stable use for Petitioner's buildings, the use has expanded more than twenty-five percent (25%).

For the sake of clarity, the issues have been listed seriatim. However, the issues will be discussed one at a time.

H. ISSUE ONE

Whether the nonconforming riding stable use which existed off Providence Road extended to the buildings presently owned by Petitioners.

The law concerning the definition of this particular use and the extension or enlargement of a nonconforming use is central to this issue. The definition of a riding stable relates to the buildings not the land which is being employed. BCZR, Section 101. Additionally, the Zoning regulations and the policy of nonconforming uses restricts the extension or enlargement of a use. BCZR, Section 104.1.

The question of whether a nonconforming use extends to an entire parcel or is limited to that portion of the parcel or building in use at the time the County Council adopted the Zoning Regulations relates to the nature of the use as well as the activities engaged in by the landowner. This question has arisen in a great many cases involving the extraction of natural resources such as sand, gravel or stone. By its very nature, mining causes a gradual expansion of the land used. The landowner contemplates commencing at one point and continuing to the excavation of the entire tract of land. Certain parcels or portions of the tract must necessarily be left vacant or devoted to incidental purposes, like access roads, until they are mined. 4 Rathkopf, The Law of Zoning and Planning, Section 51.07 (4th ed. 1984).

Unlike a quarrying or mining operation which must move around a site or "float" from area to area, a riding stable is firm and concrete.

A riding stable is located in a building, hence the Zoning Regulation definition which identifies a building as the place of use. A riding stable is no more likely to need to move or float than the slips in a marina or the bays of a garage. It has a solid foundation and location.

The facts indicate that a barn, which was used as a riding stable, existed on the old Bridenstein farm near Providence Road. When the BCZR took effect on January 2, 1945, that building enjoyed a nonconforming use for a riding stable. The remaining acreage was used for residental and/or agricultural uses. Riding horses over the remaining average would not effect the nature of the nonconforming use or the other uses permitted.

As the riding stable use which existed in the barn off Providence Road was site specific, the nonconforming use that it enjoyed could not be moved to the Petitioners' property when the Bridenstein farm was subdivided in the 1950's.

I. ISSUE TWO

Whether, assuming arguendo the nonconforming riding stable use extended to the Petitioners' property, the nonconforming use was changed to any other use whatsoever, or abandoned or discontinued for a period of more than one (1) year.

The law relative to abandonment or discontinuance of a nonconforming use is clear. The Zoning Regulations indicate that a nonconforming use may continue provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one (1) year or more, the right to continue or resume such nonconforming use shall

terminate. BCZR, Section 104.1. Even assuming, for argument sake, that the nonconforming use associated with the old Bridenstein barn near Providence Road, has somehow leaped across acres of land to the Petitioners' property, the previous owners of the Petitioners' parcel changed the use and/or abandoned or discontinued the use.

In the present case, two (2) separate actions occurred which would serve to terminate a nonconforming use. Initially, the Hart Road property was used solely for residential purposes. Thus, any nonconforming use would have terminated since use of the property had been changed to another use. Subsequently, the property was employed as a parking area for school buses. This change in use would also serve to terminate any nonconforming use.

It also is clear from the record that no horses were housed at Hart Road from at least January, 1957 until some time in 1959. This reflects an abandonment or discontinuance of the nonconforming use for a period greater than one (1) year. The nonconforming use was therefore terminated.

H. ISSUE THREE

Whether, assuming arguendo the existence of a nonconforming riding stable use for Petitioner's buildings, the use has expanded more than twenty-five percent (25%).

The law relative to expanding a nonconforming use is set forth in the Zoning Regulations. No nonconforming building or structure shall be extended more than 25% of the ground floor area of the buildings so used. BCZR, Section 104.1.

Even assuming the existence of a valid nonconforming use, the

present buildings represent an expansion of over 130% beyond the use in existence in 1959. The original barn on the Petitioners' property did more than just expand 25%, it multiplied into five or six buildings, the size of which far exceed a 25% enlargement of the original barn.

E. CONCLUSIONS

A valid nonconforming riding stable use does not exist relative to the buildings on the Petitioners' property. The nonconforming use enjoyed by the old Bridenstein barn did not "float" or transfer to the Petitioners' buildings.

Further, even assuming the transfer of the nonconforming use, the use was both changed to a residential and bus parking use and abandoned. Additionally, the Petitioners' buildings have expanded in floor area far beyond the permitted 25%.

The Petitioner's burden of proof has not been met. The Petitioners should apply for a Special Exception for a Riding Stable as permitted by the Zoning Regulations. The policy and letter of the Zoning Regulations demand that the Petitioners seek their proper remedy and that the community interests be protected. The Protestant/Appellant respectfully requests that the Board find that a nonconforming use for a riding stable does not exist at the Petitioner's property or buildings.

Respectfully submitted,

G. SCOTT BARNIGHT

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204 West Pennsylvania Avenue
Towson, Maryland 21204
(310)823-7800

NOTE: Attached and incorporated herein are copies of the 1953 and 1961 aerial photographs, a summary/compilation of the telephone directory information and a chronological fact summary.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February, 1985, a copy of the foregoing Protestant/Appellant's Memorandum of Law was mailed postage prepaid, to S. Eric DiNenna, Esquire, 406 West Pennsylvania Avenue, Towson, Maryland 21204, attorney for Petitioner.

G. Scott Barnight

GSB/ehf
12/3/84
Rev. 2/11/85

1955 SUBURBAN

(page 26)

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(Pl 298)

1957 City & Suburban

City, page 43

Sub. pg 30

Suburban page 48

(a)

(b)

City, pg 140

no DeerHead listing

1958 Yellow Pages, continued (page 2 of 2)

1958 Y.Pgs pg 623

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HORSES TO HIRE

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HORSES BOARDED, & SCHOOLED

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Beginner & Advanced

PONY RIDES

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CIRCLE X RANCH INC

HORSES BOARDED - HORSES FOR HIRE

MEALS & LODGING FOR PATRONS

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Ask Oper for Sykesville-519

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(See Advertisement This Page)

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1958 YP pg 623

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WAKEFIELD FARM

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1956 Yellow Pages

Y.P. page 133

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CLYDE'S CHARTER BUS SERVICE

DIGGS MOTOR COACH CO

DILLON'S CHARTER SERVICE

YP. page 654

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HORSES FOR HIRE

LOVELY TRAILS

HORSES BOARDED

RIDING LESSONS

STRAW RIDES ARRANGED

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Ask Oper for Sykesville-519-J

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1958 Yellow Pages (page 1 of 2)

Y.P. page 128

1958 YP pg 128

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SCHOOL & CHARTER BUSES

FOR HIRE

GREYHOUND BUS LINES

Greenmeyer Bus Service

KENWOOD BUS CO INC

SACSAMEN BUS CO

ALSO SEE SECOND SHEET for 1958 Y.P. LISTINGS OF RIDING ACADEMIES

1956 City & Suburban

City, pg 42

Sub. pg 28

Suburban pg 44

Suburban pg 82

no DEERHEAD listing

Suburban, page 322

1958 Suburban

Suburban, pg

page 50

Suburban, page 95

no DeerHead listing

1955 Yellow Pages

* To Call Suburban Points, See Page L

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1955 Y.P. pg 130

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1955 Yellow Pages

Riding Academies

BELVEDERE RIDING SCHOOL

HORSES FOR HIRE

LOVELY TRAILS

HORSES BOARDED

RIDING LESSONS

STRAW RIDES ARRANGED

Herbert Carroll L 6145HillnRd ------VAlly 3-4161

Kentucky Stables Pottsp&CinderRds -VAlly 3-0339

Lakeside Riding Academy 6145HillnRd-VAlly 3-4161

LAKESIDE RIDING ACADEMY

HORSES FOR HIRE

PONIES FOR ALL OCCASIONS

Boarded and Schooled

RIDING LESSONS

Special Attention To Children

Hillen rd & Loch Raven blvd -VAlley 3-4161

WAKEFIELD FARM

HORSES BOARDED ON COUNTRY ESTATE

Beautiful Established Trails

4820 WINDSOR MILL RD.

Riding Apparel—Retail & Custom Made

DE LUXE SADDLERY CO

1957 Yellow Pages

YP page 657

Riding Academies

BELVEDERE RIDING SCHOOL

HORSES FOR HIRE

LOVELY TRAILS

HORSES BOARDED

RIDING LESSONS

STRAW RIDES ARRANGED

no DEER HEAD listing

BRIARWOOD FARMS

Schooling

Pasturing

BRIARWOOD FARMS

Schooling

Pasturing

BOARDING

HORSE TRANSPORTATION

OPEN JUMPERS

FIELD & SHOW HUNTERS

BOUGHT & SOLD

VAlley 3-5218

KNOX AV. & GENT RD.

Extension Telephones

Restaurants—Riggers 657

Riding Academies (Cont'd)

Herbert Carroll L 6145HillnRd ----- VAlly 3-4161

Kentucky Stables 26JCinderRd ----- VAlly 3-0339

LAKESIDE RIDING ACADEMY

HORSES FOR HIRE

PONIES FOR ALL OCCASIONS

Boarded and Schooled

RIDING LESSONS

Special Attention To Children

Hillen rd & Loch Raven blvd - VAlley 3-4161

Lakeside Riding Academy 6145HillnRd VAlly 3-4161

Wagon Wheel Riding Academy

Riding Apparel—Retail & Custom Made

DE LUXE SADDLERY CO

1960 Yellow Pages

YP page 622

622 Riding—Riggery

Riding Academies

1960 YPs pg 622

BELVEDERE STABLES
PROFESSIONAL INSTRUCTION
SPECIAL ATTENTION TO BEGINNERS
CHILDREN OR ADULTS
ADVANCED PREPARATION
FOR HUNTING & SHOW RING
HORSES BOARDED & SCHOOLED
HORSES TO HIRE
BRIDAL PATHS IN LEAKIN PARK
or Forest Park Ave
5601 Windsor Mill Rd ---------- HE 8-9855

CUB HILL RIDING ACADEMY Harford NO 8-2656
(See Advertisement This Page)

DEER HEAD FARMS
RIDING ACADEMY
HORSES FOR HIRE
Lessons - Boarding With Care
Acres & Acres Of Good Trail
Directions:
From York Rd In Towson - East On Joppa Rd To Providence Rd - Left To Hart Rd - Right ½ Mile
Hart Rd ---------- VA 3-7900

INDIAN HEAD RANCH
Guided Trail Riding For Small Groups In The Beautiful Patapsco Valley
Overnight Accommodations
WE PURNISH
PURE BRED QUARTER HORSES
Off Rt 99 Near Old Court Rd
Ellicott City

Towson - East on Providence Rd - Left To Hart Rd - Right ½ Mile
Hart Rd ---------- VA 3-7900

INDIAN HEAD RANCH
Guided Trail Riding For Small Groups In The Beautiful Patapsco Valley
Overnight Accommodations
WE PURNISH
PURE BRED QUARTER HORSES
Off Rt 99 Near Old Court Rd
Ellicott City
Westfield ---------- BA 6-2282

Kentucky Stables 243 Cinder Rd ---------- CL 3-3700

ROLLING ROAD SADDLE CLUB
INSTRUCTION IN ENGLISH EQUITATION AND JUMPING
Horses Boarded And For Hire
Show Ring And Miles Of Trails In The Beautiful Patapsco Valley
NANCY A. WILLIAMS
JAMES O. COLLIFLOWER
1302 N Rolling Rd ---------- RI 7-9859

Wood Gait Farm Reisterstown ---------- OL 3-9660

Your telephone company has always tried to deal telephone problems through your eyes. It approaches its problems with the determination that "the customer must be pleased" ... its service to that end ...

and develop ... Particular care is taken in selecting telephone workers. Telephone people want to serve you. Your viewpoint is their constant concern

CUB HILL
RIDING ACADEMY
LOCATED ON HARFORD RD.
Just 1½ Miles North Of Joppa Rd.

HORSES FOR HIRE
BOARDED & SCHOOLED
RIDING LESSONS
PONIES FOR ALL OCCASIONS
Special Attention To Children
Northfield 8-2656
HARFORD RD.

1960 Suburban

Suburban, pg 34

DAVIDS JOHN G Hrs
Cockeysville Lutherville Rd ---------- NO 5-7122
Baynes Jos G Cockeysville Jacksonville Rd ---------- NO 8-4061
Baynes Owen K Sparks Glen ---------- SO 6-6627
Baynes Robt T Brooklandville Towson Rds ---------- ED 5-4512
Baynes Wesley E Jr Glen Arm Bradley Rd ---------- NO 5-1717
Baynes Wesley E Jr Glen Arm Bradley Rd ---------- VA 3-1346
Baynesville Barber Shop 1644 E Joppa Rd ---------- VA 3-6569
Baynesville Electronics 1631 E Joppa Rd ---------- VA 3-9062
BAYNESVILLE LAWN MOWER SERVICE
1711 Joppa Rd ---------- NO 8-4987
Bayne D W 6609 Cinderhurst Ct ---------- VA 3-5262
Bayor Eaton E 517 Piccadilly Rd ---------- VA 5-2671
Bayrle Ches E 3402 Emmart Rd ---------- OL 3-4452
Bayrle Martin E Mrs Gilmanton ---------- OL 2-3795
---------- BA 6-1984

no Baynes with Bus listing

page 54

Breidenbaugh Lloyd 8733 Satterfield ---------- NO 5-1254
Breidenbaugh Wm P Greenmead ---------- LY 2-7644
Breidenstein August P 3642 Kenwood Rd ---------- VA 3-9729
Breidenstein August P 3318 Pinewood Rd ---------- NO 8-1788
Breidenstein C F Bennett Rd ---------- Sykesville 373-W-5
Breidenstein Elenora T Mrs ---------- 875-5445
Breidenstein Fred J 1315 Providence Rd ---------- VA 3-2742
Breidenstein Harold D Jamison ---------- NO 5-5436
Breidenstein Leonard C Hart Rd ---------- VA 3-7900
Breidenstein Virginia A Mrs 2614 Linder Ter ---------- VA 5-0530
Breig Jos R 10631 Cinderhurst ---------- VA 5-9019
Breigher Adrian P 1928 W Lake Rd ---------- AT 5-0626

1965 Letter

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW
S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
ROBERT L. BRESCHI
60 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
(301) 296-6820

January 23, 1985

Mr. William Hackett
Chairman
County Board of Appeals for
Baltimore County
Court House
Towson, Maryland 21204

RE: Case No. 83-276-SPH
Paul Farace, et al.
Hart Road

Dear Mr. Chairman:

At the end of the hearing on the above-captioned matter on December 26, 1984, you requested Memorandums from counsel within 30 days.

I have been involved in the preparation of several long briefs, one of which is required under the Maryland Rules to be filed on Monday, January 28th, in the Circuit Court for Baltimore County.

Accordingly, I respectfully request a 15 day extension to submit the Memorandum to you concerning this matter.

Very truly yours,

S. ERIC DiNENNA

SED:bk
cc: G. Scott Barhight, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
1985 JAN 25 P 2:31

1965 Letter

LAW OFFICES
NOLAN, PLAUNHOFF & WILLIAMS
CHARTERED
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-7800

OF COUNSEL
RALPH E. BOTZ
9006 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 922-2121
RUSSELL J. WHITE

JAMES NOLAN (1907-1964)
NORTON A. WILLIAMS
WILLIAM M. HESSON, JR.*
WILLIAM P. ENGLEHART, JR.
WILLIAM J. WOLF, JR.
G. SCOTT BARNIGHT
JOHN ROGERS WALSH
ROBERT S. GLUSHAKOW

*ALSO ADMITTED IN D.C.

January 29, 1985

Mr. William Hackett, Chairman
County Board of Appeals for
Baltimore County
Court House
Towson, Maryland 21204

Re: Case No. 83-276-SPH
Paul Farace, et al.

Dear Mr. Chairman:

This letter is to confirm that Mr. DiNenna's request for a fifteen (15) day extension of time to file a Memorandum in the above-captioned matter is my understanding that both Memorandums are now due on or before February 11, 1985.

Should either you or Mr. DiNenna disagree with this due date, please contact me immediately.

Thank you for your cooperation.

Very truly yours,

G. Scott Barhight

GSB:jms

cc: S. Eric DiNenna, Esquire
Mr. Michael Kromholz
Mr. Alex Nolff
Mr. C. E. Thomas, Jr.
Mr. Michael Senecuk

RECEIVED
COUNTY BOARD OF APPEALS
1985 JAN 30 A 9:50

1959 Yellow Pages

158 745 Riding Academies

1959 YPs pg 630

BELVEDERE RIDING SCHOOL
HORSES TO HIRE
Lovely Trails In Beautiful Leakin Park
HORSES BOARDED & SCHOOLED
EXPERT INSTRUCTION
Beginner & Advanced
PONY RIDES
Near Forest Park Ave
5601 Windsor Mill Rd ---------- FO 7-9855

CIRCLE X RANCH INC
HORSES BOARDED HORSES FOR HIRE
MEALS & LODGING FOR PATRONS
Owings Mills Md
River Rd Sykesville 319

CUB HILL RIDING ACADEMY
Harford NO 8-2656
(See Advertisement This Page)

DEER HEAD FARMS
HORSES FOR HIRE
LESSONS BOARDING
ACRES & ACRES OF GOOD TRAIL
Hart Rd ---------- VA 3-7900

Kentucky Stables 243 Cinder Rd ---------- VA 3-0339
ROLLING ROAD SADDLE CLUB
Instruction - Horses - Boarding Beautiful Trails Show Ring For Rent
1302 N Rolling Rd ---------- RI 7-9859

Riding Apparel—Retail & Custom Made

DE LUXE SADDLERY CO
EVERYTHING FOR THE RIDER
Fine Saddles Tack & Horse Accessories
Women & Children

1965 Yellow Pages

YP page 646

Riding Academies

CUB HILL RIDING ACADEMY
Harford NO 8-2656
(See Advertisement This Page)

DEER HEAD FARMS
From Beltway Exit 28 Providence Rd North To 1102 Hart Rd
HORSES FOR HIRE
LESSONS - BOARDING WITH CARE
ALSO HORSES BOUGHT & SOLD
Hart Rd ---------- VA 3-7900

Listings of This Classification Are Continued In Next Column

1965 YPs pg 646

ACTION PEOPLE shop th

Riding Academies (Cont'd)

Kentucky Stables 243 Cinder Rd ---------- CL 2-3700
Pine Bottom Riding Academy
Triddlehorn Rd Ellicott City Md 286-2247
ROLLING ROAD SADDLE CLUB
1302 N Rolling Rd RI 7-9859
Wood Gait Farm Reisterstown ---------- BA 3-9660

Riding Apparel—Retail & Custom Made

DE LUXE SADDLERY CO

1959 Suburban

Suburban, pg 31

99 Baynes Evelyn G Mrs 2231 Towanda Ave ---------- WI 4-3115
11 Baynes John Hart Rd ---------- LY 2-3413
23 BAYNES JOHN G Hrs
84 Cockeysville Rd & Jacksonville Rd ---------- NO 5-7122
Baynes Jos G Cockeysville Rd & Jacksonville Rd ---------- NO 8-4061
75 Baynes Owen K 5309 Dellay ---------- SO 6-6627
01 Baynes Robt T Brooklandville & Towson Rds ---------- ED 5-4512
11 Baynes Wesley E 7614 Bradley Ave ---------- NO 5-1717
31 Baynes Wesley E Jr 8144 Glen Arm Rd ---------- VA 5-1346
Baynesville Barber Shop 1644 E Joppa Rd ---------- VA 3-6569
51 Baynesville Electronics 1631 E Joppa Rd ---------- VA 3-0062
Baynesville Service Station ---------- 8
50 1612 E Joppa Rd VA 5-9551
02 Bayor Eaton E 517 Piccadilly Rd ---------- VA 5-2671
46 Bayrle Ches E 3402 Emmart Rd ---------- OL 3-4452

no Baynes with Bus listing

Breidenbaugh Lloyd 8733 Satterfield Rd ---------- NO 5-1254
Breidenbaugh Wm P Greenmead Rd ---------- LY 2-7644
Breidenstein August P 3642 Kenwood Rd ---------- VA 3-9729
Breidenstein August P 3318 Pinewood Rd ---------- NO 8-1788
Breidenstein C F Bennett Rd ---------- Sykesville 373-W-5
Breidenstein Elenora T Mrs ---------- 875-5445
Breidenstein Fred J 1315 Providence Rd ---------- VA 3-2742
Breidenstein Harold D 1211 Jamison Rd ---------- NO 5-5436
Breidenstein Leonard C Hart Rd ---------- VA 3-7900
Breidenstein Virginia A Mrs 2614 Linder Ter ---------- VA 5-0530
Breig Jos R 10631 Cinderhurst ---------- VA 5-9019
Breigher Adrian P 1928 W Lake Rd ---------- AT 5-0626

page 50

page 96

Dennis Jas A 2 Sylvia Ave ---------- CL 2-4781
Dennis Thos E Jr 5419 Harford Rd ---------- VA 5-2910
Deo Albert L Jr 5419 Harford Rd ---------- VA 3-7900
Deer Head Farm Hart Rd ---------- FL 2-8181
Deer Irvin E 6538 N Charles ---------- AT 5-0870
Deer Leslie L 3 Hillside Ave ---------- AT 5-0870
Deer Park Atlantic Service Station
Frederick & Liberty Rds ---------- OL 3-9872

1965 White Pages

page 112

112 BREIDENSTEIN—BREWER

Breidenstein Harold D 1518 Jamison Cross Dr ---------- 665-3490
Breidenstein Leonard C Hart Rd ---------- VA 3-7900
Breidenstein Virginia A Mrs 2614 Linder Ter ---------- VA 5-0530
Breig Jos R 10 Cinder Rd ---------- 825-9019
Breigher Adrian P 1928 W Lake Rd ---------- AT 5-0626
Breigher Bernard F 2315 Woodbridge Ave ---------- TU 9-0140
Breigher Bernard F Jr 1100 W 43d ---------- 889-3678

page 220

Dreier Elnora B Mrs 1204 N Chester ---------- EA 7-9144
Dreno Garnet L 1204 N Chester ---------- EA 7-4934
DREPWATER TERMINALS INC
9700 Liberty Rd 327-5878
Deer Head Farms Hart Rd ---------- VA 3-7900
Dyer Irvin E 6538 N Charles ---------- 435-8371
DREW PARK PLUMBING SUPPLIES
9314 Liberty Rd VA 2-3464
Deer Park Esso Servicenter Deer Park Rd ---------- TE 3-9740
Drew John Co special imprints
2524 Greenleaf Ave MD 7-5130
7 Drew Jos P 1703 Glenmore Rd ---------- 668-4883
Drew Wm Mrs 4 Hunterwoods ---------- AT 5-2[illegible]

/2/84 - Following were notified of hearing set for Thursday, July 26, 1984, at 10 a.m.:

Eric DiNenna
Paul Farace, et al
G. S. Barhight, Esq.
Donald Busick
Phyllis Friedman
N. Gerber
J. Hoswell
J. Jung
J. Dyer
A. Jablon
T. J. Bollinger

Postponed 5-7-84 (Petitioner)

5/7/84 - Above notified of POSTPONEMENT and REASSIGNMENT for ~~August 28, 1984 at 10 a.m.~~ (Thurs.) 7/16/84 Protestant

7/10/84 - Above notified of POSTPONEMENT and REASSIGNMENT for 10/16/84 at 10 a.m. (Tues.)

10/16/84 - Above notified of CONTINUED HEARING scheduled for WEDNESDAY, DECEMBER 5, 1984 at 10 a.m.

12/5/84 - Above notified of CONTINUED HEARING scheduled for WEDNESDAY, DEC. 26, '84, at 11:00 a.m.

12/26/84 - Memos due from S. Barhight and E. DiNenna on Jan. 25, 1985.

County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #216)
Towson, Maryland 21204
(301) 494-3180

October 16, 1984

NOTICE OF ASSIGNMENT

CONTINUED HEARING

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. 83-276-SPH — PAUL FARACE, ET AL
S/S HART ROAD 225' SE OF DENBY ROAD
9th DISTRICT
SPH - NONCONFORMING RIDING STABLE
3/5/84 - D.Z.C. GRANTED PETITION

ASSIGNED FOR: WEDNESDAY, DECEMBER 5, 1984 at 10 a.m. CORRECTED NOTICE SENT 10-18-84

cc: S. Eric DiNenna, Esquire — Counsel for Petitioners
Paul Farace, et al — Petitioners
G. Scott Barhight, Esquire — Counsel for Protestants
Donald Busick — Protestant
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer
Thomas J. Bollinger, Esquire

Edith T. Eisenhart, Adm. Secretary

---

92 Cunningham

PETITION FOR SPECIAL HEARING
S/S OF HART ROAD, 225' SE OF
THE CENTER LINE OF DENBY ROAD
9th ELECTION DISTRICT
PAUL FARACE, et al.
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** COST $ 5.00

WITNESS SUBPOENA DUCES TECUM
SUMMONED 12-1 1984
NOT SERVED 19
REASON NOT SERVED
SHERIFF OF BALTIMORE COUNTY J. EDWARD MALONE

TO: LUCILLE BREIDENSTEIN
1315 Providence Road
Baltimore, Maryland 21204

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

The witness is required to bring to and produce at the Hearing all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in the possession, custody or control of the witness concerning this case, and the property presently known as the Dunroman Stables, and the property that was known as the Breidenstein Farm.

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

RECEIVED COUNTY BOARD OF APPEALS FRI NOV 28 A 8 36

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

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92 Wallbing

PETITION FOR SPECIAL HEARING
S/S OF HART ROAD, 225' SE OF
THE CENTER LINE OF DENBY ROAD
9th ELECTION DISTRICT
PAUL FARACE, et al.
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** COST $ 5.00

WITNESS SUBPOENA DUCES TECUM
SUMMONED 11/27 1984
NOT SERVED 19
REASON NOT SERVED
SHERIFF OF BALTIMORE COUNTY J. EDWARD MALONE

TO: EUGENE HARRIGAN
Supervisor, Microfilming/Reproduction
County Office Building, Room 204, 206
Baltimore, Maryland 21204

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

The witness is required to bring to and to produce at the Hearing the following original aerial photographs: (1) #556-12-16, dated April 14, 1961, and (2) #431-14-454, dated May 10, 1953; in the possession, custody or control of Baltimore County, Maryland.

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

RECEIVED COUNTY BOARD OF APPEALS FRI NOV 28 A 8 41

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

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92 Cunningham

PETITION FOR SPECIAL HEARING
S/S OF HART ROAD, 225' SE OF
THE CENTER LINE OF DENBY ROAD
9th ELECTION DISTRICT
PAUL FARACE, et al.
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** COST $ 5.00

WITNESS SUBPOENA DUCES TECUM
SUMMONED 11-27 1984
NOT SERVED 19
REASON NOT SERVED
SHERIFF OF BALTIMORE COUNTY J. EDWARD MALONE

TO: JOHN F. ETZEL
Gerhold, Cross & Etzel
412 Delaware Avenue
Towson, Maryland 21204

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

The witness is required to bring to and produce at the Hearing all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in the possession, custody or control of the witness concerning this case, and the property presently known as the Dunroman Stables, and the property that was known as the Breidenstein Farm.

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

RECEIVED COUNTY BOARD OF APPEALS FRI NOV 28 A 8 33

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

---

92 Cunningham

PETITION FOR SPECIAL HEARING
S/S OF HART ROAD, 225' SE OF
THE CENTER LINE OF DENBY ROAD
9th ELECTION DISTRICT
PAUL FARACE, et al.
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** **

WITNESS SUBPOENA

TO: KENNETH CHREST
1419 Providence Road
Baltimore, Maryland 21204

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

COST $ 5.00
SUMMONED 12-1 1984
NOT SERVED 19
REASON NOT SERVED
SHERIFF OF BALTIMORE COUNTY J. EDWARD MALONE

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

RECEIVED COUNTY BOARD OF APPEALS FRI NOV 28 A 8 45

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

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92 Cunningham

PETITION FOR SPECIAL HEARING
S/S OF HART ROAD, 225' SE OF
THE CENTER LINE OF DENBY ROAD
9th ELECTION DISTRICT
PAUL FARACE, et al.
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** **

WITNESS SUBPOENA

TO: CICERO H. BROWN, JR.
1008 Hart Road
Baltimore, Maryland 21204

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

COST $ 5.00
SUMMONED 12-1 1984
NOT SERVED 19
REASON NOT SERVED
SHERIFF OF BALTIMORE COUNTY J. EDWARD MALONE

RECEIVED COUNTY BOARD OF APPEALS FRI NOV 28 A 8 47

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

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92 Cunningham

PETITION FOR SPECIAL HEARING
S/S OF HART ROAD, 225' SE OF
THE CENTER LINE OF DENBY ROAD
9th ELECTION DISTRICT
PAUL FARACE, et al.
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** **

WITNESS SUBPOENA

TO: BEVERLY CLARK
1417 Providence Road
Baltimore, Maryland 21204

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

COST $ .00
SUMMONED 12-3 1984
NOT SERVED 19
REASON NOT SERVED not home
will subpoena
SHERIFF OF BALTIMORE COUNTY J. EDWARD MALONE

RECEIVED COUNTY BOARD OF APPEALS FRI NOV 28 A 8 48

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

P 299 3:22

PETITION FOR SPECIAL HEARING	*	BEFORE THE
S/S OF HART ROAD, 225' SE OF	*	
THE CENTER LINE OF DENBY ROAD	*	COUNTY BOARD OF APPEALS
9th ELECTION DISTRICT	*	
PAUL FARACE, et al.	*	OF BALTIMORE COUNTY
Petitioners	*	Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** **

WITNESS SUBPOENA DUCES TECUM

TO: RALPH CLAYTON
Enoch Pratt Free Library
400 Cathedral Street
Baltimore, Maryland 21201

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

The witness is required to bring to and produce at the Hearing all telephone directories regarding Baltimore County and/or the Greater Baltimore Metropolitan area for the calendar years 1950 through 1965, in the possession, custody or control of the Enoch Pratt Free Library.

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

12-3-84 3:22 PM R. Delmar #10

10

Rec'd 15.00

RECEIVED COUNTY BOARD OF APPEALS NOV 28 A 8:38

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

P 299

PETITION FOR SPECIAL HEARING	*	BEFORE THE
S/S OF HART ROAD, 225' SE OF	*	
THE CENTER LINE OF DENBY ROAD	*	COUNTY BOARD OF APPEALS
9th ELECTION DISTRICT	*	
PAUL FARACE, et al.	*	OF BALTIMORE COUNTY
Petitioners	*	Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** **

WITNESS SUBPOENA DUCES TECUM

TO: C. EDWARD THOMAS, JR.
221 Stoney Run Lane
Baltimore, Maryland 21210

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

The witness is required to bring to and produce at the Hearing all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in the possession, custody or control of the witness concerning this case, and the property presently known as the Dunroman Stables, and the property that was known as the Breidenstein Farm.

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

20 12-3-84 1 hour

RECEIVED COUNTY BOARD OF APPEALS NOV 28 A 8:39

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

92 Cunningham

PETITION FOR SPECIAL HEARING	*	BEFORE THE
S/S OF HART ROAD, 225' SE OF	*	
THE CENTER LINE OF DENBY ROAD	*	COUNTY BOARD OF APPEALS
9th ELECTION DISTRICT	*	
PAUL FARACE, et al.	*	OF BALTIMORE COUNTY
Petitioners	*	Case No.: 83-276-SPH (Item 175)

** ** ** ** ** ** ** *** ** ** ** ** ** **

WITNESS SUBPOENA

TO: FLORA CHREST
1419 Providence Road
Baltimore, Maryland 21204

You are hereby subpoenaed to attend a Hearing in this case at 10:00 a.m. on Wednesday, December 5, 1984, at Hearing Room No. 218, Courthouse, Towson, Maryland 21204, to testify on behalf of the Appellant/Protestant.

COST $ 5.00
SUMMONED 12-1 19
NOT SERVED ____ 19
REASON NOT SERVED ____

SHERIFF OF BALTIMORE COUNTY J. EDWARD MALONE

Mr. Sheriff:

Please issue this summons.

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

RECEIVED COUNTY BOARD OF APPEALS NOV 28 A 8:43

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

May 7, 1984

NOTICE OF POSTPONEMENT and REASSIGNMENT

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. 83-276-SPH PAUL FARACE, ET AL

S/S Hart Rd., 225' SE of the c/l of Denby Rd.

9th District

SPH-Non-conforming riding stable

DZC's Order - (3/5/84) GRANTED w/restrictions

The above case set for hearing on Thursday, July 26, 1984, at 10 a.m., has been POSTPONED by the Board at the request of Counsel for Petitioner, and

REASSIGNED FOR: THURSDAY, AUGUST 30, 1984, at 10 a.m.

cc: S. Eric DiNenna, Esq. Counsel for Petitioners
Paul Farace, et al Petitioners
G. Scott Barhight, Esq. Counsel for Protestants
Donald Busick Protestant
Phyllis C. Friedman People's Counsel
N. Gerber
J. Hoswell
J. Jung
J. Dyer
A. Jablon
T. J. Bollinger, Esq. Law Office

June Holman, Secy.

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
(301) 296-6820

October 3, 1984

Mr. William Hackett
Chairman
County Board of Appeals for
Baltimore County
Court House
Towson, Maryland 21204

RE: Case No. 83-276-SPH
Paul Farace, et al.
Hart Road

Dear Mr. Chairman:

This is to confirm our conversation of last week wherein I indicated to you that due to another zoning hearing before the Board of Municipal Zoning Appeals in Baltimore City scheduled to start at 1:30 P.M. on October 16, 1984, that Mr. Barhight and I agreed that I would present my case before you until approximately 12:30 P.M. and that we would stop at that time and Mr. Barhight would not have to summons in any witnesses and that it would go over to another date for the remainder of the case.

This was agreeable to him prior to my speaking with you and I indicated same to you.

Following my conversation with you, Mr. Barhight called me and told me that upon discussing this matter with his client, that his client did not authorize him to agree to this arrangement.

Accordingly, I must respectfully request, on my client's behalf, that due to this case starting in Baltimore City at 1:30 P.M., that we be allowed to proceed before you between 10:00 A.M. and 12:30 P.M. and that the case before you stop at that time in order that I may be able to get downtown for the 1:30 P.M. hearing.

I respectfully request this and I assure you that this is not a delaying tactic in any way, shape or form on my client's part but

DiNENNA, MANN & BRESCHI
Attorneys at Law

Mr. William Hackett
Page 2
October 3, 1984

a conflict in which I find myself.

Would you be so kind as to advise me immediately as well as other counsel concerning this matter.

Very truly yours,

S. ERIC DiNENNA

SED:bk
cc: Mr. and Mrs. Paul Farace
Ms. Phyllis C. Friedman
G. Scott Barhight

RECEIVED COUNTY BOARD OF APPEALS OCT -4 A 10:19

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-7800

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM M. HESSON, JR.
THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
STEPHEN J. NOLAN
G. SCOTT BARHIGHT
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW

OF COUNSEL
RALPH E. DEITZ
9026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 922-2121

June 28, 1984

Mr. William T. Hackett, Chairman
County Board of Appeals
of Baltimore County
Room 200, Courthouse
Towson, Maryland 21204

RE: Case No.: 83-276-SPH
Paul Farace, et al, Petitioners

Dear Mr. Chairman:

The above case was originally set for hearing on Thursday, July 26, 1984. At the request of counsel for Petitioner, S. Eric DiNenna, Esquire, this case was postponed by the Board and reassigned for Thursday, August 30, 1984.

Since being notified of this hearing date, it has come to my attention that the most significant witness who will testify on behalf of the Protestants will be unavailable on that date. I have been in contact with Mr. DiNenna and Mr. Thomas J. Bollinger, of the Office of Law, regarding this matter. Both of these gentlemen concur with my request for postponement of the August 30th hearing date.

As counsel for the Protestants, I respectfully request that the present hearing date be postponed. In the event that a postponement is granted, Mr. DiNenna and I will contact your office to reschedule the hearing.

The key witness, Mr. C. E. Thomas, Jr., testified before the Zoning Commissioner on behalf of the Protestants. His testimony is probably the most significant which the Protestants have to offer.

RECEIVED COUNTY BOARD OF APPEALS JUN 29 P 2:07

7/10 OK granted W/T Rt Let for 10/16

Mr. William T. Hackett, Chairman
Page 2
June 28, 1984

Should you have any questions or comments, or if you are in need of further information to assist you in making your determination, please feel free to contact me. Thank you for your cooperation.

Very truly yours,

G. Scott Barhight

GSB:jl

cc: Mr. Donald Busick
S. Eric DiNenna, Esquire
T. J. Bollinger, Esquire

Received but 3 names deleted

PETITION FOR SPECIAL HEARING	*	BEFORE THE
S/S OF HART ROAD, 225' SE OF	*	
THE CENTER LINE OF DENBY RD.-	*	BOARD OF APPEALS
9TH ELECTION DISTRICT	*	OF
PAUL FARACE, ET AL-PETITIONERS	*	BALTIMORE COUNTY
NO. 83-276-SPH (ITEM NO. 175)	*	

* * * * * * * * *

AMENDED ORDER FOR APPEAL

MR. CHAIRMAN:

Please amend the previously filed Order for Appeal filed on behalf of Michael E. Krompholz and other Protestants, from the Order of the Deputy Zoning Commissioner dated March 5, 1984, in the above-referenced case to the Board of Appeals for Baltimore County. The addresses of the named Protestants are as follows:

Mr. Michael Krompholz
1315 Denby Road
Towson, MD 21204

~~Mr. C. E. Thomas, Jr.~~
~~221 Stoney Run Lane~~
~~Baltimore, MD 21210~~

~~Mr. Alex A. Nolfi~~
~~1103 Hart Road~~
Towson, MD 21204

~~Mr. Michael Semenuk~~
~~1313 Denby Road~~
Towson, MD 21204

G. Scott Barhight

Nolan, Plumhoff & Williams, Chtd.
204 West Pennsylvania Avenue
Towson, Maryland 21204 823-7800
Attorneys for Appellants

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

cc: S. Eric DiNenna, Esq.
Mr. Donald Busick
People's Counsel
Arnold Jablon,
Zoning Commissioner

PETITION FOR SPECIAL HEARING	*	BEFORE THE
S/S OF HART ROAD, 225' SE OF	*	
THE CENTER LINE OF DENBY RD.-	*	DEPUTY ZONING
9TH ELECTION DISTRICT	*	COMMISSIONER
PAUL FARACE, ET AL-PETITIONERS	*	OF
NO. 83-276-SPH (ITEM NO. 175)	*	BALTIMORE COUNTY

* * * * * * * * *

APR 3 ZONING DEPARTMENT By

ORDER FOR APPEAL

Mr. Zoning Commissioner:

Please enter an Appeal on behalf of Michael E. Krompholz and other Protestants, from the Order of the Deputy Zoning Commissioner dated March 5, 1984, in the above referenced case to the Board of Appeals for Baltimore County. A check in the amount of $80.00 for filing costs is attached.

G. Scott Barhight

Nolan, Plumhoff & Williams, Chartered
204 West Pennsylvania Avenue
Towson, MD 21204
Appellants

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

No. 128264

DATE April 3, 1984 ACCOUNT R-01-615-000

AMOUNT $80.00

RECEIVED FROM Nolan, Plumhoff & Williams

FOR Appeal fee on Case No. 83-276-SPH (Paul Farace)

B 035******80001D 3052A

VALIDATION OR SIGNATURE OF CASHIER

83-276-SPH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9 Date of Posting 4/20/84

Posted for: ~~Petition~~ Board of Appeals

Petitioner: Paul Farace, et al

Location of property: S/S Hart rd., 225' SE of the c/l of Denby Rd

Location of Signs: facing Hart rd. at entrance to site

Remarks:

Posted by Bean J. Clemens Signature Date of return: 4/26/84

Number of Signs: 1

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

No. 85167

DATE 11/26/84 ACCOUNT 01-712

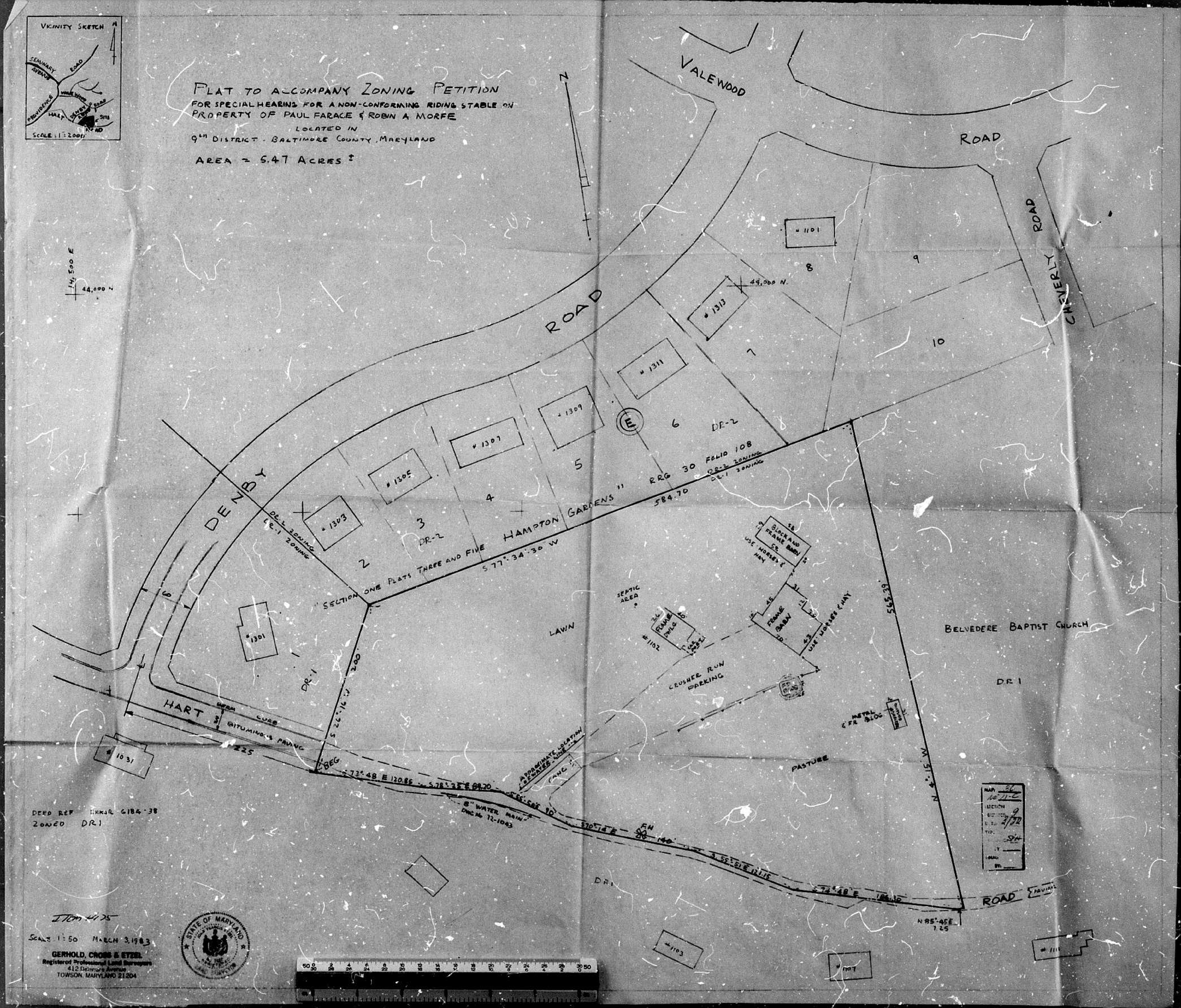
AMOUNT $9.50

RECEIVED FROM Copy of Deposition of Lucille Bridenstein in case No. 83-276-SPH, Paul Farace, ET AL

FOR G. Scott Barhight, Esq.
204 W. Pennsylvania Avenue
Towson, MD 21204

B 162*******0501a 2262F

VALIDATION OR SIGNATURE OF CASHIER


VICINITY SKETCH
SEMINARY AVENUE
ROAD
VALEWOOD
PROVIDENCE
HART
CHEVERLY ROAD
SITE
ROAD
SCALE: 1:20000'
PLAT TO ACCOMPANY ZONING PETITION
FOR SPECIAL HEARING FOR A NON-CONFORMING RIDING STABLE ON
PROPERTY OF PAUL FARACE & ROBIN A. MORFE
LOCATED IN
9TH DISTRICT - BALTIMORE COUNTY, MARYLAND
AREA = 5.47 ACRES ±
N
VALEWOOD
ROAD
CHEVERLY
ROAD
DENBY
ROAD
HART
14,500 E
44,000 N
44,000 N.
#1101
#1313
#1311
#1309
#1307
#1305
#1303
#1301
#1031
#1102
#1103
#1107
#1111
8
9
10
7
6
5
4
3
2
1
DR-2
DR-1
DR-1 ZONING
DR-2 ZONING
DR-2 ZONING
DR-1 ZONING
RRG 30 FOLIO 108
"HAMPTON GARDENS"
SECTION ONE PLATS THREE AND FIVE
584.70
S 77°-34'-30" W
565.39
N 15°-45'-W
BLACK AND FRAME BARN
USE HORSES & HAY
FRAME BARN
USE HORSES & HAY
FRAME DWLG.
SEPTIC AREA
LAWN
CRUSHER RUN PARKING
METAL CFR BLDG.
BELVEDERE BAPTIST CHURCH
DR 1
PASTURE
DR 1
BEG
S 26°-16'-00" W 200
BERM
CURB
BITUMINOUS PAVING
225
S 73°-48 E 120.86
S 78°-35 E 88.20
APPROXIMATE LOCATION OF WATER MAIN
8" WATER MAIN
DWG. No. 72-1043
S 70°-14 E
S 52°-51 E 121.15
S 73°-48 E
ROAD
N 85°-45 E
1.25
DEED REF. LHK JR 6184-38
ZONED DR1
ITEM #125
SCALE 1:50 MARCH 3, 1983
GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 Delaware Avenue
TOWSON, MARYLAND 21204
STATE OF MARYLAND
MAP 26
NE 11-C
SECTION 9
2/72
TYP. SH
LOCATION
BY