Eileen M.

Pet. for Appl. Atty. Limits Reqs. Granted

R-84-89-A 84-89-SPH

BALTIMORE COUNTY, MD.	:	IN THE CIRCUIT COURT
VS.	:	FOR BALTIMORE COUNTY
JOSEPH L. SOLEY	:	CASE NO. 84-CG-1472
::::::::	:	::::::::
CARL E. BRUFF	:	IN THE CIRCUIT COURT
VS.	:	FOR BALTIMORE COUNTY
JOSEPH L. SOLEY	:	CASE NO. 84-CG-1498

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

OPINION AND ORDER

On September 6, 1985 this court heard oral argument on an appeal from the Zoning Commissioner of Baltimore County (Commissioner) from the October 30, 1984 Order of the Baltimore County Board of Appeals (Board) ordering the Assistant Buildings Engineer to issue a permit for a building in a DR 16 zone. This Order reversed the Commissioner's Order which denied a Petition for a Special Hearing.

Joseph L. Soley (Soley), the owner of the subject property obtained a special exception on April 28, 1977 to construct a two story office building in a DR 16 zone. No work was performed on the property until April 14, 1982, at which time Soley obtained a building permit. He hired an engineer to perform a land survey, cleared the subject site, and poured concrete footings. In January, 1983 Soley was notified of a potential zoning violation for failure to utilize his special exception; therefore, in April, 1983, Soley applied for, and received, an extension of his building permit. Because of a clerical error, the extension was granted only for ten days, rather than the standard one year. On April 7, 1983 the Coordinator of the Developer Control Section determined that no further extension of the building permit should be granted until the question of whether the special exception was still valid is resolved.

The sole issue before the Board was whether the special exception was still valid. Only if the special exception was valid should the building permit be issued. In its Opinion, the Board stated:

> By law, the Petitioner was entitled to utilize his Special Exception within five (5) years from the granting of same. By law he is required to commence construction within one (1) year of the granting of a building permit, or any extension thereof. Clearly, he has done so, although the construction or work completed is minimal.

The Board merely determined whether Soley commenced construction. This is not the correct test. Regulation 502.3 of the Baltimore County Zoning Regulations (BCZR) provides:

> A Special Exception which requires any construction for its utilization shall be deemed to have been used within the authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence. (Emphasis supplied)

In Rupp v. Earl H. Cline & Sons, 230 Md. 573 (196), the Court of Appeals was asked to determine when there was commencement of a building which would give a mechanic's lien claimant preference over a recorded mortgage. The Court applied a two

prong test: "(1) a manifest commencement of some work or labor on the ground which every one can readily see and recognize as the commencement of a building and (ii) the work done must have been begun with the intention and purpose then formed to continue the work until the completion of the building." Id. at 578, cited with approval in Pemberton v. Montgomery County, 275 Md. 363, 370 (1974).

It is clear from the Board's Opinion that the Board only applied the first prong of the test. This court is of the opinion that it would be appropriate for the Board to apply the correct law to its findings of facts. It is not for this court to interpret the facts presented to the Board. The case therefore is remanded to the Baltimore County Board of Appeals to consider the facts in light of the proper law.

J. WILLIAM HINKEL
JUDGE

DATED: September 10, 1985

cc: Thomas J. Bollinger, Esquire
Michael P. Tanczyn, Esquire
Newton A. Williams, Esquire
Arthur S. Hamilton, Esquire
Baltimore County Board of Appeals

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COUNTY BOARD OF APPEALS
1985 SEP 13 P 1:00

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT	"	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Zoning File #84-89-SPH Board File #CBA-83-112	"	C.G. Docket No. 4 Folio No. 372 & 398
ZONING COMMISSIONER OF BALTIMORE COUNTY, ET AL, AND CARL E. BRUFF, Plaintiffs	"	File No. 84-CG-1472 & 84-CG-1498

" " " " " " " "

PETITION FOR STAY
PENDING APPEAL

Baltimore County, Maryland, Appellant, by Malcolm F. Spicer, Jr., County Attorney and Thomas J. Bollinger, Assistant County Attorney, its attorneys, respectfully petitions this Honorable Court pursuant to Maryland Rule B6 for a stay of the Order of the Board of Appeals for Baltimore County that is the subject of the within Appeal, and as grounds therefor, state the following:

1. The Board of Appeals in its Order dated October 30, 1984, reversed the decision the Zoning Commissioner and of the Assistant Building's Engineer and Ordered that the Appellee be granted a building permit if such is applied for within thirty days of the date of said Order.

2. The Appellee has done little or no work on the subject site since April or May of 1982, but will be allowed to begin construction once the requested

building permit is issued.

3. The Special Exception on the subject site has existed since 1977, and it would be inconceivable to believe that the Appellee would be adversely affected by the imposition of a stay of the decision of the Board of Appeals in that the Appellee, by his own accord, failed to take any significant steps to construct an office building since the date the Special Exception was granted.

4. Unless a stay is granted of the decision of the Board of Appeals, the Appellee would be entitled to construct an office building which will have to be taken down in the event that a decision of the Board of Appeals is reversed.

WHEREFORE, the Appellant respectfully requests that this Honorable Court pass an Order staying the decision and Order of the Board of Appeals of Baltimore County in these proceedings, said stay to remain in full force pending the final hearing on the merits of the within appeal.

Malcolm F. Spicer, Jr.
Malcolm F. Spicer, Jr.
County Attorney

Thomas J. Bollinger
Thomas J. Bollinger
Assistant County Attorney
Court House - Mezzanine
Towson, Maryland 21204
494-4420

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT	"	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Zoning File #84-89-SPH Board File #CBA-83-112	"	C.G. Docket No. 4 Folio No. 372 & 398
ZONING COMMISSIONER OF BALTIMORE COUNTY, ET AL, AND CARL E. BRUFF, Plaintiffs	"	File No. 84-CG-1472 & 84-CG-1498

REQUEST FOR HEARING

Baltimore County, Maryland, Appellant, by Malcolm F. Spicer, Jr., County Attorney and Thomas J. Bollinger, Assistant County Attorney, its attorneys, respectfully request a hearing on the merits of the within appeal.

Malcolm F. Spicer, Jr.
Malcolm F. Spicer, Jr.
County Attorney

Thomas J. Bollinger
Thomas J. Bollinger
Assistant County Attorney
Court House - Mezzanine
Towson, Maryland 21204
494-4420

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 10th day of January, 1985, a copy of the aforegoing Petition for Stay Pending Appeal, Order and Request for Hearing was mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, Maryland 21204; Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; Joseph L. Soley, 8001 York Road, Towson, Maryland 21204; Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, Maryland 21204; Carl E. Bruff, 15 Hillside Avenue, Towson, Maryland 21204 and Miss Gertrude Muth, 8013 York Road -B8, Towson, Maryland 21204.

Thomas J. Bollinger
Thomas J. Bollinger
Assistant County Attorney

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERLY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT	"	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Zoning File #84-89-SPH Board File #CBA-83-112	"	C.G. Docket No. 4 Folio No. 372 & 398
ZONING COMMISSIONER OF BALTIMORE COUNTY, ET AL, AND CARL E. BRUFF, Plaintiff	"	File No. 84-CG-1472 & 84-CG-1498

" " " " " " " "

MEMORANDUM

The factual findings of the Board of Appeals, as set forth in its Opinion, are not contested. The Board members had the opportunity to view the witnesses and to judge their credibility, and based on these factors, their findings were reasonable and accurate.

The problem, though, arises in the Board's application of the facts to the law. Quite simply, the Board misinterpreted the law with the end result that its decision was clearly and unequivocally in error.

BACKGROUND

The Board concludes that Joseph L. Soley (Soley), the owner of the subject tract of land, failed to make any use of the special exception granted to him on April 28, 1977 until he obtained a building permit on April 14, 1982. (The special exception granted Soley the right to construct a two story office building in a D.R. 16 zone). Thereafter, Soley hired an engineer to perform a land survey,

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 27 PAGE 171 CASE NO. 86CG2031 CATEGORY APPEAL

	ATTORNEYS
IN THE MATTER OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK ROAD AND AIGBURTH RD. 9th District Cross Appellee THE ZONING COMMISSIONER OF BALTIMORE COUNTY & BALTIMORE COUNTY, MARYLAND BOARD OF APPEALS OF BALTIMORE COUNTY CARL E. BRUFF TOWSON MANOR ASSOCIATION Cross Appellants	Malcolm F. Spicer Thomas J. Bollinger Mezzanine Courthouse (04) 4944420 Nolan, Plumhoff & Williams R. Bruce Alderman, Michael P. Tanczyn Newton A. Williams Arthur S. Hamilton 209 Aigburth Rd. (04) 828-4077

10-344 DG Sent

May 26, 1986 - Zoning Commissioner of Baltimore County, and Baltimore County, Maryland Order for Appeal from the Order of the Board of Appeals of Baltimore County fd.	CV GEN COSTS 86CG2031 # CV CLK 70.00 CKCHECK TL 70.00 #01114 C001 R02 T10:29 10/29/86
May 26, 1986 - Certificate of Compliance fd.	
May. 27, 1986 - App. of Arthur S. Hamilton for Carl E. Bruff and Towson Manor Association and Same Day Order for Appeal from the Order of the Bd. of Appeals of Balto. Co. and Petition for Appeal fd.	
May. 27, 1986 - Certificate of Notice fd.	
June 4, 1986 - The Zoning Commissioner of Baltimore County & Baltimore County, MD Petition for Appeal fd.	
June 13, 1986 - Deft's Memorandum fd.	
June 23, 1986 - Transcript of Record fd.	
June 23, 1986 - Notice of Filing of Record fd.	
Aug. 18, 1986 - App. of R. Bruce Alderman, Michael P. Tanczyn and Newton Williams of Nolan, Plumhoff & Williams as attys' for Appellee Joseph L. Soley and Same Day Answe to Petitions on Appeal fd.	
October 2, 1986 - Hon. John F. Fader II. Hearing had. Decision of the Board of Appeals - AFFIRMED.	
October 29,1986 Plaintiff's order for appeal fd. (3/221)	
Nov. 13, 1986 - Order for Court from the Court of Special Appeal that the above captioned appeal proceed without a Prehearing Conference fd. (RLK)	
Court's Opinion Transcript (JFF,II) fd.	

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27 171 CASE NO. 86CG2031

Manor Association and reserve the right to file a separate memorandum in addition to that filed by the Co-Appellant, Towson Manor Association.

RELIEF SOUGHT

The Appellants petition this Court to reverse the Order of the County Board of Appeals and abate the Order dated April 29, 1986 of the County Board of Appeals.

MALCOLM F. SPICER, JR.
County Attorney

THOMAS J. BOLLINGER
Assistant County Attorney
Mezzanine - Courthouse
Towson, Maryland 21204
301/494-4420
Attorneys for Appellants
Baltimore County Zoning
Commissioner & Baltimore
County, Maryland

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of June, 1986, a copy of the foregoing Petition for Appeal was mailed, postage prepaid, to:

R.Bruce Alderman, Esquire
29 W. Susquehanna Ave.
Towson, Maryland 21204

Michael P. Tanczyn, Esquire
606 Baltimore Ave.
Towson, Maryland 21204

Newton A. Williams, Esquire

Arnold Jablon, Esquire
Zoning Commissioner for
Baltimore County, Md.
First Floor
County Office Bldg.
Towson, Maryland 21204

Joseph M. Nolan,
Office of Permits & Licenses

204 W. Pennsylvania Ave.
Towson, Maryland 21204

Arthur S. Hamilton, Esquire
209 Aigburth Road
Towson, Maryland 21204

First Floor
County Office Building
Towson, Maryland 21204

County Board of Appeals
Room 200 - Courthouse
Towson, Maryland 21204

THOMAS J. BOLLINGER
Assistant County Attorney

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH ROAD
9TH DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* NO. CBA 83-112 and 84-89-SPH

ORDER FOR APPEAL BY APPELLANT,
CARL E. BRUFF ON BEHALF OF THE
TOWSON MANOR ASSOCIATION,
15 HILLSIDE AVENUE
TOWSON, MARYLAND 21204

MR. CLERK:

Please enter an appeal on behalf of Carl E. Bruff, acting for the Towson Manor Association from the Order of the Board of Appeals of Baltimore County, passed in the above case on April 29, 1986. This appeal is taken pursuant to Maryland Rule B2 and Baltimore County Code, Section 21-164.

Arthur S. Hamilton

209 Aigburth Road
Towson, Maryland 21204
301/828-4077

Attorney for Carl E. Bruff
and Towson Manor Association

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IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH ROAD
9TH DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* NO. CBA 83-112 and 84-89-SPH

CERTIFICATE OF MAILING

I HEREBY CERTIFY that prior to filing the foregoing Order for Appeal by Appellants, Carl E. Bruff and Towson Manor Association, a copy thereof was served upon the County Board of Appeals of Baltimore County.

Arthur S. Hamilton

RECEIPT of a copy of the foregoing ORDER FOR APPEAL is acknowledged this 27th day of May, 1986.

County Board of Appeals

By: Edith T. Eisenhart
Administrative Secretary

-2-

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH ROAD
9TH DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* NO. CBA 83-112 and 84-89-SPH

PETITION FOR APPEAL

Carl E. Bruff and Towson Manor Association, Appellants, herein, by their attorney, Arthur S. Hamilton, in conjunction with its Order for Appeal, filed herewith, state:

ACTION APPEALED FROM:

The Appellants appeal from the Order of the Baltimore County Board of Appeals dated April 29, 1986, ordering the Buildings Engineer to issue a permit for a building in a D.R. 16 zone and reversing the Order of the Zoning Commissioner of Baltimore County which denied a Petition for Special Hearing and granting the Special Exception awarded to Petitioner to continue in existence.

ERROR COMMITTED:

On remand from the Circuit Court of Baltimore County (84-CG-1472 and 84-CG-1498), the County Board of Appeals was instructed to review its opinion and order of October 30, 1984, which did not consider Regulation 502.3 of the Baltimore County Zoning Regulations which stater:

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A Special Exception which requires any construction for its utilization shall be deemed to have been used within the authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence. (Emphasis supplied.)

The Court further instructed that the Court of Appeals has applied a two-prong test as enunciated in Rupp v. Earl H. Cline & Sons, 230 Md. 573, to wit: "(1) a manifest commencement of some work or labor on the ground which every one can readily see and recognize as the commencement of a building and (2) the work done must have been begun with the intention and purpose then formed to continue the work until the completion of the building." This principle was cited with approval in Pemberton v. Montgomery County, 275 Md. 363, 370 (1974).

The Board distinguishes Rupp from the instant case on the grounds that Rupp concerned the perfection of mechanics liens. The facts are distinguishable but the principle of law remains the same and the facts do not support the Board's conclusion.

The Board concluded that no work was done at the site from June, 1982 until January 19, 1983 when the Zoning Enforcement Section revoked the Special Exception for want of progress.

-2-

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD & AIGBURTH ROAD
9th DISTRICT

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* OF
* BALTIMORE COUNTY
* NOS. CBA 83-112 & 84-89-SPH
Case No. 86-CG-2031/27/171

PETITION FOR APPEAL

The Zoning Commissioner of Baltimore County and Baltimore County, Maryland, a body corporate and politic, Appellants herein, by their attorneys, Malcolm F. Spicer, Jr., County Attorney and Thomas J. Bollinger, Assistant County Attorney, in conjunction with its Order for Appeal filed herein, state:

ACTION APPEALED FROM

The Appellants appeal from the Order of the Baltimore County Board of Appeals dated April 29, 1986, ordering the Assistant Buildings Engineer to issue a permit for a building in a D.R.16 zone and reversing the Order of the Zoning Commissioner of Baltimore County which denied a Petition for Special Hearing and granting a special hearing.

The Appellants herein respectfully join in the Petition for Appeal and the appeal previously filed herewith by the Co-Appellant, the Towson Manor Association.

ERROR COMMITTED

The Appellants herein respectfully join in the Petition alleging the error committed previously set forth by the Appellant, Towson

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The Board made the following findings of fact:

It is uncontroverted that concrete was poured, grading had occurred and approximately $25,000.00 of work had been performed between April and May, 1982. (Opinion, p.2)

That concrete was poured is uncontroverted but the amount involved is questionable.

It is also uncontroverted that Petitions for Reclassification of subject had been filed. (Opinion, p.2)

This is an obfuscation of the facts. The Special Exception applied to a small section of the entire property whereas the efforts to get the property reclassified in 1980 (Zoning Map), 1982 (County Board of Appeals) and 1984 (Zoning Map) applied to the entire parcel.

The Petitioner, admittedly, was attempting to build a bank on the subject site. Without a zoning reclassification, a bank, given the present rezoning reclassification, cannot be placed on the subject site. (Opinion, p.2)

This is patently untrue insofar as the Appellant ever admitting the Petitioner was attempting to build a bank. This has been disputed from its first assertion before the Zoning Commissioner. The Boa[illegible] has yet to hear any testimony regarding the attempt to build a bank at this location except from the Petitioner. His testimony before the Zoning Commissioner and the Board is in conflict and the Board thwarted

attemmts by the Appellant to explore exactly what steps had been taken by the Petitioner to interest a bank in placing a branch at this location. The Petitioner never attempted to get clarification of the Special Exception as respects construction of a bank.

The facts adduced before the [illegible]ard do not warrant these conclusions and, if anything, support the conclusion that the Petitioner was doing everything but pursuing the construction "to completion with reasonable diligence."

RELIEF SOUGHT:

The Appellants petition this Court to reverse the Order of the County Board of Appeals and abate the Order dated April 29, 1986.

Arthur S. Hamilton

209 Aigburth Road
Towson, Maryland 21204
301/828-4077

Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of May, 1986, a copy of the foregoing Petition for Appeal was mailed to: R. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, Maryland 21204, Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Towson, Maryland 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204, attorneys for Appellee, Joseph L. Soley; and to Arnold Jablon, Esquire, Zoning Commissioner for Baltimore County, First Floor, County Office Building, Towson, Maryland 21204; and to Joseph M. Nolan, Office of Permits and Licenses, First Floor, County Office Building, Towson, Maryland 21204; and to the Baltimore County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204; and to Thomas J. Bollinger, Assistant County Attorney, Mezzanine - Courthouse, Towson, Maryland 21204.

Arthur S. Hamilton

IN RE	*	BEFORE THE
APPEAL OF JOSEPH SOLEY	*	BOARD OF APPEALS
AND	*	OF
ORIGINAL PERMIT REVOCATION HEARING	*	BALTIMORE COUNTY
NE CORNER YORK AND AIGBURTH	*	CASE NO. 84-89-SPH
9TH DISTRICT	*	CASE NO. CBA-83-112

* *

SUBPOENA DUCES TECUM

Secretary, please issue a Summons for the following person to Appear and Testify before the Board of Appeals on Tuesday, October 2, 1984, at 10:00 A.M., to Testify for the Appellaw before the Board of Appeals, Second Floor Old Courts Building, Towson, Maryland 21204: Nicholas Commodari, Office of Zoning, 111 W. Chesapeake Avenue, Towson, Maryland 21204 to bring with him the file on 75-139-XA.

Michael P. Tanczyn
118 W. Pennsylvania Avenue
Towson, Maryland 21204
296-8823
Attorney for the Appellaw

I hereby certify copy of the above Subpoena was hand delivered to Nicholas Commodari, 111 W. Chesapeake Avenue, Towson, Maryland 21204, at 11:20 A.M. October 1, 1984.

Michael P. Tanczyn

I hereby Certify that a copy of the foregoing was mailed this 1st day of October, 1984 to Peter Zimmerman, Deputy People's Counsel, Second Floor Old Courts Building, Towson, Maryland 21204

Michael P. Tanczyn

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IN RE	*	BEFORE THE
APPEAL OF JOSEPH SOLEY	*	BOARD OF APPEALS
AND	*	OF
ORIGINAL PERMIT REVOCATION HEARING	*	BALTIMORE COUNTY
NE CORNER YORK AND AIGBURTH	*	CASE NO. 84-89-SPH
9TH DISTRICT	*	CASE NO. CBA-83-112

* *

SUBPOENA DUCES TECUM

Secretary, please issue a Summons for the following person to Appear and Testify before the Board of Appeals on Tuesday, October 2, 1984, at 10:00 A.M., to Testify for the Appellaw before the Board of Appeals, Second Floor Old Courts Building, Towson, Maryland 21204: Nicholas Commodari, Office of Zoning, 111 W. Chesapeake Avenue, Towson, Maryland 21204 to bring with him the file on 75-139-XA.

Michael P. Tanczyn
118 W. Pennsylvania Avenue
Towson, Maryland 21204
296-8823
Attorney for the Appellaw

I hereby Certify that a copy of the foregoing was mailed this 1st day of October, 1984 to Peter Zimmerman, Deputy People's Counsel, Second Floor Old Courts Building, Towson, Maryland 21204

Michael P. Tanczyn

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IN THE MATTER OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK ROAD AND AIGBURTH ROAD - 9th DISTRICT	*	BEFORE THE
	*	COUNTY BOARD OF
	*	APPEALS OF
	*	BALTIMORE COUNTY
	*	NO. CBA-83-112 and 84-89-SPH

* *

ORDER FOR APPEAL BY APPELLANT,
BALTIMORE COUNTY ON BEHALF OF THE
ZONING COMMISSIONER & BALTIMORE COUNTY, MARYLAND

Mr. Clerk:

Please enter an appeal on behalf of the Zoning Commissioner of Baltimore County, and Baltimore County, Maryland, a body corporate and politic, from the Order of the Board of Appeals of Baltimore County, passed in the above case on October 30, 1984. This appeal is taken pursuant to Maryland Rule B2 and Baltimore County Code, Section 21-164.

MALCOLM F. SPICER, JR.
County Attorney

THOMAS J. BOLLINGER
Assistant County Attorney
Mezzanine - Courthouse
Towson, Maryland 21204
494-4420
Attorneys for Baltimore County, Maryland
and Zoning Commissioner

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CERTIFICATE OF MAILING

I HEREBY CERTIFY, that prior to filing the foregoing Order for Appeal by Appellants, the Zoning Commissioner for Baltimore County, and Baltimore County, Maryland, a copy thereof was served upon the County Board of Appeals of Baltimore County.

THOMAS J. BOLLINGER
Assistant County Attorney

RECEIPT of a copy of the foregoing ORDER FOR APPEAL is acknowledged this 23rd day of November, 1984.

County Board of Appeals, by: Edith T. Eisenhart,
Administrative Secretary.

IN THE MATTER OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK ROAD AND AIGBURTH ROAD - 9th DISTRICT	*	BEFORE THE
	*	COUNTY BOARD OF
	*	APPEALS OF
	*	BALTIMORE COUNTY
	*	NO. CBA-83-112 and 84-89-SPH

* *

PETITION FOR APPEAL

The Zoning Commissioner of Baltimore County and Baltimore County, Marland, a body corporate and politic, Appellants herein, by their attorneys, Malcolm F. Spicer, Jr., County Attorney and Thomas J. Bollinger, Assistant County Attorney, in conjunction with its Order for Appeal, filed herewith, states:

ACTION APPEALED FROM:

The Appellants appeals from the Order of the Baltimore County Board of Appeals dated October 30, 1984, ordering the Assistant Buildings Engineer issue a permit for a building in a D.R. 16 zone and reversing the Order of the Zoning Commissioner of Baltimore County which denied a Petition for Special Hearing and granting a Special Hearing.

ERROR COMMITTED:

The County Board of Appeals, in its opinion, stated that the issue before the Board was simple. Did the Petitioner commence construction within the five (5) year period from which he was granted a Special Exception? (Opinion, P. 1). The Petitioner contended and it was acknowledged by the Appellants, Baltimore County, that certain excavations have occurred on the subject site and that the work was commenced in April of 1982. Shortly thereafter, work stopped and in 1983 the permit was invalidated. The Board found that the sole

cleared the subject site, excavated to some degree and then poured the concrete footings. At that point (approximately May, 1982) worked stopped. Why? Soley testified he discontinued all construction through the spring, summer and fall (Soley was notified of a potential zoning violation for failure to utilize his special exception in January, 1983) because he felt the concrete should be allowed to cure and harden. This testimony was properly rejected by the Board as "incredulous".

The Board concluded that the only reason Soley stopped work was because he wanted to put a bank into the proposed building and he "intended to do nothing until such time as he had a commitment from a bank. . ." (Opinion of the Board of Appeals, p. 2, emphasis added). Of course, Soley could have built a building without a bank since 1977, but he chose not to do so with the hope that he could resolve the matter before his special exception ran out. (T.pp. 63-66). Unfortunately for him, he could not.

As April 1983 approached, and no further work had been completed, Soley applied for and received an extension of his building permit. This extension was inadvertently issued for ten days rather than the standard one year, and then revoked before the error could be corrected because the Department of Permits and Licenses was advised by the Zoning Office that no further extension of the permit should be granted until the question of whether the special exception was still valid could be settled.

Accordingly, the issuance of the building permit rode on the coattails of the special exception-if the special exception was properly utilized then the permit should issue, if not, then Soley could not obtain a permit. (T.pp. 5-6).

ARGUMENT

The Board accepted the proposition that the issuance of the building permit depended solely upon the validity of the special exception, but unfortunately, it was at this point that the Board misinterpreted the law.

The Board decided that the test to be applied was whether Soley had commenced work within the five year period granted by the special exception. Since he had, the Board's analysis ended there. But, "mere commencement of work" is not, as the Board contended, the proper law to be applied.

Commencing work is certainly a prerequisite for proper utilization of a special exception, but it is not all that is needed. Regulation 502.3 of the Baltimore County Zoning Regulations (BCZR) requires that, not only shall work begin within the authorized period, but it must "thereafter [be] pursued to completion with reasonable diligence". The Board's own factual findings preclude the notion that Soley acted with "reasonable diligence" after pouring his concrete footings.

Soley also cannot claim that he has a vested right to obtain an extension of his original permit and "resume" construction. Vested rights occur when a property owner both obtains a permit and then proceeds under the permit to begin construction "so that the neighborhood may be advised as to the intended land use". Rockville Fuel & Feed Co. v. City of Gaithersburg, 266 Md. 117 (1972). Further, a vested right is said to accrue when:

> [a] manifest commencement of some work or labor on the ground which everyone can readily see and recognize as the commencement of a building . . . begun with the intention and purpose then formed to continue the work until the completion of the building. Rupp v. Cline & Sons, 230 Md. 573 (1963).

The Board found that Soley "did nothing and intended to do nothing until such time as he had a commitment from a bank for his office building". This is, in fact, the reason Soley failed to utilize his special exception from its inception until its near expiration in April, 1982. At that time, Soley felt he had to do something, or lose his special exception, so he did a minimal amount of work and then stopped. He had no intention of completing construction with reasonable diligence or else the building would have taken shape and been well on the way to completion by January, 1983. Soley's initial investment alone is simply not enough. Malmar Assoc. v. Bd. of County Commissioners for Prince George's County, 260 Md. 292 (1971).

As the Zoning Commissioner found in his Opinion, and as was made abundantly clear in Soley's testimony before the Board, the decision not to build during the major portion of the life of the special exception was a business one - made with adequate knowledge of the potential consequences. Soley could have built for a five year period the "building" he "commenced" in April, 1982. He chose not to because he wanted a bank. When he began to "build" in April, 1982, he still wanted a bank. He had no intentions of proceeding with construction but he did have an intention of extending his special exception. Clearly, this "mere commencement" of construction is insufficient and the Opinion and Order of the Board of Appeals dated October 30, 1984 should be reversed.

Respectfully submitted,

Malcolm F. Spicer, Jr.
County Attorney

Thomas J. Bollinger
Assistant County Attorney
Court House-Mezzanine
Towson, Maryland 21204
494-4420

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 11th day of January, 1985, a copy of the aforegoing Memorandum was mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, Maryland 21204; Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; Mr. Joseph L. Soley, 8001 York Road, Towson, Maryland 21204; Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, Maryland 21204 and Miss Gertrude Muth, 8013 York Road-B8, Towson, Maryland 21204.

Thomas J. Bollinger
Assistant County Attorney

Zoning

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT : IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Zoning File #84-89-SPH
Board File #CBA-83-112 : C.G. DOCKET NO. 4
: FOLIO NO. 398

CARL E. BRUFF
15 HILLSIDE AVENUE
TOWSON, MD 21204 : FILE NO. 84-CG-1498

Plaintiff

: :

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, William R. Evans and Patricia Phipps, 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, Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson,MD 21204, Attorneys for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Attorney for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204, Plaintiff, and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestant, and Thomas J. Bollinger, Esquire and Douglas Sachse, Esquire, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Attorneys for Baltimore County, Maryland, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse, Towson, MD 21204
494-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue,

JOSEPH L. SOLEY - 4/398/84-CG-1498 2.

Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204, Attorneys for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Attorney for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204, Plaintiff, and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestant, and Thomas J. Bollinger, Esquire and Douglas Sachse, Esquire, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Attorneys for Baltimore County, Maryland, on this 28th day of November, 1984.

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

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NE CORNER OF YORK AND AIGBURTH ROADS 9th DISTRICT : ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CASE #CBA-83-112 and CASE #84-89-SPH : 4/372 and 398/84-CG-1472 and 84-CG-1498 and 27/171/86-CG-8031

BALTIMORE COUNTY, MARYLAND and ZONING COMMISSIONER Plaintiffs :

: :

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, William R. Evans and Patricia Phipps, 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, Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204, Counsel for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and B. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, MD 21204, Co-counsel for Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204 and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire, Assistant County Attorney, and Malcolm F. Spicer, Jr., Esquire, County Attorney, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland and the Zoning Commissioner, a copy of which notice is attached hereto and prayed

JOSEPH L. SOLEY - 84-CG-1472 & 1498 2.

that it may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse, Towson, MD 21204
494-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204, Counsel for Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and B. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, MD 21204, Co-counsel for Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, Md 21204 and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire, Assistant County Attorney, and Malcolm F. Spicer, Jr., Esquire, County Attorney, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland and the Zoning Commissioner, on this 26th day of May, 1985.

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

cc: Zoning, Bettye DuBois
Planning, J. Hoswell
Permits & Licenses, Jos. M. Nolan

reason for the delay in construction of the office building was the failure to receive a commitment from a bank for this particular building. (Opinion, P. 2). The Board found that the Petitioner was entitled to utilize his Special Exception within the five (5) years from the granting of same, but by law was required to commence construction within one (1) year of the granting of the building permit, or any extension thereof. (Opionion, P. 2). The Board found that the mere beginning by excavation constituted the commencement of construction within the one (1) year period. The Appellants respectfully aver that the Board of Appeals failed to give any consideration to Section 502.3 of the Zoning Regulations of Baltimore County which provides that construction must be commenced during the authorized period and thereafter pursue to completion with "reasonable diligence". The Appellants respectfully aver that the facts of this case indicate a total lack of any diligence on the part of the Appellee, Joseph Solely. In addition, even the absence of the language of "reasonable diligence" contained in Section 502.3 of the Zoning Regulations of Baltimore County, nonetheless the case law would require a good faith intent and purpose to continue the work until completion. If mere commencement is the test, then it must be coupled with the intent and purpose to complete.

RELIEF SOUGHT:

The Appellants petition this court to reverse the Order of the County Board of Appeals and abate the Order dated October 30, 1984.

MALCOLM F. SPICER, JR.
County Attorney

THOMAS J. BOLLINGER
Assistant County Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 20th day of November, 1984, a copy of the foregoing Petition for Appeal was mailed to: T. Rogers Harrison, Esquire, 306 W. Joppa Road, Towson, Maryland 21204; and to Arnold Jablon, Esquire, Zoning Commissioner for Baltimore County, First Floor, County Office Building, Towson, Maryland21204; and to Joseph M. Nolan, Office of Permits & Licenses, First Floor, County Office Building, Towson, Maryland 21204; and to William T. Hackett, Chairman, William R. Evans and Patricia Phipps, the County Board of Appeals of Baltimore County, Room 200, Courthouse, Towson, Maryland 21204.

THOMAS J. BOLLINGER
Assistant County Attorney

RECEIVED
COUNTY BOARD OF APPEALS
NOV 23 A 11:42

11/3/83 - Notified of appeal hearing scheduled for THURSDAY, JANUARY 5, 1984 at 10 a.m.
Michael P. Tanczyn, Esq.
Joseph L. Soley
Arthur S. Hamilton, Esq.
Carl E. Bruff
Miss Gertrude Muth
John W. Hessina, Esq.
T. J. Bollinger, Esq.
Permits and Licenses
Zoning

Postponed 12-20-83
Reply Mr. Tanczyn

7/25/84 - Above notified of appeal hearing scheduled for TUESDAY, AUGUST 28, 1984 at 10 a.m.

8/3/84 - Above notified of postponement and reassignment to Tues. Oct. 2, 1984, at 10 a.m.

CIRCUIT COURT FOR BALTIMORE COUNTY

DOCKET 4 PAGE 398 CASE NO. 84 CG 1498 CATEGORY APPEAL

CARL E. BRUFF — CIVIL - GENERAL

ATTORNEYS

FP
15 Hillside Ave. (04) 823-1445

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH
ROAD - 9th DISTRICT

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
No. CBA-83-112 &
BA-89-SPH

JOSEPH L. SOLEY
Appellee

Michael P. Tanczyn
118 W. Penna. Ave. (04) 296-8823

Newton A. Williams
Nolan, Plumhoff & Williams
204 W. Penna. Ave. (04) 823-7800

1-13-84
Hrg. under to Bd of Appls

CENTRAL ASSIGNMENT

		COSTS
(1) Nov. 28, 1984 - Pltff's (CARL E. BRUFF) Order for Appeal from the decision of County Board of Appeals of Baltimore County & same day Petition for Appeal fd.		CV GEN 841498 ff
(2) Nov. 28, 1984 - Certificate of Notice fd.		CV CLK 70.00
Dec. 26, 1984 - Transcript of Record fd. (see 84CG1472 for papers)		CASH TL 70.00
(3) Dec. 26, 1984 - Notice of Filing Record fd.		#51184 C001 R02 T10:02 11/28/84
(4) Jan. 16, 1985 Appellant's Petition for Stay Pending Appeal & Request for Hearing fd.		
(5) Mar. 27, 1985 - App. of Michael P. Tanczyn and Newton A. Williams for Appellee Joseph L. Soley and Same Day Answer fd.		
August 1, 1985 Hon. J. William Hinkel. Hearing had. Appellant's Petition for Stay pending Appeal(pf#4)-GRANTED. Order signed.		
(6) Aug. 1, 1985 - Order of Court that the decision of the Board of Appeals of Balto. Co. is stayed pending a final hearing on the merits of the within appeal fd. (JWH)		
September 6, 1985 Hon. J. William Hinkel. Hearing had. Opinion to be filed.		
(7) Sept. 11, 1985 - Opinion & Order of Court Remanding this case to the Baltimore County Board of Appeals fd.(JWH)		

DOCKET 4 PAGE 398 CASE NO. 84 CG 1498

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Malcolm F. Spicer, Jr., County Attorney DATE August 2, 1984
Thomas J. Bollinger, Asst. County Attorney

FROM Peter Max Zimmerman
Deputy People's Counsel

SUBJECT Joseph L. Soley - Case No. 84-89-SPH and CBA-83-112

The above case, set for August 28, 1984, involves a legal question which appears primarily to be within your purview. I assume, therefore, that your office will represent the County.

Our office was involved in a recent reclassification case pertaining to the property, and we would be happy to review with you the background. There has been considerable interest expressed by residents in the area who participated in the reclassification case.

Peter Max Zimmerman
Deputy People's Counsel

Enclosure:
CBA Notice of Hearing

PMZ:sh

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BOARD OF APPEALS
AUG -1 P 2:32

ARTHUR S. HAMILTON
ATTORNEY AT LAW
806 AIGBURTH ROAD
TOWSON, MARYLAND 21204
(301) 828-6677

August 1, 1984

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

Re: Case Nos. 84-89-SPH and CBA-83-112
Joseph L. Soley - Petitioner

Gentlemen:

In accordance with Rule 2(b) and as counsel for Towson Manor Association, I request postponement of hearing set for August 28, 1984, pertaining to the subject appeal.

I will be out of the country from August 25 through September 2, 1984. If my request is granted, the earliest possible date after September 2, 1984 will be satisfactory. Please be advised that Petitioner-Appellant previously requested postponement from original hearing on January 25, 1984. Ms. Friedman, People's Counsel, has no objection to this request.

Very truly yours,

Arthur S. Hamilton

ASH:geh

cc: Michael T. Tanczyn, Esquire
Counsel for Petitioner-Appellant
Phyllis Cole Friedman, Esquire
People's Counsel
Thomas J. Bollinger, Esquire
Office of Law

8/3/84 - W/Hrg. pp 8/11 (pm) or 10/2 Denied

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COUNTY BOARD OF APPEALS
AUG -2 A 8:55

County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180
July 25, 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. 84-89-SPH — JOSEPH L. SOLEY
SH-TO APPROVE AND FIND AS FACT THAT THE PETITIONER HAS COMPLIED WITH THE BCZR SO FAR AS ISSUANCE OF A PERMIT FOR THE SE IN CASE #75-139-XA, ETC.

AND

CASE NO. CBA-83-112 — JOSEPH L. SOLEY
FOR BUILDING PERMIT TO CONSTRUCT A TWO STORY BUILDING
NE CORNER OF YORK AND AIGBURTH ROADS
9th DISTRICT
4/8/83 - ASST. B.E. INVALIDATED PERMIT
10/11/83 - Z.C. DENIED SPH PETITION

ASSIGNED FOR: TUESDAY, AUGUST 28, 1984 at 10 a.m.

cc: Michael P. Tanczyn, Esquire	Counsel for Petitioner-Appellant
Joseph L. Soley	Petitioner-Appellant
Arthur S. Hamilton, Esquire	Requested Notification
Carl E. Bruff	Protestant
Miss Gertrude Muth	"
Phyllis Cole Friedman	People's Counsel
Norman E. Gerber	
James G. Hoswell	
Arnold Jablon	
Jean M. H. Jung	
James E. Dyer	
Joseph M. Nolan	
John Reisinger	
T. Zaleski, Jr.	
Thomas J. Bollinger, Esquire	Office of Law

Edith T. Eisenhart, Adm. Secretary

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY	:	IN THE
FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT	:	CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Zoning File #84-89-SPH Board File #CBA-83-112	:	C.G. DOCKET NO. 4
	:	FOLIO NO. 398
CARL E. BRUFF 15 HILLSIDE AVENUE TOWSON, MD 21204	:	FILE NO. 84-CG-1498
Plaintiff	:	

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, William R. Evans and Patricia Phipps, 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, Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson,MD 21204, Attorneys for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Attorney for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204, Plaintiff, and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestant, and Thomas J. Bollinger, Esquire and Douglas Sachse, Esquire, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Attorneys for Baltimore County, Maryland, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse, Towson, MD 21204
494-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue,

Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204, Attorneys for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Attorney for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204, Plaintiff, and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestant, and Thomas J. Bollinger, Esquire and Douglas Sachse, Esquire, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Attorneys for Baltimore County, Maryland, on this 28th day of November, 1984.

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

cc: Zoning - A. January
Planning - J. Hoswell
Permits - J. Nolan

Apr. 4, 1983		Form letter from John R. Reisinger, Buildings Engineer, Department of Permits and Licenses to Mr. Soley extending date of permit to 4/14/83
		Copy of above form letter with hand written notation that an error had been made on extension date and that permit should not be extended
" 8		Letter from Joseph M. Nolan, Assistant Buildings Engineer, Department of Permits and Licenses to Mr. Soley revoking building permit
" 19		Letter from T. Rogers Harrison, Esquire, counsel for Mr. Soley to Joseph M. Nolan regarding revocation of building permit
" 21		Letter of appeal to the County Board of Appeals filed by T. Rogers Harrison, Esquire on behalf of Mr. Soley

Case No. 84-89-SPH

Aug. 30, 1983		Petition of Joseph L. Soley for special hearing to determine whether or not the Zoning Commissioner should approve and find as a fact that the Petitioner has complied with the zoning regulations so far as issuance of a permit for the special exception case 75-139-XA, and with reasonable diligence thereafter, under all the facts and circumstances; in the alternative, that the Petitioner has the right to continue with the special exception previously obtained for which permit was received prior to the expiration of the use for special exception; and in the alternative, that the Petitioner has, under all the circumstances, begun construction during the authorized period and has, thereafter, pursued his special exception through the present with reasonable diligence, on property located at the northeast corner of York and Aigburth Roads, 9th District
" 30		Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for October 5, 1983 at 1:30 p.m.
Sept. 6		Certificate of Publication in newspaper filed
" 21		Comments of the Director of the Office of Planning and Zoning filed
" 23		Certificate of Posting of property filed
" 26		Comments of the Baltimore County Zoning Plans Advisory Committee filed
Oct. 5		At 1:30 p.m. hearing held on petition by Zoning Commissioner - case held sub curia
" 11		Order of the Zoning Commissioner that the petition for a special hearing to find as a fact that (1) the petitioner complied with the zoning regulations as applicable to the special exception granted to him under case #75-139-XA in that the petitioner utilized same with reasonable diligence and (2) the petitioner has the right to continue with said special exception and receive a building permit is DENIED.
" 18		Letter of appeal to the County Board of Appeals filed by Michael P. Tanczyn, Esquire on behalf of Mr. Soley

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT	:	IN THE
	:	CIRCUIT COURT
	:	FOR
	:	BALTIMORE COUNTY
	:	AT LAW
Zoning File #84-89-SPH Board File #CBA-83-112	:	C.G. DOCKET NO. 4
	:	FOLIO NO. 372
ZONING COMMISSIONER OF BALTIMORE COUNTY, ET AL Plaintiffs	:	FILE NO. 84-CG-1472

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, William R. Evans and Patricia Phipps, 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, Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204, Counsel for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204 and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire and Douglas Sachse, Esquire, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse, Towson, MD 21204

Oct. 24, 1983		Letter from Michael P. Tanczyn, Esquire entering his appearance in the building permit case and requesting that both cases be consolidated for hearing
" 2, 1984		Hearing on appeals before County Board of Appeals - case held sub curia
" 30		County Board of Appeals ORDERED:
		1. That the Order of the Assistant Buildings Engineer invalidating the building permit to construct a two (2) story building in a DR 16 zone BE REVERSED and that said permit be issued. The Board FURTHER ORDERS that the Petitioner apply for a building permit within thirty (30) days from the date of this Order.
		2. That the Order of the Zoning Commissioner, dated October 11, 1983, denying the Petition for Special Hearing, BE REVERSED, and that said Petition for Special Hearing BE GRANTED.
Nov. 26		Order for Appeal filed in the Circuit Court for Baltimore County by Malcolm F. Spicer, Jr., County Attorney, and Thomas J. Bollinger, Assistant County Attorney, attorneys for the Zoning Commissioner and Baltimore County, Maryland
" 26		Petition to Accompany Order for Appeal filed in the Circuit Court for Baltimore County
" 26		Certificate of Notice sent to all interested parties
" 28		Order for Appeal filed in the Circuit Court for Baltimore County by Carl E. Bruff, Protestant (File #84-CG-1498)
" 28		Petition to Accompany Order for Appeal filed in the Circuit Court for Baltimore County
" 28		Certificate of Notice sent to all interested parties
December 26, 1984		Transcript of testimony filed
		Petitioner's Exhibit No. 1 - File #84-89-SPH
		" " " 2 - File #CBA-83-112
		" " " 3 - Copy of microfilm from case #80-213-X
		" " " 4 - Opinion and Order and Extension Order, case #75-139-XA
		" " " 5 - File #75-139-XA
		" " " 6 - Letter, Motion for Dismissal and Board's Order in case #80-213-X
		" " " 7 - A & A Tree Experts, Inc. report, 1/27/83
		" " " 8 - Bill from David S. Hyman, 4/1/82

Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204, Counsel for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson,MD 21204, Counsel for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204 and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire and Douglas Sachse, Esquire, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland, on this 26th day of November, 1984.

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

cc: Zoning - A. January
Planning - J Hoswell
Permits & Licenses - Jos. M. Nolan

		Petitioner's Exhibit No. 9 - Statement - Development Design Group, Ltd., 4/8/82
		" " " 10 - (a & b) Bills from Maryland Redi-Mix, Inc., 5/5/82
		" " " 11 - DeGarmo Excavators, Inc. bill 5/7/82
		" " " 12 - Statement - Development Design Group, Ltd., 5/17/82
		" " " 13 - Statement - Development Design Group, Ltd., 11/2/82
December 26, 1984		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 Office of Zoning and the Department of Permits and Licenses of Baltimore County, as are also the use district maps, and your Respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your Respondents willproduce any and all such rules and regulations, together with the zoning use district maps, at the hearing on these petitions or whenever directed to do so by this Court.

Respectfully submitted

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

cc: Arthur Hamilton, Esq.
Newton Williams, Esq.
Michael P. Tanczyn, Esq.
Thomas J. Bollinger, Esq. & Douglas Sachse, Esq.

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT	:	IN THE
	:	CIRCUIT COURT
	:	FOR
	:	BALTIMORE COUNTY
	:	AT LAW
Zoning File #84-89-SPH Board File #CBA-83-112	:	C.G. DOCKET NO. 4
	:	FOLIO NO. 372 & 398
ZONING COMMISSIONER OF BALTIMORE COUNTY, ET AL, AND CARL E. BRUFF Plaintiffs	:	FILE NO. 84-CG-1472 & 84-CG-1498

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE COUNTY BOARD OF APPEALS, THE ZONING COMMISSIONER, AND THE DEPARTMENT OF PERMITS AND LICENSES OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, William R. Evans and Patricia Phipps, 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 Zoning Office and the office of the Department of Permits and Licenses of Baltimore County:

ENTRIES FROM DOCKET OF THE ZONING COMMISSIONER, THE DEPARTMENT OF PERMITS AND LICENSES, AND THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Case No. CBA-83-112

Mar. 24, 1982		Building Permit No. 42511 issued to Joseph L. Soley to construct shall for future office building, etc. on property located on the northeast corner of York and Aigburth Roads, 9th District
" 29		Plans Review Check Sheet filed
" 30		Letter from Ted Zaleski, Jr., Director of the Department of Permits and Licenses to David S. Hyman, Development Design Group, Ltd. stating that the construction plans had been reviewed and released, subject to items listed
Apr. 7		Letter from Robert A. Morton, Chief, Bureau of Public Services to Mr. Soley stating comments of the State Highway Administration and noting that comments from the Office of Current Planning would follow at a later date
" 8		Letter from Wayne E. Maisenholder, Development Design Group, Ltd. to Department of Permits and Licenses regarding comments of the State Highway Administration
" 8		Letter from Jack Berger, Department of Permits and Licenses to Mr. Soley regarding preliminary field inspection
		Request for extension of building permit filed (no date)

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEABING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NE CORNER OF YORK AND AIGBURTH ROADS 9th DISTRICT	:	ON REMAND
	:	FROM THE CIRCUIT COURT
	:	FOR
	:	BALTIMORE COUNTY
	:	AT LAW
CASE #CBA-83-112 and CASE #84-89-SPH	:	4/372 and 398/ 84-CG-1472 and 84-CG-1498 and 27/171/86-CG-2031
CARL E. BRUFF and TOWSON MANOR ASSOCIATION Plaintiffs	:	

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, William R. Evans and Patricia Phipps, 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, Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204 and R. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Association and Carl E. Bruff, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204 and Miss Gertrude Muth, 8013 York Road, B8, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire, Assistant County Attorney, and Malcolm F. Spicer, Jr., Esquire, County Attorney, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland and the Zoning Commissioner, a copy of which notice is attached hereto and prayed that it

JOSEPH L. SOLEY - 86-CG-2031 2.

may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse, Towson, MD 21204
494-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204 and R. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and Arther S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Association and Carl E. Bruff, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204 and Miss Gertrude Muth, 8013 York Road, B8, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire, Assistant County Attorney, and Malcolm F. Spicer, Jr., Esquire, County Attorney, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland and the Zoning Commissioner, on this 27th day of May, 1986.

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

cc: Zoning, Bettye DuBois
Planning, J. Hoswell
Permits & Licenses, Jos. M. Nolan

JOSEPH L. SOLEY — No. 84-89-SPH, No. CBA-83-112
NE corner York & Aigburth Rds. — 9th District
Special Hearing and Building Permit

CBA-83-112

Mar. 24, 1982	Building permit issued to Jos. L. Soley
Apr. 4, 1983	Form letter from J. R. Reisinger, Permits, to Mr. Soley extending date of permit to 4/14/83.
	Copy of letter with hand written notation that an error had been made on extension date and that permit should not be extended.
Apr. 8,	Letter from Jos. Nolan, Permits, to Mr. Soley revoking building permit
Apr. 21,	Letter of appeal to C.B. of A. filed by T. Rogers Harrison, Esq., on behalf of Soley

No. 84-89-SPH

Aug. 30, 1983	Petition filed
Oct. 5,	Hearing held on petition by Z.C.
Oct. 11,	Order of Z.C. that the petitioner has the right to continue with said special exception and receive a building permit is DENIED.
Oct. 18,	Letter of appeal to C.B. of A. from Michael Tanczyn, Esq., on behalf of Mr. Soley
" 2, 1984	Hearing on appeals before C.B. ofA.
" 30,	Board ordered that permit be issued; and that Pet. for S.Hearing BE REVERSED, and said Petition for Special Hearing BE GRANTED
Nov. 26,	Order for Appeal filed in Cir. Ct. for Balto. Cty. by Attorneys for Balto. County and Z.C. (#1472)
Nov. 26,	Certificate of Notice sent out
Nov. 28,	Order for appeal filed in Cir. Ct. by Carl E. Bruff, Protestant (#1498)
Nov. 28,	Certificate of Notice sent out
Dec. 26,	Record of proceedings filed in the Cir. Ct. for Balto. County
Sept. 10, 1985	REMANDED by Judge J. Wm. Hinkel for Board "to consider the facts in light of the proper law" 9/16/85 - cc: A. Jablon, E. Hennegan, J. Hoswell

1/22/86 - Notice of REMAND HEARING sent to all in file for hearing set for WEDNESDAY, APRIL 9, 1986 at 10 a.m.

April 29, 1986	Board ORDERED SE to continue in existence and Bldgs. Engineer to issue permit for building and petitioner to apply for said permit within 30 days
May 26	Order for Appeal filed in the Circuit Court by Baltimore County and Z.C. (#2031)
" 27	Order for Appeal filed in the Circuit Court by Arthur S. Hamilton, Esq. for Carl E. Bruff & Towson Manor Assn. (2031)
June 23	Record of proceedings filed in Circuit Court
Oct. 2	Board AFFIRMED - Judge Fader 10/8, cc: Jablon, DuBois, Hoswell, Nolan

KB 12074

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT

Zoning File #84-89-SPH
Board File #CBA-83-112

ZONING COMMISSIONER OF BALTIMORE COUNTY, ET AL, AND CARL E. BRUFF, Plaintiffs

" IN THE
" CIRCUIT COURT
" FOR
" BALTIMORE COUNTY
" AT LAW
" C.G. Docket No. 4
" Folio No. 372 & 398
" File No. 84-CG-1472 & 84-CG-1498

ORDER

UPON the aforegoing Petition for Stay Pending Appeal, it is this 1 day of Aug, 1985, by the Circuit Court for Baltimore County,

ORDERED that the decision of the Board of Appeals of Baltimore County in this matter dated October 30, 1984, be, and the same is hereby stayed pending a final hearing on the merits of the within appeal.

JUDGE

True Copy Test
ELMER H. KAUFFMAN, JR., Clerk
By Glenn Brutt
Deputy Clerk

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 27 PAGE 171 CASE NO. 86CG2031 CATEGORY APPEAL

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING AND BUILDING PERMIT
ON PROPERTY LOCATED ON THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH RD. 9th District
Cross Appellee
THE ZONING COMMISSIONER OF BALTIMORE COUNTY &
BALTIMORE COUNTY, MARYLAND

BOARD OF APPEALS OF BALTIMORE COUNTY

CARL E. BRUFF
TOWSON MANOR ASSOCIATION
Cross Appellants

ATTORNEYS
#84-89-SPH & CBA-83-112

Malcolm F. Spicer
Thomas J. Bollinger
Mezzanine Courthouse
(04) 4944420
Nolan, Plumhoff & Williams
R. Bruce Alderman, Michael P. Tanczyn
Newton A. Williams

Arthur S. Hamilton
209 Aigburth Rd. (04) 828-4077

	COSTS
(1) May 26, 1986 - Zoning Commissioner of Baltimore County, and Baltimore County, Maryland Order for Appeal from the Order of the Board of Appeals of Baltimore County fd.	
(2) May 26, 1986 - Certificate of Compliance fd.	
(3) May. 27, 1986 - App. of Arthur S. Hamilton for Carl E. Bruff and Towson Manor Association and Same Day Order for Appeal from the Order of the Bd. of Appeals of Balto. Co. and Petition for Appeal fd.	
(4) May. 27, 1986 - Certificate of Notice fd.	
(5) June 4, 1986 - The Zoning Commissioner of Baltimore County & Baltimore County, MD Petition for Appeal fd.	
(6) June 13, 1986 - Deft's Memorandum fd.	
(7) June 23, 1986 - Transcript of Record fd.	
(8) June 23, 1986 - Notice of Filing of Record fd.	
(9) Aug. 18, 1986 - App. of R. Bruce Alderman, Michael P. Tanczyn and Newton A. Williams of Nolan, Plumhoff & Williams as attys' for Appellee Joseph L. Soley and Same Day Answe to Petitions on Appeal fd.	
October 2, 1986 - Hon. John F. Fader II. Hearing had. Decision of the Board of Appeals - AFFIRMED.	

DOCKET 27 PAGE 171 CASE NO. 86CG2031

Carl E. Bruff
In the matter of Joseph L. Soley
Vs.
County Board of Appeals of Balto. Co.

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY
Docket 4 Folio 398
Case No. 84CG1498

NOTICE OF FILING OF RECORD

TO: Carl E. Bruff
15 Hillside Ave.
Towson, Md. 21204

Edith T. Eisenhart
Mail Stop 2205

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on Dec. 26, 1984.

Elsworth H. Kaufmann Jr.
Clerk

RECEIVED
COUNTY BOARD OF APPEALS
1984 DEC 27 A 11:29

Zoning Commissioner Balto. Co.
In the matter of Joseph L. Soley
Vs.
Board of Appeals of Balto. Co.

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY
Docket 4 Folio 372
Case No. 84CG1472

NOTICE OF FILING OF RECORD

TO: Malcolm F. Spicer, Jr.
Mail Stop 2M07

Edith T. Eisenhart
Mail Stop 2205

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on Dec. 26, 1984.

Elsworth H. Kaufmann Jr.
Clerk

RECEIVED
COUNTY BOARD OF APPEALS
1984 DEC 27 A 11:29

455

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
May 27, 1986

Michael P. Tanczyn, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Re: Case #CBA-83-112 and
Case #84-89-SPH
Joseph L. Soley

Dear Mr. Tanczyn:

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,

Edith T. Eisenhart

Edith T. Eisenhart, Adm. Secretary

Encl.

cc: Newton A. Williams, Esquire
R. Bruce Alderman, Esquire
Joseph L. Soley
Thomas J. Follinger, Esquire
Malcolm F. Spicer, Jr., Esquire
Gertrude Muth

RECEIVED
COUNTY BOARD OF APPEALS
1985 JUN 28 A 11:38

Form CA8

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21204-0754
June 27, 1985

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

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

Joni Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Marie Harris — 494-2662
Masters Assignment Clerk
Master Records

TO: The Honorable J. William Hinkel

Malcolm F. Spicer, Jr., Esq.
Thomas J. Bollinger, Esq.
Michael P. Tanczyn, Esq.
Newton A. Williams, Esq.
Board of Appeals of
Baltimore County

RE: Non-Jury 84-CG-1472 Zoning Commissioner of Balto. Co. ET AL (Soley) vs. Bd. of Appeals of Balto. Co

HEARING DATE: Friday, September 6, 1985, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 1 hour

Note: Corrected notice, confirming an agreed counsel date. The Motion hearing will remain in the assignment for August 1st @ 9:30 a.m.

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 - 494-3662.

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 Joni 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.

Form Cir2

Joli Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Harris — 494-2662
Masters Assignment Clerk
Medical Records

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

CIRCUIT COURT FOR BALTIMORE COUNTY

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

RECEIVED
COUNTY BOARD OF APPEALS
1985 JUN 28 A 11:38

TO: The Honorable J. William Hinkel

Malcolm F. Spicer, Jr., Esq.
Thomas J. Bollinger, Esq.

Michael P. Tanczyn, Esq.

Newton A. Williams, Esq.

Mr. Carl E. Bruff (PP)
15 Hillside Avenue
Towson, Md. 21204

RE: Non-Jury 84-CG-1498 Carl E. Bruff (Soley) vs. Co. Bd. of Appeals of Balto. Co.

HEARING DATE: Friday, September 6, 1985, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 1 hour

Note: Corrected notice, confirming an agreed counsel date. The Motion hearing will remain in the assignment for August 1st @ 9:30 a.m.

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 Joli 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.

Form Cir2

Joli Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Harris — 494-2662
Masters Assignment Clerk
Medical Records

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

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
April 25, 1985

TO: Malcolm F. Spicer, Jr., Esq.
Thomas J. Bollinger, Esq.

Michael P. Tanczyn, Esq.

Newton A. Williams, Esq.

County Board of Appeals

RE: 84-CG-1472- Zoning Commissioner of Balto. Co. (Soley) vs. Board of Appeals of Balto. Co.

RECEIVED
COUNTY BOARD OF APPEALS
1985 APR 24 A 11:48

HEARING DATE: Monday, August 19, 1985, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 1 hour

Note: Corrected notice.

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 Joli 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.

Form Cir2

Joli Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Harris — 494-2662
Masters Assignment Clerk
Medical Records

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

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
April 22, 1985

TO: M. Carl E. Bruff
Michael P. Tanczyn, Esq.

Newton A. Williams, Esq.

Thomas J. Bollinger, Esq.

County Board of Appeals
of Baltimore County

RE: Non-Jury 84-CG-1498- Carl E. Bruff (Soley) vs. County Board of Appeals of Balto. Co.

RECEIVED
COUNTY BOARD OF APPEALS
1985 APR 24 A 11:49

HEARING DATE: Thursday, August 1, 1985, @ 9:30 a.m.

ON THE FOLLOWING: ALL OPEN MOTIONS IN THIS CASE.
IF YOU DESIRE TO SUBMIT, PLEASE CONTACT CIVIL ASSIGNMENT.

Note: Corrected notice.

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 Civil Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately.

Form Cir2

Joli Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Harris — 494-2662
Masters Assignment Clerk
Medical Records

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

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
April 9, 1985.

TO: Carl E. Bruff (PP)
Michael P. Tanczyn, Esq.

Newton A. Williams, Esq.

County Board of Appeals of Balto Co.

Thomas J. Bollinger, Esq.

RE: NON JURY - 84 CG 1498 - CARL BRUFF ET AL VS COUNTY BOARD OF APPEALS, JOSEPH L. SOLEY

RECEIVED
COUNTY BOARD OF APPEALS
1985 APR 10 A 11:03

HEARING DATE: Wednesday, June 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 Joli 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.

Form Cir2

Joli Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Harris — 494-2662
Masters Assignment Clerk
Medical Records

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

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
April 8, 1985.

RECEIVED
COUNTY BOARD OF APPEALS
1985 APR 29 A 11:58

TO: Malcolm F. Spicer, Jr., Esq.
Thomas J. Bollinger, Esq.

Michael P. Tanczyn, Esq.

Newton A. Williams, Esq.

Board of Appeals of Balto Co.

RE: NON JURY - 84 CG 1472 - ZONING COMMISSIONER OF BALTO CO. VS BOARD OF APPEALS OF BALTO CO. Joseph L. Soley

HEARING DATE: Tuesday, Aug 20, 1985, @ 9:30 a.m.

ON THE FOLLOWING: ALL OPEN MOTIONS IN THIS CASE.
IF YOU DESIRE TO SUBMIT, PLEASE CONTACT CIVIL ASSIGNMENT.

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.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately.

Form Cir2

Joli Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Harris — 494-2662
Masters Assignment Clerk
Medical Records

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

CIRCUIT COURT FOR BALTIMORE COUNTY

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

RECEIVED
COUNTY BOARD OF APPEALS
1985 MAR -5 P 1:05

TO: Malcolm F. Spicer, Jr., Esq.
Thomas J. Bollinger, Esq.

Board of Appeals of Balto Co.

Soley

RE: NON JURY - 84 CG 1472 - ZONING COMM. OF B.C. VS BOARD OF APPEALS OF BALTO CO.

HEARING DATE: Thursday, March 28, 1985, @ 9:30 a.m.

ON THE FOLLOWING: ALL OPEN MOTIONS IN THIS CASE.
IF YOU DESIRE TO SUBMIT, PLEASE CONTACT CIVIL ASSIGNMENT.

Note: Motion will be heard prior to trial.

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 Civil Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning

Date: November 26, 1984

FROM: William T. Hackett, Chairman
County Board of Appeals

SUBJECT: Certified copies of zoning documents - Case No. 84-89-SPH
Joseph L. Soley

Attached please find the necessary documents from the Zoning Commissioner's file which must be certified as True Test copies for the Circuit Court.

Please certify these documents and return same to this office.

Very truly yours,

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

November 28, 1984

Mr. Carl E. Bruff
15 Hillside Avenue
Towson, MD 21204

Re: Case No. 84-89-SPH and
Case No. CBA-83-112
Joseph L. Soley

Dear Mr. Bruff:

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 appeal which you have taken to the Circuit Court for Baltimore County in the above entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of 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 file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court. Also enclosed is an invoice covering the cost of certified copies of necessary documents which must be included in this file. Please remit as indicated on invoice.

Very truly yours,

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

Enclosures

November 28, 1984

TO: CARL E. BRUFF
15 HILLSIDE AVENUE
TOWSON, MD 21204

COST OF CERTIFIED DOCUMENTS FILED IN CASE NO. 84-89-SPH	$15.00
" " " " " " " NO. CBA-83-112	$16.00
TOTAL	$31.00

MAKE CHECK PAYABLE TO: BALTIMORE COUNTY, MARYLAND

REMIT TO: COUNTY BOARD OF APPEALS
ROOM 200 COURTHOUSE
TOWSON, MD 21204

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

November 28, 1984

Michael P. Tanczyn, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Re: Case No. 84-89-SPH and
Case No. CBA-83-112
Joseph L. Soley

Dear Mr. Tanczyn:

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,

Edith T. Eisenhart

Edith T. Eisenhart, Adm. Secretary

Enclosures

cc: Newton A. Williams, Esq.
Joseph L. Soley
Miss Certrude Muth
Arthur S.Hamilton, Esq.
Thomas J. Bollinger, Esq.
Douglas Sachse, Esq.

APPLICATION FOR APPEAL

84-cg-1498
4/598

In the Matter of
Joseph L. Soley
For Special Hearing
and Building Permit
on Property located on
The Northeast Corner
York Road and Aigburth
Road - 9th District

BEFORE
County Board of Appeals
of
Baltimore, County
No. CBA-83-112 and
BA-89-SPH

I, Carl E. Bruff, certify that The County Board of Appeals of Baltimore County will receive a copy of this Application.

Carl E. Bruff
Signature

RECEIVED
COUNTY BOARD OF APPEALS
1984 NOV 28 AM 12

REASON FOR THE APPEAL

The construction of a building on this corner regioned a special exception which was apposed by the community in 1977.

Our community is apposed to any building on this corner because of the added traffic and pedestrian traffic, this would be a burden on an already heavy traveled area.

RECEIVED
COUNTY BOARD OF APPEALS
1984 NOV 28 AM 12

Carl E. Bruff
15 Hillside Ave
Towson, Md 21204
823-1495

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

Novermber 26, 1984

Thomas J. Bollinger, Esquire
Douglas Sachse, Esquire
Office of Law, Courthouse
Towson, MD 21204

Re: Case No. 84-89-SPH and
Case No. CBA-83-112
Joseph L. Soley

Gentlemen:

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 appeal which you have taken to the Circuit Court for Baltimore County in the above entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of 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 file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court. Also enclosed is an invoice covering the cost of certified copies of necessary documents which must be included in this file. Please remit as indicated on invoice.

Very truly yours,

Edith T. Eisenhart

Edith T. Eisenhart, Adm. Secretary

Enclosures

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

November 26, 1984

Michael P. Tanczyn, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Re: Case No. 84-89-SPH and
Case No. CBA-83-112
Joseph L. Soley

Dear Mr. Tanczyn:

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,

Edith T. Eisenhart

Edith T. Eisenhart, Adm. Secretary

Enclosures

cc: Newton A. Williams, Esq.
Joseph L. Soley
Carl E. Bruff
Miss Gertrude Muth
Arthur S. Hamilton, Esq.

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

October 30, 1984

Michael P. Tanczyn, Esq.
118 W. Pennsylvania Ave.
Towson, Md. 21204

Re: Case No. 84-89-SPH and
CBA-83-112, Joseph Soley

Dear Mr. Tanczyn:

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,

June Holmen, Secretary

Encl.
cc: Joseph L. Soley
Arthur S. Hamilton, Esq.
Carl E. Bruff
Miss Gertrude Muth
Thomas J. Bollinger, Esq.
Joseph Nolan
John Reisinger
Ted Zaleski, Jr.
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer

494-3180

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

August 3, 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. 84-89-SPH	JOSEPH L. SOLEY
and	SH-to approve and find as fact that the Petitioner has complied with the BCZR so far as issuance of a permit for the SE in Case #75-139-XA, etc.
CASE NO. CBA-83-112	JOSEPH L. SOLEY
	For building permit to construct a two story building
	NE corner York and Aigburth Rds.
	9th District
	4/8/83 - Asst. B.E. invalidated permit 10/11/83 - Z.C. denied SPH petition

The above case scheduled for hearing on Tuesday, August 28, 1984, at 10 a.m.

HAS BEEN POSTPONED by the Board at the request of Counsel for Towson Manor Association, and

REASSIGNED FOR: TUESDAY, OCTOBER 2, 1984, at 10 a.m.

cc: Michael P. Tanczyn, Esq.	Counsel for Petitioner-Appellant
Joseph L. Soley	Petitioner-Appellant
Arthur S. Hamilton, Esq.	Counsel for Towson Manor Assoc.
Carl E. Bruff	Protestant
Gertrude Muth	"
out ~~Phyllis C. Friedman~~	People's Counsel
N. Gerber	
J. Hoswell	
A. Jablon	
J. Jung	
J. Dyer	
J. Nolan	
J. Reisinger	
T. Zaleski, Jr.	
T. J. Bollinger, Esq.	Office of Law

June Holmen, Secy.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William T. Hackett, Chairman, Board of Appeals — Date: June 27, 1984

FROM: Arnold Jablon, Zoning Commissioner

SUBJECT: Case No. 84-89-SPH
NE/corner of York and Aigburth Roads
Joseph L. Soley-Petitioner

A notice of postponement was issued on December 20, 1983 informing Joseph L. Soley that the scheduled hearing date of January 5, 1984 would be postponed and rescheduled at a later date.

A recent inspection of the property during the week of June 18, 1984 indicated that the violation still has not been corrected.

It is requested that this matter be rescheduled for the earliest possible date.

AJ:eoh

cc: File

RECEIVED
COUNTY BOARD OF APPEALS
1984 JUN 28 P 4:17

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

December 20, 1983

NOTICE OF POSTPONEMENT

CASE NO. 84-80-SPH — JOSEPH L. SOLEY

AND

CASE NO. CBA-83-112 — JOSEPH L. SOLEY
NE CORNER YORK AND AIGBURTH ROADS
9th DISTRICT

SCHEDULED FOR HEARING ON THURSDAY, JANUARY 5, 1984 at 10 a.m. HAS BEEN POSTPONED AT THE REQUEST OF COUNSEL FOR PETITIONER (ADDITIONAL COUNSEL TO ENTER CASE) WILL BE REASSIGNED AT A LATER DATE.

cc: Michael P. Tanczyn, Esquire
Joseph L. Soley
Arthur S. Hamilton, Esquire
Carl E. Bruff
Miss Gertrude Muth
John W. Hessian, III, Esquire
Thomas J. Bollinger, Esquire
T. Zaleski
John Reisinger
Joseph Nolan
A. Jablon
Jean M. H. Jung
James E. Dyer
N. E. Gerber
J. G. Hoswell

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

December 19, 1983

Mrs. Eisenhart
County Board of Appeals
Court House
Towson, MD 21204

RE: Cases: 84-89-SPH & CBA-83-112
Joseph Soley
Consolidated Hearing for
January 5, 1984 at 10:00 a.m.

Dear Mrs. Eisenhart:

The purpose of this letter is to request that the expedited hearing be postponed. This is my client's request as he is desirous of employing additional counsel who are not, to this time, familiar with the facts in this case.

If you have any problems in this regard, don't hesitate to give me a call.

Very truly yours,

Michael P. Tanczyn

MPT/kvm

cc: Mrs. Dorie Alcarese
Mr. Joseph Soley
Newton Williams, Esq.

Rec'd 12-19-83 4:06 PM

494-3180

County Board of Appeals
Room 200, Court House
Towson, Maryland 21204 (Hearing Room #218)

November 3, 1983

NOTICE OF ASSIGNMENT

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

CASE NO. 84-89-SPH — JOSEPH L. SOLEY

FOR SPH - To approve and find as a fact that Petitioner has complied with the Z.R. so far as issuance of a permit for the SE, case 75-139-XA, and that the Petitioner has the right to continue with the SE previously obtained for which permit was received prior to the expiration of the use for SE, and in the alternative, that the Petitioner has begun construction during the authorized period and has, therefore, pursued his SE through the present with reasonable diligence.

NE corner YORK and AIGBURTH ROADS

9th DISTRICT

AND — 10/11/83 - Z.C. DENIED PETITION

CASE NO. CBA-83-112 — JOSEPH L. SOLEY

RE: BUILDING PERMIT FOR A 2 STORY BUILDING

NE corner YORK and AIGBURTH ROADS

9th DISTRICT

4/8/83 - A.B.E. INVALIDATED PERMIT

ASSIGNED FOR: THURSDAY, JANUARY 5, 1984 at 10 a.m.

cc: Michael P. Tanczyn, Esquire	Counsel for Petitioner-Appellant
Joseph L. Soley	Petitioner-Appellant
Arthur S. Hamilton, Esquire	Requested Notification
Carl E. Bruff	Protestant
Miss Gertrude Muth	"
John W. Hessian, III, Esquire	People's Counsel
Thomas J. Bollinger, Esquire	Asst. County Attorney
T. Zaleski, Director	Dept. of Permits & Licenses
John Reisinger, Buildings Eng.	" " "
Joseph Nolan, Asst. Bldg. Eng.	" " "
A. Jablon, Zoning Commissioner	Office of Zoning
Jean M.H. Jung, D.Z.C.	"
James E. Dyer	"
N. E. Gerber, Director	Office of Planning & Zoning
J. G. Hoswell	"

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

October 31, 1983

County Board of Appeals
Court House
Towson, MD 21204

RE: Joseph L. Soley
Proposed Office Building
N/E corner York and Aigburth Roads

Gentlemen:

In the matters now to be consolidated before your Board, since we have witnesses coming from out of town to testify, I would ask you to consider setting this matter on either December 14 or 15, 1983 if that time is not already taken and, if it is, that this matter be scheduled some time thereafter after consultation with Counsel for the Petitioner.

Thank you very much for your cooperation with this request.

Very truly yours,

Michael P. Tanczyn

MPT/kvm

cc: Mr. Joseph Soley
Ms. Dorie Alcarese
People's Counsel

Rec'd 11-2-83 11:45 am

94-89-SPH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Date of Posting 11/6/83

District 9

Posted for: Board of Appeals

Petitioner: Joseph L. Soley

Location of property: N.E. /C York & Aigburth Rd.

Location of Signs: Facing intersection of York & Aigburth Rd.

Remarks:

Posted by: Signature — Date of return: 11/10/83

Number of Signs: 1

PETITIONER'S EXHIBIT 8

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

October 17, 1983

Arnold Jablon, Esq.
Zoning Commissioner
County Office Building
Towson, MD 21204

RE: Case No. 84-89-SPH
NE/corner of York and Aigburth Roads
9th Election District
Property of Joseph L. Soley

Dear Mr. Commissioner:

Please note an Appeal to the Board of Appeals from your Order passed in the above case on October 11, 1983 which was, apparently, mailed the following day and received by Petitioner's Counsel for the first time on October 13, 1983.

Enclosed please find my client's check made payable to Baltimore County for the costs of filing this Appeal.

Very truly yours,

Michael P. Tanczyn

OCT 18 AM
ZONING DEPARTMENT

MPT/kvm

Enc.

cc: Mr. Joseph L. Soley
Mrs. Dorie Alcarese

PETITIONER'S EXHIBIT 7

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALESKI, JR.
DIRECTOR

DATE: Apr. 4, 1983

TO: Joseph L. Soley
8001 York Rd.
Towson, Md. 21204

PETITIONER'S EXHIBIT 11

RE: Permit (s) # 40511

District 9 Precinct 12

Location 8001 York Rd.

Date Issued 4/14/83

You are hereby informed that the above referenced permit and/or permits have been extended until 4/14/83.

Very truly yours,

John R. Reisinger, P.E.
Buildings Engineer
Dept. of Permits & Licenses

cc: Inspector
Microfilm

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALESKI, JR.
DIRECTOR

April 8, 1983

PETITIONER'S EXHIBIT 12

Mr. Joseph L. Soley
8001 York Road
Towson, Maryland 21204

RE: Proposed Office Building
N/S Corner York Rd. & Aigburth Rd.
Permit No. 40511

Dear Mr. Soley:

Baltimore County records indicate that on April 4, 1983 you were issued an extension of the referenced permit to April 14, 1983. Subsequent to that inspection, I have been informed by Mr. Commodari of the Office of Zoning that a question does exist concerning the validity of the Special Exception granted to you to construct a building, see case number 75-139-XA, and that a hearing is scheduled in the Office of Zoning to determine this question.

Section 112.2 of the Baltimore County Building Code, provides that any permit issued shall become invalid if the authorized work is not commenced within six months after the issuance of that permit or if the authorized work is suspended or abandoned for a period of six months after the commencement of work. Work on this building has been suspended or abandoned well in excess of six months. Section 112.6 of the Building Code provides that any permit issued in violation of the provisions of the Building Code or any other laws, resolutions or regulations of Baltimore County or the State of Maryland, shall be voided.

You are hereby informed that permit number 40511 is hereby revoked.

If you do not concur with this decision, you may file an appeal within 15 days to the Baltimore County Board of Appeals. That appeal must be in writing and state concisely why you feel that the revocation of this permit is not proper. Your appeal must be addressed to the Baltimore County Board of Appeals but delivered to me, accompanied by a check in the amount of $75.00 made out to Baltimore County, to cover the appeal fee.

If you have any question in this matter, please call me at 494-3373.

Very truly yours,

Joseph M. Nolan
Assistant Buildings Engineer

JMN:es

DP 3
1/79

PETITIONER'S EXHIBIT 3

Permit

BALTIMORE COUNTY MARYLAND

NOTE: A SEPARATE PERMIT IS REQUIRED FOR ALL ELECTRICAL & PLUMBING WORK WHICH MUST BE DONE BY AN ELECTRICIAN OR PLUMBER LICENSED IN BALTIMORE COUNTY.

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
OFFICE OF THE BUILDING ENGINEER
TOWSON, MARYLAND 21204

3 8 2 5

TAX ACCOUNT NUMBER 17-00-000870

BUILDING ADDRESS 8001 YORK RD. AND AIGBURTH AVENUE

OWNER'S NAME JOSEPH L. SOLEY

MAILING ADDRESS 8001 YORK RD. TOWSON, MD. 21204

TENANT

BUILDING CONTRACTOR

ENGINEER OR ARCHITECT DEVELOPMENT DESIGN GROUP, LTD. (ENG.) DAVID S. HYMAN (ARCH.) #2430 2622 MD. AVE. 21218

IF UNDER CONTRACT OF SALE, GIVE SELLER'S NAME AND ADDRESS

TRANSFER DESCRIPTION N/S AIGBURTH N/E COR. YORK RD.

ZONING: MAP | BLOCK | PARCEL | LOT SIZE | SQ. FT. | ACRES
SN | | | | X | X

DATE ISSUED 4-14-82

BUILDING PERMIT NO. C-350-82 | DISTRICT 9 | PRECINCT 12

A TYPE OF IMPROVEMENT
1 [X] NEW BUILDING CONSTRUCTION
2 [ ] ADDITION
3 [ ] ALTERATION
4 [ ] REPAIR
5 [ ] WRECKING (ENTER NO. UNITS BEING REMOVED)
6 [ ] MOVING
7 [ ] OTHER

DESCRIBE PROPOSED WORK [ ] 1 AND 2 FAM. CODE

FUTURE [X] 1978 BOCA CODE
CONSTRUCT SHELL FOR OFFICE BUILDING. SEPARATE PERMIT REQUIRED TO COMPLETE INTERIOR. ISSUANCE OF THIS PERMIT DOES NOT GUARANTEE ISSUANCE OF SUBSEQUENT PERMITS BY BALTO.CO.

TYPE FOUNDATION
[ ] SLAB
[ ] BLOCK
[X] CONCRETE
[X] BASEMENT
[X] FULL
[ ] PARTIAL
[ ] NONE

B TYPE OF USE
RESIDENTIAL
01 [ ] ONE FAMILY
02 [ ] TWO FAMILY
03 [ ] THREE AND FOUR FAMILY
04 [ ] FIVE OR MORE FAMILY (ENTER NO. UNITS)
05 [ ] SWIMMING POOL
06 [ ] GARAGE
07 [ ] OTHER

NON-RESIDENTIAL
08 [ ] AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09 [ ] CHURCH OTHER RELIGIOUS BUILDING
10 [ ] HOTEL, MOTEL (NO. UNITS)
11 [ ] INDUSTRIAL, STORAGE BUILDING
12 [X] PARKING GARAGE
13 [ ] SERVICE STATION, REPAIR GARAGE
14 [ ] HOSPITAL, INSTITUTIONAL, NURSING HOME
15 [XXXX] OFFICE, BAN PROFESSIONAL
16 [ ] PUBLIC UTILITY
17 [ ] SCHOOL, COLLEGE, OTHER EDUCATIONAL
18 [ ] SIGN
19 [ ] STORE [ ] MERCANTILE [ ] RESTAURANT
SPECIFY TYPE
20 [ ] SWIMMING POOL (INST. HEALTH DEPT. APPR. REQ.)
21 [ ] TANK TOWER
22 [ ] TRANSIENT HOTEL, MOTEL (NO. UNITS)
23 [ ] OTHER

OWNERSHIP
XXXXTELY OWNED 2 [ ] PUBLICLY OWNED

CHECK APPROPRIATE CATEGORIES FOR RESIDENTIAL ONLY

OFFICE BUILDING
24 PROPOSED USE(S)
EXISTING USE(S) VACANT LOT

ESTIMATED COST OF MATERIAL & LABOR $ 100,000.00

THIS PERMIT MUST BE POSTED
SEE OTHER SIDE FOR INSPECTIONS

PETITIONER'S EXHIBIT 4

PETITION FOR ZONING RECLASSIFICATION
SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS 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 (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an D.P. 15 zone to an O-2 zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County: BCZR Section 409.2.c requesting a setback of 0' instead of a setback of 25' from any lot line and BCZR Section 409.2.c requesting a 85' setback from any street line in lieu of 85' from any street line and BCZR Section 409.2.d requesting a 3 foot setback requirement for the minimum distance from a road to a parking lot be reduced to 3 feet and BCZR 255.4a requesting a side yard setback of 20 feet in lieu of a required 65 feet from Aigburth Road as proposed for widening and BCZR 206.4 requesting a minimum sideyard setback from the easternmost property line of 12 feet in lieu of the required 35 feet from the property line.

Property is to be posted and advertised as prescribed by The Baltimore County Code.

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

Contract Purchaser:

(Type or Print Name)

Signature

Address

Legal Owner(s):

Joseph L. Soley per DA
(Type or Print Name)

Signature

(Type or Print Name)

RECEIVED
BALTIMORE COUNTY
Mar 3 2:40 PM '82
BY: A. A. [illegible]

The reasons why the variances are requested are that the property in question was zoned D.P. 15 and a special exception was granted for offices with certain setback variances in 1977 due to the proposed widening of York Road and certain engineering enhancements which the Petitioner agreed to do in that project to enhance the Motorist's fields of observation on York Road at Aigburth Road. It would constitute an undue hardship now as it would have been for the Petitioner to be held to certain setback lines for this property when the York Road proposed to be widened to approximately 80' in the fairly near future.

Additionally, a consideration of the surrounding uses around this property clearly show that the Northern portion of the Petitioner's property is uniquely located so as to surrounding properties in concert with good development practices to maximize the tax base and provide for the full utilization of land in the town center.

Michael P. Tanczyn
Michael P. Tanczyn, Jr.
501 York Road
Towson, MD 21204
296-8822

Attorney for Petitioner

BALTIMORE COUNTY
ZONING ENFORCEMENT SECTION
TELEPHONE: 494-3351

PETITIONER'S EXHIBIT 5

* * * * * CORRECTION NOTICE FOR ALLEGED ZONING VIOLATION * * * * *

CASE NUMBER C - 83-544 ELECTION DISTRICT: 9th

LOCATION: NE Corner of York & Aigburth Rds.

DEAR Mr. Soley :

PLEASE BE ADVISED THAT AN INSPECTION OF THE ABOVE REFERENCED LOCATION REVEALED:

[ ] THERE WAS NO VIOLATION OBSERVED AND THE CASE WILL BE CLOSED.

[X] THERE IS AN APPARENT VIOLATION AND THE FOLLOWING CORRECTION IS REQUIRED: The Special Exception, 75-139-XA, granted 4-28-77 has expired. Another petition for same must be filed or the excavation must be back filled & the site removed!

COMPLIANCE MUST BE ATTAINED BY: 2-26-83

[ ] COMPLIANCE HAS NOT BEEN ATTAINED AND THE MATTER WILL BE SCHEDULED FOR A VIOLATION HEARING.

[ ] COMPLIANCE HAS BEEN ATTAINED AND THE CASE WILL BE CLOSED.

INSPECTOR: Sullivan DATE: 1-19-83

(X) DEFENDANT COPY ( ) COMPLAINANT COPY

February 22, 1983

Mr. Sullivan
Zoning Enforcement Office
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Case No. C 83-544
York and Aigburth

Dear Mr. Sullivan:

On behalf of my client, Joseph Soley, I am writing to respond to your correction notice issued January 19, 1983. Please be advised that my client has petitioned for a special hearing within a compliance period to dtermine some of the questions raised in this case. I wish to make this a matter of record as my client feels very strongly that he has proceeded in good faith to pursue development of the property as permitted by the special exception mentioned in your letter.

If you have any further questions of me, don't hesitate to call. I trust that this hearing will suspend further action by your office pending a decision from the Zoning Office on that request unless I hear from you to the contrary.

Very truly yours,

Michael P. Tanczyn

MPT/kva

cc: Mr. Joseph Soley
Ms. Alcarese
Mr. James Dyer

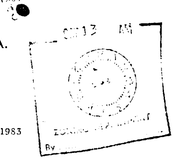
PETITIONER'S EXHIBIT 6

Petitioner's Exhibit #2

Case Number
75-139-XA

83-305-A
AD-Reg. Certification

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824



October 10, 1983

Arnold Jablon, Esq.
Zoning Commissioner
for Baltimore County
County Office Building
Towson, MD 21204

RE: Joseph Soley
84-89-SPH

Dear Mr. Jablon:

Enclosed herewith please find some of the bills for Mr. Soley's project. We have written for copies of the concrete tickets from Medi-Mix and will forward those as soon as we receive them.

Very truly yours,

Michael P. Tanczyn

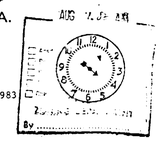
MPT/kvm

Enc.

cc: Arthur Hamilton, Esq., Attorney for Protestants
Mrs. D. Alcarese

83-176A

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824



August 1, 1983

Mr. Nicholas Commodari
Baltimore County Office of
Planning and Zoning
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Joseph L. Soley
Special Hearing
Item No. 178

Dear Nick:

Since I wrote you last, I have been contacted by my client's secretary who advised that Mr. Soley has a number of matters which will be heard again in October 1983 and asked that this matter be scheduled for hearing at your convenience in October 1983. I would advise you that the previous dates of the 27th, 28th and 29th will probably be taken up by an extension of the jury trial I told you about previously. In October, I have a jury trial scheduled to begin October 6 and a court trial beginning October 14 in the Towson District Court. Other than that, I will attempt to put myself at your disposal.

Please schedule this matter for hearing and advise me of the hearing date so that I can advise my client and the other witnesses accordingly.

Very truly yours,

Michael P. Tanczyn

MPT/kvm

cc: Mr. Joseph Soley
Mrs. Dorie Alcarese

83-178A

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

July 15, 1983

Mr. Nicholas Commodari
Baltimore County Office of
Planning and Zoning
111 W. Chesapeake Avenue
Towson, MD 21204

Item No. 178

RE: Joseph L. Soley
York Road and Aigburth
Special Hearing

Dear Nick:

To confirm our verbal conversation as I am tied up with almost three weeks of summer camp in August and have trials almost everyday thereafter including a number of jury trials in September, I am requesting that this matter not be set in until the end of September and, perhaps, on September 29, 1983. I have recently been advised by the Circuit Court that the matter of State v. Heffler, a jury trial, will begin on Wednesday, September 28, 1983 at 9:30 a.m. and that may spill over to the morning of September 29, 1983 so if there is another day that is more convenient for presenting this hearing, I would appreciate it if you would doublecheck the date before advertising it.

Very truly yours,

Michael P. Tanczyn

MPT/kvm

cc: Mr. Joseph Soley
Mrs. Dorie Alcarese

83-204A

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

June 1, 1983

Mr. Nicholas Commodari
Chairman, CPAC
111 W. Chesapeake Ave.
Towson, MD 21204

re: Special Hearing
Joseph Soley
Item No. 178

Dear Mr. Commodari:

Pursuant to our phone conversation I am formally requesting that the hearing on Mr. Soley's petition for special hearing not be held in the months of July and August, as both months are very crowded; in addition to trial schedules, I have previously planned a vacation for the third week in July, out of state, for which I have already made payment and I will be at Summer Camp with the Maryland Army National Guard from August 3 through August 20, and thereafter will have jury and non-jury trials for the remainder of August. Therefore I would hope that this matter would be scheduled no sooner than the month of September, 1983.

Thank you very much for your consideration of my crowded schedule.

Very Truly Yours,

Michael P. Tanczyn

cc: Dorie, 8001 York Road, Towson, MD 21204

83-204

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

April 19, 1983

Mr. Nicholas Commodari
Baltimore County Office of
Planning and Zoning
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Petition of Joseph Soley
for Special Hearing
Item No. 178

Dear Mr. Commodari:

Pursuant to our phone conversation, I am writing to ask that this matter not be scheduled for hearing at the time mentioned in our conversation as my calendar is very busy for the first week in June, 1983.

I look forward to discussing this matter with you within the next week to schedule the hearing for this matter.

Very truly yours,

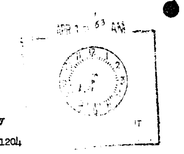
Michael P. Tanczyn

MPT/kvm

cc: Mrs. Alcarese
Mr. Joseph Soley

83-175A

Item #178



April 8, 1983

Mr. Joseph L. Soley
8001 York Road
Towson, Maryland 21204

RE: Proposed Office Building
N/S Corner York Rd. & Aigburth Rd.
Permit No. 40511

Dear Mr. Soley:

Baltimore County records indicate that on April 4, 1983 you were issued an extension of the referenced permit to April 14, 1983. Subsequent to that inspection, I have been informed by Mr. Commodari of the Office of Zoning that a question does exist concerning the validity of the Special Exception granted to you to construct a building, see case number 75-139-XA, and that a hearing is scheduled in the Office of Zoning to determine this question.

Section 112.2 of the Baltimore County Building Code, provides that any permit issued shall become invalid if the authorized work is not commenced within six months after the issuance of that permit or if the authorized work is suspended or abandoned for a period of six months after the commencement of work. Work on this building has been suspended or abandoned well in excess of six months. Section 112.6 of the Building Code provides that any permit issued in violation of the provisions of the Building Code or any other laws, resolutions or regulations of Baltimore County or the State of Maryland, shall be voided.

You are hereby informed that permit number 40511 is hereby revoked.

If you do not concur with this decision, you may file an appeal within 15 days to the Baltimore County Board of Appeals. That appeal must be in writing and state concisely why you feel that the revocation of this permit is not proper. Your appeal must be addressed to the Baltimore County Board of Appeals but delivered to me, accompanied by a check in the amount of $75.00 made out to Baltimore County, to cover the appeal fee.

If you have any questions in this matter, please call me at 494-3373.

Very truly yours,

Joseph M. Nolan
Assistant Buildings Engineer

JMN:es

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Joe Nolan Date: April 7, 1983

FROM: Nick Commodari

SUBJECT: Proposed Office Building - Soley Property
N/E Cor. York Road & Aigburth Road

It has come to the attention of this office that a request to extend building permit No. 42511 - C-350-82 to construct an office building on the above referenced property has been granted by your office until April 14, 1983.

At the present time, the owner has filed for a hearing with this office (item No. 178) to determine whether the special exception (Case No. 75-139-XA) that granted the right to build the proposed structure is still valid. Until this matter is resolved, this office requests that no further extensions of the aforementioned permit be granted.

NBC:bsc

84-89-SPH

CHARLES BRIGGEMAN
R/L CEDAR AVE 21204

Wilda Briggeman
18 1/2 Cedar Ave 21204

[illegible]
& Registered 21204

Carl E. Bonsf
15 Hillside Ave Towson 21204

Arthur J. Hamilton
501 Aigburth Road Towson, 21204

Oct 5, 1983

Rm 104
111 W Chesapeake Ave

Wed, Oct 5, 1983 - 1:30 PM
Case # 84-89-SPH

Secretary

Posted at the property to show the location of the meeting. I may have to leave before the meeting because of commuting because of Baltimore City Family

[illegible]

Comes Restaurant and Bar
3613 Eastern Ave - 21224
Northeast corner

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

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

*ALSO ADMITTED IN D.C.

September 24, 1985

Honorable William T. Hackett
Chairman, County Board of Appeals
Court House
Towson, Maryland 21204

Re: Baltimore County, Maryland vs.
Joseph L. Soley and Carl E. Bruff
vs. Joseph L. Soley, Case No. 84-89-SPH
and CBA-83-112

Dear Chairman Hackett:

By now we are sure that the Board has received Judge Hinkel's Opinion and Order of September 10, 1985 in these two (2) cases remanding the cases to the Board to consider the facts in light of the proper law.

On behalf of Mr. Soley, Mr. Tanczyn and myself would respectfully request that the Board not take any definitive action in the matter based upon the testimony thus far produced, until we have had the opportunity to furnish the Board with a Memorandum, which was not done previously, as well as possibly ask the Board to set a date to take further testimony.

It is also quite possible that others in the case will wish to submit Memorandums, and/or submit additional testimony and we are sure that they will let the Board know in this regard.

Thanking the Board for its attention to this request, I

Respectfully,

Newton A. Williams

NAW:ylm
cc: Thomas J. Bollinger, Esquire

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COUNTY BOARD OF APPEALS
'85 SEP 25 A 11:59

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
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J. EARLE PLUMHOFF
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THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
STEPHEN J. NOLAN*
ROBERT L. HANLE, JR.
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS

*ALSO ADMITTED IN D.C.

January 17, 1986

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

RE: Soley Case
York Road and Aigburth Road
County Board of Appeals Nos. 84-89-SPH
and CBA-83-112
Request for Hearing Date

Dear Mr. Hackett:

As we recently discussed, the Circuit Court for Baltimore County (84-CC-1472) has remanded this case to the County Board of Appeals stating that the Board did not properly apply the law concerning the commencement and continuation of construction efforts to the fact situation as found by the Board.

In view of the fact that the testimony before the Board dates back to November of 1983, we feel that justice would best be served by setting the matter in for a new hearing and refreshing the Board's memory with regard to the factual situation as seen by both sides.

Accordingly, it would be greatly appreciated if the Board would set this matter in at its' early convenience, and we understand that you are presently scheduled up through April of 1986.

In the meanwhile, if there is a cancellation which is available, we believe that both sides would be agreeable to putting this matter back in and getting a decision on this matter which has been pending for quite some time.

Set for 4/9

RECEIVED
COUNTY BOARD OF APPEALS
'86 JAN 22 A 10:38

Mr. William T. Hackett, Chairman
January 17, 1986
Page 2

Thanking the Board for an early date, and its' consideration of this request, I am

Respectfully,

Newton A. Williams

NAW:pdb

cc: Thomas J. Bollinger, Office of Law
Arthur Hamilton, Esquire
Mr. Carl E. Bruff
Mr. Joseph L. Soley
Mrs. Dorie Alcarese
Michael P. Tanczyn, Esquire

RECEIPT of a copy of the foregoing ORDER FOR APPEAL is acknowledged this 24th day of May, 1986.
County Board of Appeals, by: Edith T. Eisenhart
Administrative Secretary

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

January 22, 1986

NOTICE OF ASSIGNMENT

REMAND 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. 84-89-SPH — JOSEPH L. SOLEY
FOR SPH TO APPROVE ISSUANCE OF A PERMIT FOR SE
NE CORNER YORK AND AIGBURTH ROADS
9th DISTRICT

AND

CASE NO. CBA-83-112 — JOSEPH L. SOLEY
RE: BUILDING PERMIT #42511
NE CORNER YORK AND AIGBURTH ROADS
9th DISTRICT

9/10/85 - CIRCUIT COURT REMANDED CASE TO THE BOARD "TO CONSIDER THE FACTS IN LIGHT OF THE PROPER LAW"

ASSIGNED FOR: WEDNESDAY, APRIL 9, 1986 at 10 a.m.

cc: Michael P. Tanczyn, Esquire	Counsel for Petitioner
Newton A. Williams, Esquire	Co-counsel for Petitioner
Joseph L. Soley	Petitioner
Arthur S. Hamilton, Esquire	Counsel for Towson Manor Assn.
Carl E. Bruff	Protestant
Miss Gertrude Muth	"
Phyllis Cole Friedman	People's Counsel
Thomas J. Bollinger, Esq.	Asst. County Attorney
Douglas Sachse, Esq.	" " "
Norman E. Gerber	
James G. Hoswell	
Arnold Jablon	
Jean M. H. Jung	
James E. Dyer	
Ted Zaleski	

Edith T. Eisenhart, Adm. Secretary

TO: CHAIRMAN
COUNTY BOARD OF APPEALS
TOWSON, MD. 21204

RE: CASE # 84-89-SPH
CBA-83-112

Mr. Chairman

Please enter my appearance in the above referenced cases on behalf of Petitioner Joseph L. Soley. York and Aigburth Aves. Towson, Md.

R. Bruce Alderman
29 W. Susquehanna Ave
Towson, Md., 21204

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

April 29, 1986

Michael P. Tanczyn, Esq.
118 W. Pennsylvania Ave.
Towson, Md. 21204

Re: Case Nos. 84-89-SPH and
CBA-83-112, Joseph L. Soley

Dear Mr. Tanczyn:

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,

June Holmen, Secretary

Encl.
cc: Newton A. Williams, Esq.
Joseph L. Soley
Thomas J. Bollinger, Esq.
Arthur S. Hamilton, Esq.
Carl E. Bruff
Gertrude Muth
Joseph M. Nolan
John Reisinger
Phyllis C. Friedman
Norman E. Gerber
James Hoswell
Arnold Jablon
Jean Jung
James E. Dyer
R. Bruce Alderman, Esq.
Douglas Sachse, Esq.
Judge Wm. Hinkel

IN THE MATTER OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK ROAD AND AIGBURTH RD. 9th DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
	*	No. CBA-83-112 and No. CBA-84-89-SPH

4/222 K 398
84-CG-1472 84-CG-1498

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

ORDER FOR APPEAL BY APPELLANT, BALTIMORE COUNTY ON BEHALF OF THE ZONING COMMISSIONER & BALTIMORE COUNTY, MARYLAND

Mr. Clerk:

Please enter an appeal on behalf of the Zoning Commissioner of Baltimore County, and Baltimore County, Maryland, a body corporate and politic, from the Order of the Board of Appeals of Baltimore County, passed in the above case on April 29, 1986. This appeal is taken pursuant to Maryland Rule B2 and Baltimore County Code, Section 21-164.

WALTER F. SPICER, JR.
County Attorney

THOMAS J. BOLLINGER
Assistant County Attorney
Mezzanine - Courthouse
Towson, Maryland 21204
(301) 494-4420
Attorneys for Baltimore County, Maryland and Zoning Commissioner

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COUNTY BOARD OF APPEALS
'86 MAY 26 A 11:36

CERTIFICATE OF MAILING

I HEREBY CERTIFY that prior to filing the foregoing Order for Appeal by Appellants, the Zoning Commissioner for Baltimore County, and Baltimore County, Maryland, a copy thereof was served upon the County Board of Appeals of Baltimore County.

THOMAS J. BOLLINGER
Assistant County Attorney

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

May 26, 1986

Michael P. Tanczyn, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Re: Case #CBA-83-112 and
Case #84-89-SPH
Joseph L. Soley

Dear Mr. Tanczyn:

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,

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

Encl.

cc: Newton A. Williams, Esquire
Joseph L. Soley
R. Bruce Alderman, Esquire
Arthur S. Hamilton, Esquire
Carl E. Bruff
Gertrude Muth

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

May 26, 1986

Thomas J. Bollinger, Esquire and
Malcolm F. Spicer, Jr., Esquire
Baltimore County Office of Law
Courthouse
Towson, MD 21204

Re: Case #CBA-83-112 and
Case #84-89-SPH
Joseph L. Soley

Gentlemen:

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 appeal which you have taken to the Circuit Court for Baltimore County in the above entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of 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 file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Edith T. Eisenhart

Edith T. Eisenhart, Adm. Secretary

Enclosures

Baltimore County
Department of Permits & Licenses
Towson, Maryland 21204
494-3610

Ted Zaleski, Jr.
Director

Dennis F. Rasmussen
County Executive

Re: 98336 C-1853-87
Owner: JOSEPH L. SOLEY
Location: 8110 YORK RD.
District: 9 Prec 12

Dear Sir/ Madam:

Your application # 98336 C-1853-87 , PROJECT: 2 STORY SHELL FOR FUTURE OFFICE BUILDING

at the above referenced location has been on file for over six months. Section 112.9 of the Baltimore County Building Code requires that we cancel any application not diligently pursued, after a period of six months from date of filing.

The following reviewing agencies have not yet approved your application:

1) REG. CONTROL-3226 2) PUB. SERV. 3321
3) ZONING-PLANNING 4) PLANS REVIEW 3987
5) ENV 3335

Our office must have your application reviewed and approved by appropriate County Agencies to assure compliance with all pertinent laws and ordinances. Without these approvals, your permit cannot be issued. Accordingly, your application must be cancelled, without refund of any fees, on APRIL 15, 1989.

If you feel there is a reasonable cause for us to extend your application, please notify me in writing, by certified mail, prior to the date cited above.

Please direct any questions you might have to Ms. Sherry Mehl, Office Engineering Assistant, at 887-3420.

Respectfully,

Douglas A. Swan
Processing Supervisor

DAS/mak

RECEIVED
NOV 22 1989
ZONING OFFICE

Joseph L. Soley
Post Office Box #367 D.T.S.
Portland, Maine 04112-0367
7 AM Tel:207-781-2223

Zoning Commissioner
ZONING DEPARTMENT
Baltimore County Office Building
Towson, Maryland 21204

Dear Zoning Commissioner:

As a life-long resident of Baltimore County with recent detours studying and teaching at M.I.T. at Cambridge, Massachusetts and rebuilding the "Old Port" Harbor Area here at Portland, Maine, I would like to be certain that various zoning and Building Permits obtained over the past few years for construction of a small, sixty-by-sixty-foot office building, on the corner of York and Aigburth Roads adjoining and part of my property known as Cardiff Hall East Apartments at 8001-8035 York Road, for which the foundation has been poured and all utilities are in place, under said permits, remains in force, particularly during this extremely bleak, cyclical period of relative inaction, slow sales, awful rentals, and worse bank-financing. Although neither I, nor my attornies, Michael P. Tanczyn, Shale D. Stiller, David A. Soley, or Newton A. Williams, have heard anything to the contrary, I would just like to keep directly in touch with you until the "building climate" improves sufficiently to exercise permits granted and complete construction of the above building commenced.

This complex is of paramount importance to me as I have spent a considerable part of the past thirty years building in Baltimore County, since emerging from the Korean War in 1955, to be exact, and the above site at York and Aigburth is, by far, most important to me personally. Since neither I, nor any of the above attornies, have heard anything whatsoever concerning continuing zoning and permits for this little office building, I must assume that everything remains satisfactory. But, just to be certain, I would appreciate hearing from you with any suggestions for keeping permits and zoning intact through this hurting period.

Thank you very much in advance for your care and consideration.

Sincerely,

Joseph L. Soley

cc: Michael P. Tanczyn, Esquire Tel:296-8823
Suite 806, 600 Baltimore Avenue
Towson, Maryland 21204

cc: Doris Alcarese Tel: 665-2283
8619 Rock Oak Road
Baltimore, Maryland 21234

cc: David A. Soley, Esquire
100 Middle Street
Portland, Maine 04101

Joseph L. Soley
Post Office Box #367 D.T.S.
Portland, Maine 04112-0367
7 AM Tel:207-781-2223

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Baltimore County Office Building
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Suite 806, 600 Baltimore Avenue
Towson, Maryland 21204

cc: Doris Alcarese Tel: 665-2283
8619 Rock Oak Road
Baltimore, Maryland 21234

cc: David A. Soley, Esquire
100 Middle Street
Portland, Maine 04101

12-22-8 320

Joseph L. Soley
Post Office Box #367 DTS
Portland, ME 04112-0367

December 13, 1989

Zoning Commissioner
Zoning & Permits Department
Baltimore County, Maryland

Dear Commissioner:

I have been writing a number of times during the past few months requesting extensions of my Zoning & Permits for a little projected Office Building measuring 60' by 60' (which I already started with foundation in place) at the northeast corner of York & Aigburth directly opposite the Towson Campus of University of Maryland.

This is real important to me personally as I started on this site myself in 1967 and have been improving it consistently, attractively, and carefully as funds, timing, and permits allow over these last difficult twenty-two years.

I therefore need your help in securing these extensions which are invaluable to me. So far, my letters to the County have never been answered, so I am taking the opportunity of writing directly to you.

I call my complex CARDIFF HALL East APARTMENTS & OFFICES with the addresses: 8001 - 8035 York Road. I purposely never cut ANY opening into the site along my 525' frontage along the York Road -- always reserving this for the little office building projected (and started) above.

Any help you can afford me in extending these permits for zoning I would deeply and sincerely appreciate. This has certainly been the sharpest and ugliest recession that I have ever, personally experienced the last forty years of actively building -- accompanied with super-high interest rates -- making it almost impossible to afford to build at all!

But all of us are optomists -- and I'm sure we all look forward to better times ahead!

Thank you in advance for your help and consideration. .

Sincerely,

Joe

Talk about thought of christmas past

Copy

Joseph L. Soley
Post Office Box #367 DTS
Portland, ME 04112-0367

December 13, 1989

Zoning Commissioner
Zoning & Permits Department
Baltimore County, Maryland

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Thank you in advance for your help and consideration. .

Sincerely,

Joe

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

February 16, 1990

Dennis F. Rasmussen
County Executive

Mr. Joseph L. Soley
P.O. Box 367 DTS
Portland, Maine 04412-0367

RE: Building Permit 98336
Control No. C-1853-i87
8110 York Road
9th Election District

Dear Mr. Soley:

It is unclear to me whether your attorney is either Michael P. Tanczyn, Esquire, David A. Soley, Esquire or Newton P. Williams, Esquire. It is not my intention to violate any attorney/client privileges or to communicate with any client directly. However, it appears that you have written a letter dated November 22, 1989 to me personally.

I believe the obvious response to your questions must be that if you have a question as to the applicability of your outstanding Special Hearing and Special Exception relief, you may pursue a formal finding from the Zoning Commissioner by filing a request for interpretation, pursuant to Section 500.7 of the B.C.Z.R.

It appears to me that there has been no active efforts to continue construction on this site since approximately 1982. There would appear to be an unacceptable and unreasonable delay, however, the subject is always open to interpretation. Clearly, Baltimore County Building Permit No. 98336 has been cancelled.

If you have any questions, feel free to contact John Sullivan at area code 301-887-3391.

Very truly yours,

J. Robert Haines
Zoning Commissioner

JRH:mmn
cc: John Sullivan

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
OFFICE OF THE BUILDING ENGINEER
TOWSON, MARYLAND 21204

ELECTRICAL | MECHANICAL | GAS | PLUMBING
X | X

Zone 3 | Block 9 | Lot | Section | Sub-Lot | Map 5 | Parcel | Ward | Precinct | Councilmanic | Tax Area
Tax Account # 17-00-000870

BUILDING ADDRESS 8110 YORK ROAD

OWNER'S NAME JOSEPH L. SOLEY
MAILING ADDRESS OF OWNER 8001 YORK RD. 21204
TENANT
BUILDING CONTRACTOR MARYLAND COMMERCIAL CONTRACTORS 486-9006
ENGINEER OR ARCHITECT
IF UNDER CONTRACT OF SALES GIVE SELLER'S NAME AND ADDRESS
LESSEE
DESCRIPTION NS AIGBUETH RD. NE CORNER YORK RD.

DATE ISSUED
PERMIT NO. 98336
REVISED C-1853-87 | 9 | 12
DISTRICT | PRECINCT

A. TYPE OF IMPROVEMENT
1. X NEW BUILDING CONSTRUCTION
2. ADDITION
3. ALTERATION
4. REPAIR
5. WRECKING (ENTER NO. UNITS DEDUCTED)
6. MOVING
7. OTHER
DESCRIBE PROPOSED WORK: 1 AND 2 FAM. CODE

RESIDENTIAL
01 ONE FAMILY
02 TWO FAMILY
03 THREE AND FOUR FAMILY
04 FIVE OR MORE FAMILY (ENTER NO. UNITS)
05 SWIMMING POOL
06 GARAGE
07 OTHER

C. TYPE OF USE
NON-RESIDENTIAL
04 AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
05 CHURCH, OTHER RELIGIOUS BUILDING
10 FENCE (LENGTH) (HEIGHT)
11 INDUSTRIAL, STORAGE BUILDING
12 PARKING GARAGE
13 OTHER
SERVICE STATION, REPAIR GARAGE
HOSPITAL, INSTITUTIONAL, NURSING HOME
OFFICE, BANK, PROFESSIONAL
PUBLIC UTILITY
SCHOOL, COLLEGE, OT. 4EA EDUCATIONAL
BOH
STORE MERCANTILE RESTAURANT
SPECIFY TYPE
SWIMMING POOL BHD. HEALTH DEPT. APPR. REQ
TANK, TOWER
TRANSIENT HOTEL, MOTEL NO. UNITS
OTHER

CONSTRUCT 2 STORY SHELL FOR FUTURE OFF CE BUILDING. SEPERATE PERMIT REQUIRED TO COMPLETE INTERIOR. ISSUANCE OF THIS PERMIT DOES NOT GURANTEE ISSUANCE OF SUBSEQUENT PERMITS BY BALTIMORE COUNTY. REFER TO EXPIRED PERMIT #2511 C-350-82. OK TO FILE- WILL SUBMIT SEALED DRAWINGS LATER. OCTOBER 17, 1987 PER WRX JRS. OWNERSHIP

BOCA CODE
TYPE CONSTRUCTION: BLOCK, CONCRETE, BASEMENT, PARTIAL, HOME
ESTIMATED COST OF MATERIAL & LABOR $RENEWAL .00
PRIVATELY OWNED 2 PUBLICLY OWNED
24 PROPOSED USE(S) SAME AND OFFICE BLDG
EXISTING USE(S) APTS

D. TYPE OF CONSTRUCTION
1 MASONRY 3 STRUCTURE STEEL
2 WOOD FRAME 4 REINF. CONCRETE
TYPE OF HEATING FUEL
1 GAS 3 ELECTRICITY
2 OIL 4 COAL
TYPE OF SEWAGE DISPOSAL
1 PUBLIC SEWER EXISTS PROPOSED
2 PRIVATE SYSTEM EXISTS PROPOSED
3 SEPTIC EXISTS PROPOSED
4 PRIVY EXISTS PROPOSED

TYPE OF WATER SUPPLY
1 PUBLIC SYSTEM EXISTS PROPOSED
2 PRIVATE SYSTEM EXISTS PROPOSED
3 WELL EXISTS PROPOSED
IS THERE CENTRAL AIR CONDITIONING 1 YES 2 NO
IS THERE AN INCINERATOR 1 NO 2 YES / WITH AIR POLLUTION CONTROL 3 YES / WITHOUT AIR POLLUTION CONTROL
NO. OF ELEVATORS TO BE INSTALLED
NUMBER OF OFF STREET PARKING SPACES
ENCLOSED OUTDOOR

E. RESIDENTIAL ONLY
SINGLE FAMILY UNITS
1. TOTAL NO. OF BEDROOMS
MULTI FAMILY UNITS
HOW MANY APARTMENTS HAVE
2. EFFICIENCY NO SEPARATE BEDROOMS
3. ONE BEDROOM
4. TWO BEDROOMS
5. THREE BEDROOMS OR MORE
6. TOTAL NO OF BEDROOMS
7. TOTAL NO. OF APARTMENTS

F. DIMENSIONS
GARAGE: AREA, NO. | PORCH: AREA, NO. | POWDER ROOMS | BATHROOMS | KITCHENS
BUILDING SIZE: AREA 7200 | WIDTH 60' | LARGEST OVERALL DIMENSIONS INCLUDING BASEMENT: LENGTH 120' | HEIGHT 2 STORIES
LOT SIZE: 3.503 ACRES
PROPERTY LINE SETBACKS: FRONT 0 | REAR | SIDE | SIDE STREET
CENTER LINE SETBACK: FRONT STREET NC/21' | SIDE STREET | REAR 30
IN LINE WITH EXISTING BLDGS: YES NO
CORNER LOT: YES NO
SUB-LOT: NO | LOT NUMBERS
ZONING: DR 16 | ZONING MAP NO. | ELECTION DISTRICT 75-13-A | DATE
ASSESSMENT LAND: IMPROVED | IMPROVEMENTS | TOTAL 11 | BUILDINGS
SUBDIVISION NAME 896PH | H. CARDIFF HALL EAST APTS | BLOCK | SECTION | USER 38 | 38

G. IF HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY BUILDING CODE AND OTHER APPLICABLE LAWS WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS
SIGNATURE OF APPLICANT
MAIL PERMIT TO: JOSEPH L. SOLEY 9-18-87
COMPANY OR OWNER DATE
8001 YORK RD. TOWSON, MD. 21204
ADDRESS CITY STATE ZIP
SIGNATURE OF CONTRACTOR: NOLAN, PLUMHOFF
ADDRESS: WILL CALL AGENT OWNER 823-7800
BANK CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND
REMARKS: $2100 | PROJECT: A-18941 | DATE: 9-18-87
USE GROUP: R-3 OCCUPANCY | APPROVED BY: A | DATE
PLUMBING | ZONING | PUBLIC SCHOOLS | CONSTRUCTION | FIRE PREVENTION: Capt Kelly 10-22-87 | HIGHWAYS | DATE

S.W. OWENS & CO., INC.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

000

Nicholas B. Commodari
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

September 26, 1983

Michael P. Tanczyn, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 178 - Case No. 84-89-SPH
Petitioner - Joseph L. Soley
Special Hearing Petition

Dear Mr. Tanczyn:

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.

The subject property, located at the northeast corner of York and Aigburth Roads in the 9th Election District, is proposed to be improved with a two story office building that was granted a special exception (Case No. 75-139-XA). A building permit (C-350-82) to construct said building was issued by this office on April 6, 1982.

At the time of field inspection, excavation had begun but because it had rained previously, it could not be determined for sure, whether the foundation had been constructed. Since no further construction has taken place, this special hearing to determine the status of this proposed building is being requested.

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, Chairman
Zoning Plans Advisory Committee

NBC:bsc
Enclosures

cc: Development Design Design Group, Ltd.

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P. E.
DIRECTOR

April 21, 1983

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

Re: Item #178 (1982-1983)
Property Owner: Joseph L. Soley
E/S York Road 73.40' N. from centerline of Aigburth Road
Acres: 5.968 District: 9th

Dear Mr. Hammond:

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

General:

The comments supplied in conjunction with the Zoning Advisory Committee review of this property for Items 158 (1970-1971), 193 (1973-1974), 65 (1974-1975) and Item 8 Zoning Cycle III (April-October 1982) are referred to for your consideration.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 178 (1982-1983).

Very truly yours,

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

RAM:EAM:FWR:ss

N-NW Key Sheet
35 NE 3 Pos. Sheet
NE 9 A Topo
70 Tax Map

Attachments

April 7, 1932

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

Re: Item #8 Zoning Cycle III (April-October 1982)
Property Owner: Joseph L. Soley
N/E corner York and Aigburth Roads
Existing Zoning: DR 16
Proposed Zoning: O-2
Acres: 5.968
District: 9th

Dear Mr. Hackett:

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

General:

The comments supplied in conjunction with the Zoning Advisory Committee review of this property for Item 158 (1970-1971), Item 193 (1973-1974), and Item 65 (1974-1975) are referred to for your consideration.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 8 Zoning Cycle III (April-October 1982).

Very truly yours,

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

RAM:EAM:FWR:ss

cc: Jack Wimbley

N-NW Key Sheet
35 NE 3 Pos. Sheet
NE 9 A Topo
70 Tax Map

Baltimore County, Maryland
Department Of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau of Engineering
ELLSWORTH N. DIVER, P. E., CHIEF

October 10, 1974

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

Re: Item #65 (1974-1975)
Property Owner: Joseph L. Soley
N/E cor. of Aigburth Rd. & York Rd.
Existing Zoning: D.R. 16
Proposed Zoning: Special Exception for office and office building. Variance from Sec. 1B02.2B (504.w.2) to permit a front yard setback of 0' instead of the required 30' and to permit a 0' side yard setback instead of the required 25' and a Variance of Sec. 409.2d.4 to permit off street parking to be 3' from a street property line instead of the required 8'
No. of Acres: 0.68 District: 9th

Dear Mr. DiNenna:

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

General:

The comments supplied in connection with the Zoning Advisory Committee review of this site for Item #193 (1973-1974) remain valid, applicable and are reemphasized in connection with this Item #65 (1974-1975); the submitted plan must be revised accordingly.

Very truly yours,

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss

N-NW Key Sheet
35 NE 3 Pos. Sheet
NE 9 A Topo
70 Tax Map

Baltimore County, Maryland
Department Of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau of Engineering
ELLSWORTH N. DIVER, P. E. CHIEF

June 3, 1974

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

Re: Item #193 (1973-1974)
Property Owner: Joseph L. Soley
E/S of York Rd. & the N/S of Aigburth Rd.
Existing Zoning: D.R. 16
Proposed Zoning: Variance from Section 1B02.2B (504.w.2.2) to permit a front yard setback of 0' instead of the required 30' and to permit a Variance to Section 409.2d.4 to permit off street parking to be 3' from a street property line instead of the required 8'.
No. of Acres: 0.68 District: 9th

Dear Mr. DiNenna:

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

General:

The submitted plan is a revision (April 17, 1974) of the plan submitted by the Petitioner in connection with Item #158 (1970-1971). The comments supplied for this site in connection therewith are referred to for your consideration.

The submitted plan should be revised to more correctly correlate the existing and proposed road improvements in relation to this site and the proposed highway right-of-way widening requirements.

Further, this site is tributary to the Towson-Roland Run - Jones Falls Sewerage System, subject to State Health Department imposed moratorium restrictions.

Very truly yours,

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss
cc: G. Peier
J. Trenner

N-NW Key Sheet 35 NE 3 Pos. Sheet
NE 9A Topo 70 Tax Map

Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell
Secretary

M. S. Caltrider
Administrator

March 23, 1983

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

Re: ZAC Meeting of 3-22-83
ITEM: #178.
Property Owner: Joseph L. Soley
Location: E/S York Road
Route 45, 73.40' N. from centerline of Aigburth Road
Existing Zoning: D.R. 16
Proposed Zoning: Special Hearing to approve and find as fact that the Petitioner has complied with the zoning regulations as far as issuance of a permit for the Special Exception Case No. 75-139-XA and with reasonable diligence thereafter, under all the facts and circumstances; in the alternative, that the Petitioner has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception and in the alternative that the Petitioner has under all the circumstances, begun construction during the authorized period and has, thereafter, pursued his Special Exception through the present with reasonable diligence.
Acres: 5.968
District: 9th

My telephone number is (301) 659-1350
Teletypewriter for impaired Hearing or Speech
383-7555 Baltimore Metro — 565-0451 D.C. Metro — 1-800-492-5062 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203 - 0717

Mr. W. Hammond -2- March 23, 1983

Dear Mr. Hammond:

On review of the revised site plan of April 8, 1982 and field inspection, the State Highway Administration will require the plan to be revised.

The revisions are as follows:

1. Label the proposed 30' radius at the N/E corner of York Road and Aigburth Road.
2. Label the proposed curb reconstruction as S.H.A. Type "A" concrete curb and gutter within the State Right of Way.
3. Show a S.H.A. handi-cap at the 30' radius.

All work within the S.H.A. Right of Way of York Road must be through permit from the State Highway Administration - Bureau of Engineering Access Permits.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:maw

cc: Mr. J. Ogle

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO William E. Hammond, Zoning Commissioner
Office of Planning and Zoning

Date May 23, 1983

FROM Ian J. Forrest

SUBJECT Zoning Variance Items

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

Item # 172 - F & M Enterprises, Inc.
Item # 178 - Joseph L. Soley
Item # 181 - Robert H. & Mildred J. McKenny
Item # 190 - J. N. G. Company, Inc.
Item # 191 - Fred L. Elrick, Sr.
Item # 192 - Cohn Brothers
Item # 198 - Galway, Incorporated
Item # 199 - Clarence & Irene McNeal
Item # 204 - Robert C. Baumgartner
Item # 207 - F & S Partnership
Item # 210 - Erwin J. & Joan W. Cerveny
Item # 211 - Middle River Realty Company, Inc.
Item # 224 - Barry L. & Ruth Green
Item # 225 - Hattie Kirson
Item # 228 - Christopher R. & Pamela L. Burrow
Item # 230 - Richard L. & Licia M. Hilbert
Item # 231 - James E. & Mary H. O'Meara, Jr.
Item # 232 - Venice K. Paterakis
Item # 233 - Merritt Blvd. Limited Partnership
Item # 234 - Ruxton Crossing Joint Venture
Item # 236 - Owen C. & Elsie M. Smith, Jr.
Item # 237 - Joseph W. & Donna M. Stack
Item # 238 - John W. & Maureen S. Diegel
Item # 241 - Broadus B. & Ruth W. Whitlock, Jr.
Item # 242 - Herbert L. & Patricia H. Grymes
Item # 243 - Lawrence J. & Patricia A. Sadowski
Item # 244 - Edwin B. & Sharyn A. Brager
Item # 246 - Martin Plaza, Inc.
Item # 248 - Martin M. Feeheley, Jr., et ux

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/fth

Edith Eisenhart

IN THE MATTER OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK ROAD AND AIGBURTH ROAD - 9th DISTRICT	:	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY No. CBA-83-112 and 84-89-SPH

: :

O P I N I O N

The above captioned matters came on for hearing before the County Board of Appeals as a result of an Assistant Buildings Engineer invalidating the building permit and the denial by the Zoning Commissioner of the Special Hearing Petition.

The Petitioner-Appellant has appealed both of those actions.

Evidence produced by the Petitioner-Appellant indicated that on April 28, 1977, he was granted a Special Exception on the subject property so as to permit the construction of a two (2) story office building in a DR 16 zone. It is uncontroverted that the Petitioner's proposed building, at that time, was intended, among other things, to house a physician's office.

No actual construction was commenced, although a building permit was issued on April 14, 1982 and an extension of same was requested on April 4, 1983. The extension was granted but only until April 14, 1983. The County acknowledges that the extension for a period of ten (10) days only was merely a clerical error, as the standard extension is, normally, for a period of one (1) year.

On April 7, 1983, Nicholas Commodari, Coordinator of the Developer Control Section, issued a letter to the effect that no further extension of a building permit should be granted until such time as the question concerning the Special Exception is resolved.

Thereafter, the building permit was invalidated and a correction notice for an alleged zoning violation was issued.

The issue before this Board is simple. Did the Petitioner commence construction within the five (5) year period from which he was granted a Special Exception?

The Petitioner contends and the County acknowledges that certain excavations have occurred at the subject site and that said work was commenced in early April of 1982. However, shortly thereafter, work stopped and, of course in 1983

the permit was invalidated. Petitioner contends that work stopped, initially because he had to allow several months for the poured concrete to settle and harden. At the risk of sounding presumptious, this Board finds Petitioner's contentions incredulous.

To the contrary, we are persuaded that the Petitioner did nothing and intended to do nothing until such time as he had a commitment from a bank for his office building. We are persuaded by and through the examination by Protestant's Counsel that the unsettled issue of a bank was and is soley the reason for the delay in construction of this office building.

However, the bank and the Petitioner's dependence thereon is not dispositive of the issue. By law, the Petitioner was entitled to utilize his Special Exception within five (5) years from the granting of same. By law he is required to commence construction within one (1) year of the granting of a building permit, or any extension thereof. Clearly, he has done so, although the construction or work completed is minimal.

Of course compounding Petitioner's problems is the fact that there has been a subsequent change in the law. Despite the desires of the Petitioner, he can no longer place a bank in a DR 16 zone. The law has changed, as a bank is not a permitted use within the existing zone.

This Board is sympathetic to the plight of the Protestants and the County. Clearly, the subject site is an eyesore. Nevertheless, this Board finds no precedent in the law to enable us to define how much or how little work and/or construction must be completed to satisfy the law. Mere commencement of work appears to be the test. There was no requirement for the Petitioner to commence work immediately. Indeed, he could have waited, were he so inclined, four (4) years and three hundred sixty-four (364) days. It was his right.

Consequently, this Board has no alternative but to overrule the decision of the Assistant Buildings Engineer and the Zoning Commissioner and we shall so rule. However, this Board, further, shall order that the Petitioner apply for a building permit within thirty (30) days from the date of this Order.

O R D E R

For the reasons set forth in the aforegoing Opinion, it is this 30th day of October, 1984, by the County Board of Appeals, ORDERED:

1. That the Order of the Assistant Buildings Engineer invalidating the building permit to construct a two (2) story building in a DR 16 zone BE REVERSED and that said permit be issued. The Board FURTHER ORDERS that the Petitioner apply for a building permit within thirty (30) days from the date of this Order.

2. That the Order of the Zoning Commissioner, dated October 11, 1983, denying the Petition for Special Hearing, BE REVERSED, and that said Petition for Special Hearing BE GRANTED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans

Patricia Phipps

86-555-A
Case file

IN THE MATTER OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK ROAD & AIGBURTH ROAD 9th DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY NOS. CBA 83-112 & 84-89-SPH Case NO. 86-CBA-2031/27/171

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

PETITION FOR APPEAL

The Zoning Commissioner of Baltimore County and Baltimore County, Maryland, a body corporate and politic, Appellants herein, by their attorneys, Malcolm F. Spicer, Jr., County Attorney and Thomas J. Bollinger, Assistant County Attorney, in conjunction with its Order for Appeal filed herein, state:

ACTION APPEALED FROM

The Appellants appeal from the Order of the Baltimore County Board of Appeals dated April 29, 1986, ordering the Assistant Buildings Engineer to issue a permit for a building in a D.R.16 zone and reversing the Order of the Zoning Commissioner of Baltimore County which denied a Petition for Special Hearing and granting a special hearing.

The Appellants herein respectfully join in the Petition for Appeal and the appeal previously filed herewith by the Co-Appellant, the Towson Manor Association.

ERROR COMMITTED

The Appellants herein respectfully join in the Petition alleging the error committed previously set forth by the Appellant, Towson

Manor Association and reserve the right to file a separate memorandum in addition to that filed by the Co-Appellant, Towson Manor Association.

RELIEF SOUGHT

The Appellants petition this Court to reverse the Order of the County Board of Appeals and abate the Order dated April 29, 1986 of the County Board of Appeals.

Malcolm F. Spicer, Jr.
MALCOLM F. SPICER, JR.
County Attorney

Thomas J. Bollinger
THOMAS J. BOLLINGER
Assistant County Attorney
Mezzanine - Courthouse
Towson, Maryland 21204
301/494-4420
Attorneys for Appellants
Baltimore County Zoning
Commissioner & Baltimore
County, Maryland

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of June, 1986, a copy of the foregoing Petition for Appeal was mailed, postage prepaid, to:

R.Bruce Alderman, Esquire
29 W. Susquehanna Ave.
Towson, Maryland 21204

Michael P. Tanczyn, Esquire
606 Baltimore Ave.
Towson, Maryland 21204

Newton A. Williams, Esquire
204 W. Pennsylvania Ave.
Towson, Maryland 21204

Arthur S. Hamilton, Esquire
209 Aigburth Road
Towson, Maryland 21204

Arnold Jablon, Esquire
Zoning Commissioner for
Baltimore County, Md.
First Floor
County Office Bldg.
Towson, Maryland 21204

Joseph M. Nolan,
Office of Permits & Licenses
First Floor
County Office Building
Towson, Maryland 21204

County Board of Appeals
Room 200 - Courthouse
Towson, Maryland 21204

Thomas J. Bollinger
THOMAS J. BOLLINGER
Assistant County Attorney

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NE CORNER OF YORK AND AIGBURTH ROADS 9th DISTRICT	:	ON REMAND FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
CASE #CBA-83-112 and CASE #84-89-SPH	:	4/372 and 398/ 84-CO-1472 and 84-CO-1498 and 27/171/86-CO-2031
CARL E. BRUFF and TOWSON MANOR ASSOCIATION Plaintiffs	:	

: :

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, William R. Evans and Patricia Phipps, 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, Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204 and R. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for the Petitioner, and Joseph L. Soley, 8021 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Association and Carl E. Bruff, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204 and Miss Gertrude Muth, 8013 York Road, 88, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire, Assistant County Attorney, and Malcolm F. Spicer, Jr., Esquire, County Attorney, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland and the Zoning Commissioner, a copy of which notice is attached hereto and prayed that it

may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse, Towson, MD 21204
(494-3180)

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204 and R. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, MD 21204, Counsel for the Petitioner, and Joseph L. Soley, 8021 York Road, Towson, MD 21204, Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Association and Carl E. Bruff, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204 and Miss Gertrude Muth, 8013 York Road, 88, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire, Assistant County Attorney, and Malcolm F. Spicer, Jr., Esquire, County Attorney, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland and the Zoning Commissioner, on this 27th day of May, 1986.

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

cc: Zoning, Bettye DuBois
Planning, J. Hoswell
Permits & Licenses, Joe. M. Nolan

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
CHIEF

April 12, 1983

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

Attention: Mick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Joseph L. Soley

Location: E/S York Road 73.40' N. from centerline of Aigburth Road

Item No.: 178 Zoning Agenda: March 22, 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.

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

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

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

REVIEWER: Capt. Joseph Kelly 4-14-83 Noted and Approved: George M. Regenold
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/mb/sam

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3900

TED ZALESKI, JR.
DIRECTOR

March 31, 1983

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

Dear Mr. Hammond:

Comments on Item # 178 Zoning Advisory Committee Meeting March 22, 1983
are as follows:

Property Owner: Joseph L. Soley
Location: E/S York Rd. 73.40' N. from centerline of Aigburth Road
Existing Zoning: D.R. 16
Proposed Zoning: See reverse side

Acres: 5.968
District: 9th

The items checked below are applicable:

X A. All structures shall conform to the Baltimore County Building Code 1981/ Council Bill 1-82 State of Maryland Code for the Handicapped and Aged; and other applicable Codes.

X B. A building/and other miscellaneous permits shall be required before beginning construction.

C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.

X D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.

E. An exterior wall erected within 6'0 of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'-0 of lot lines. A firewall is required if construction is on the lot line, See Table 401, line 2, Section 1407 and Table 1402.

F. Requested variance conflicts with the Baltimore County Building Code, Section/s _____.

G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.

H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 601.

I. Comments:

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit.
If desired, additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., 21204.

Very truly yours,
Charles E. Burnham

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
NE Corner York & Aigburth Rds., 9th District : OF BALTIMORE COUNTY
JOSEPH L. SOLEY, Petitioner : Case No. 84-89-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 13th day of September, 1983, a copy of the foregoing Order was mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner.

John W. Hessian, III

Proposed Zoning: Special Hearing to approve and find as fact that the Petitioner has complied with the zoning regulations as far as issuance of a permit for the Special Exception Case #75-139-XA and with reasonable diligence thereafter, has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception; and in the alternative that the Petitioner has under all the circumstances, begun construction during the authorized period and has, thereafter, pursued his Special Exception through the present with reasonable diligence.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Arnold Jablon, Zoning Commissioner Date September 21, 1983

FROM Norman E. Gerber, Director of Planning and Zoning

SUBJECT Joseph L. Soley, 84-89-SPH

In view of the nature of this request, this office offers no comment.

Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:cav

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland – 21204

Date: 3/22/83

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

Z.A.C. Meeting of: March 22, 1983

RE: Item No: 177, (178) 179, 180, 181, 182
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

All of the above have no adverse effect on student population.

Very truly yours,
Wm. Nick Petrovich, Assistant
Department of Planning

L5359 p.47

PETITION FOR VARIANCE
9th Election District
ZONING: Petition for Special Hearing
LOCATION: Northeast of c. York and Aigburth Roads
DATE & TIME: Wednesday, October 5, 1983 at 1:30 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

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

Petition for Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County to determine whether or not the Zoning Commissioner should approve and find as fact that the Petitioner has complied with the zoning regulations as far as issuance of a permit for the Special Exception Case No. 75-139-XA, and with reasonable diligence thereafter, has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception; and in the alternative that the Petitioner has under all the circumstances, begun construction during the authorized period and has, thereafter, pursued his Special Exception through the present with reasonable diligence. Special Exception to be filed.

Hearing Date: Wednesday, October 5, 1983 at 1:30 A.M.

Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

BEGINNING at the corner of the intersection formed by the centerline of York Road and the centerline of Aigburth Road, thence leaving said intersection and binding on the centerline of Aigburth Road, (1) South 85 deg. 40 min. East 73.40 feet, thence leaving said centerline of Aigburth Road, (2) South 4 deg. 20 min. West 100.00 feet, thence (3) North 85 deg. 40 min. West 73.40 feet, thence (4) North 4 deg. 20 min. East 100.00 feet to the point of beginning.

CONTAINING 0.09 acres of land more or less.

Being the property of Joseph L. Soley as shown on plat plan filed with the Zoning Office.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will however entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

BY ORDER OF ARNOLD JABLON
ZONING COMMISSIONER OF
BALTIMORE COUNTY

48765 L53959

CERTIFICATE OF PUBLICATION

TOWSON, MD. 9/16 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 15th day of Sept 1983.

THE TOWSON TIMES
M L Angelillo

Cost of Advertisement, $ 59.40

Case No. 84-89-SPH — NE/corner of York and Aigburth Roads
Item No. 178 — 9th Election District
Date: October 18, 1983 — Joseph L. Soley - Petitioner
SH-to approve and find as fact that the petitioner has complied with the zoning regulations so far as issuance of a permit for the special exception, case 75139-XA, etc.

- [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 - Zoning ~~Commissioner~~ Commissioner-10/11/83, DENIED
- [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)
- [ ] 16. Protestants' Exhibits ____ to ____
- [x] 17. Petitioners' Exhibits 1 to 12
- [x] 18. Letter of Appeal, 10/18/83 by Michael P. Tanczyn, Esq., on behalf of Petitioner.

Michael P. Tanczyn, Esquire — Attorney FOR PETITIONER
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Joseph L. Soley — Petitioner
8001 York Road
Towson, Maryland 21204

Arthur S. Hamilton, Esquire — ~~Request Notification~~ Counsel for Towson Manor Assn.
Towson Manor Improvement Assn.
209 Aigburth Road
Towson, Maryland 21204

Carl E. Bruff — Protestant
15 Hillside Avenue
Towson, Maryland 21204

Miss Gertrude Muth — Protestant
8013 York Road - B8
Towson, Maryland 21204

~~John W. Hessian, III, Esquire OUT~~ — People's Counsel
Norman E. Gerber — Request Notification
James E. Hoswell — " "
Arnold Jablon — " "
Jean M. H. Jung — " "
James E. Dyer — " "
THOMAS J. BOLLINGER, ESQ. — OFFICE OF LAW
NEWTON A. WILLIAMS, ESQ. — CO-COUNSEL FOR PETITIONER

YORK ROAD

PARKING TABULATION

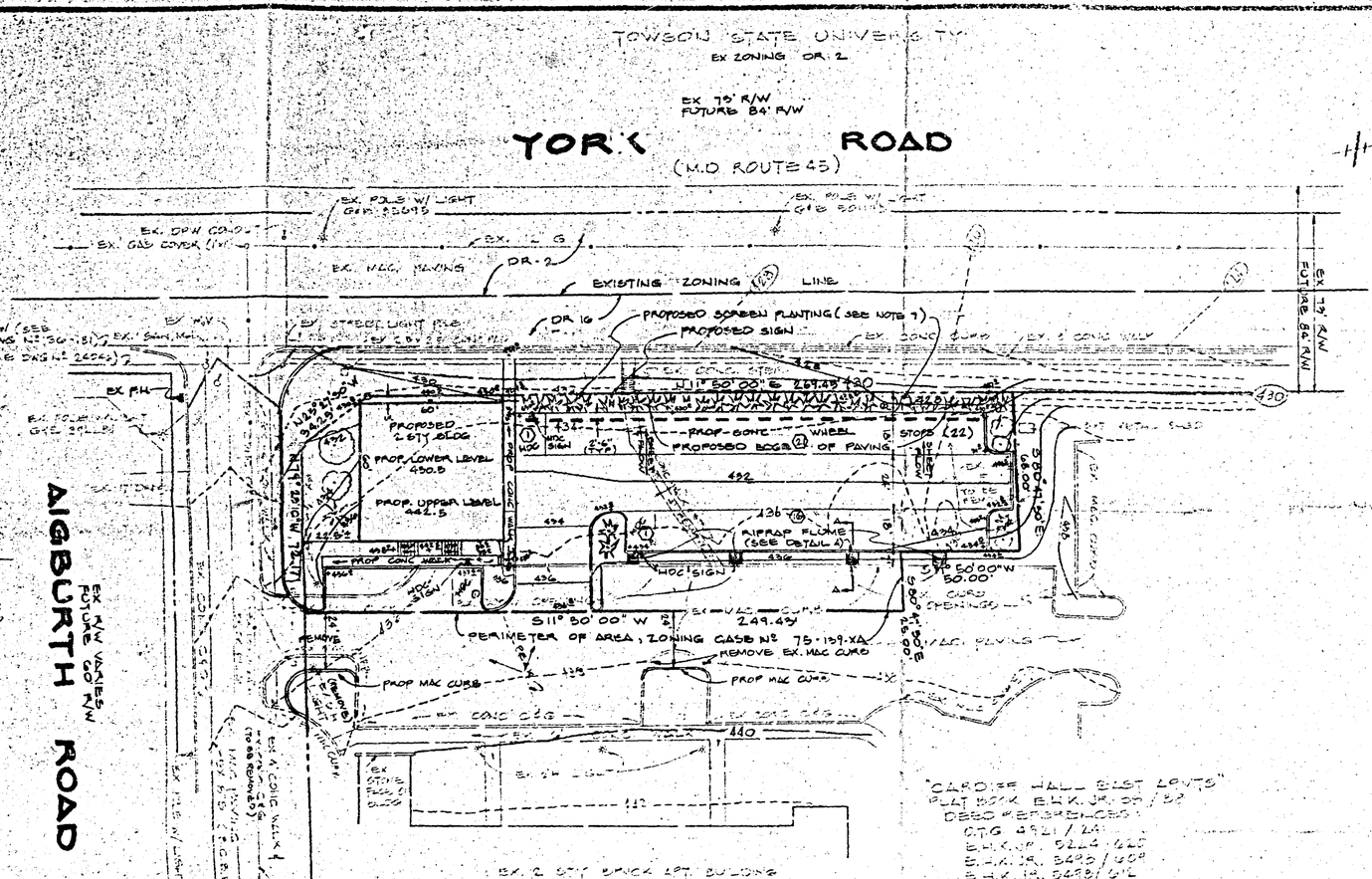
NOTE:
CONTRACTOR TO NOTIFY ALL UTILITY
FOR EXISTING UTILITY LOCATIONS
CONTRACTOR TO NOTIFY ENGINEER
ANY WORK TO BE DONE TO EXISTING
UTILITIES

GENE

PETITIONER
EXHIBIT

ENGINEER

REVISIONS


TOWSON STATE UNIVERSITY
EX ZONING DR 2
EX 79' R/W
FUTURE 84' R/W
YORK ROAD
(M.D ROUTE 45)
EX. POLE W/ LIGHT
EX. DRN CO. OUT
EX. GAS COVER, I/H
EX. W&G PAVING
DR-2
EXISTING ZONING LINE
DR 16
PROPOSED SCREEN PLANTING (SEE NOTE 7)
PROPOSED SIGN
EX. STREET LIGHT POLE
EX. 2 STY BRICK APT. BUILDING
EX. W/W
EX. S.B (SEE S.C.G.E DWG Nº 24254)
EX. F.H
PROPOSED 2 STY BLDG
PROP. LOWER LEVEL 450.5
PROP. UPPER LEVEL 442.5
PROP. CONC WALK
PROP. CONC WHEEL STOPS (22)
PROPOSED EDGE OF PAVING
HOC SIGN
RIPRAP FLUME (SEE DETAIL A)
S11° 50' 00" E 249.42'
PERIMETER OF AREA; ZONING CASE Nº 75-139-XA
REMOVE EX. M&C CURB
PROP M&C CURB
EX. CONC CURB
EX. ACTIVE ENTR. 2 STY BLDG
EX. 4 CONC WALK
EX. 4' CONC WALK
EX. 4' CONC WALK
EX. 4'

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH ROAD
9TH DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* NO. CBA 83-112 and 84-89-SPH
* 27/171/SC-CG-2031

* * *

ORDER FOR APPEAL BY APPELLANT,
CARL E. BRUFF ON BEHALF OF THE
TOWSON MANOR ASSOCIATION,
15 HILLSIDE AVENUE
TOWSON, MARYLAND 21204

MR. CLERK:

Please enter an appeal on behalf of Carl E. Bruff, acting for the Towson Manor Association from the Order of the Board of Appeals of Baltimore County, passed in the above case on April 29, 1986. This appeal is taken pursuant to Maryland Rule B2 and Baltimore County Code, Section 21-164.

Arthur S. Hamilton

209 Aigburth Road
Towson, Maryland 21204
301/828-4077

Attorney for Carl E. Bruff
and Towern Manor Association

CERTIFICATE OF MAILING

I HEREBY CERTIFY that prior to filing the foregoing Order for Appeal by Appellants, Carl E. Bruff and Towson Manor Association, a copy thereof was served upon the County Board of Appeals of Baltimore County.

Arthur S. Hamilton

RECEIPT of a copy of the foregoing ORDER FOR APPEAL is acknowledged this 27th day of May, 1986.

County Board of Appeals

By: E. H. T. Kincaid III
Administrative Secretary

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH ROAD
9TH DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* NO. CBA 83-112 and 84-89-SPH
* 27/171/SC-CG-2031

* * *

PETITION FOR APPEAL

Carl E. Bruff and Towson Manor Association, Appellants, herein, by their attorney, Arthur S. Hamilton, in conjunction with its Order for Appeal, filed herewith, state:

ACTION APPEALED FROM:

The Appellants appeal from the Order of the Baltimore County Board of Appeals dated April 29, 1986, ordering the Buildings Engineer to issue a permit for a building in a D.R. 16 zone and reversing the Order of the Zoning Commissioner of Baltimore County which denied a Petition for Special Hearing and granting the Special Exception awarded to Petitioner to continue in existence.

ERROR COMMITTED:

On remand from the Circuit Court of Baltimore County (84-CG-1472 and 84-CG-1498), the County Board of Appeals was instructed to review its opinion and order of October 30, 1984, which did not consider Regulation 502.3 of the Baltimore County Zoning Regulations which states:

A Special Exception which requires any construction for its utilization shall be deemed to have been used within the authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence. (Emphasis supplied.)

The Court further instructed that the Court of Appeals has applied a two-prong test as enunciated in Rupp v. Earl H. Cline & Sons, 230 Md. 573, to wit: "(1) a manifest commencement of some work or labor on the ground which every one can readily see and recognize as the commencement of a building and (2) the work done must have been begun with the intention and purpose then formed to continue the work until the completion of the building." This principle was cited with approval in Pemberton v. Montgomery County, 275 Md. 363, 370 (1974).

The Board distinguishes Rupp from the instant case on the grounds that Rupp concerned the perfection of mechanics liens. The facts are distinguishable but the principle of law remains the same and the facts do not support the Board's conclusion.

The Board concluded that no work was done at the site from June, 1982 until January 19, 1983 when the Zoning Enforcement Section revoked the Special Exception for want of progress.

The Board made the following findings of fact:

> It is uncontroverted that concrete was poured, grading had occurred and approximately $25,000.00 of work had been performed between April and May, 1982. (Opinion, p.2)

That concrete was poured is uncontroverted but the amount involved is questionable.

> It is also uncontroverted that Petitions for Reclassification of subject had been filed. (Opinion, p.2)

This is an obfuscation of the facts. The Special Exception applied to a small section of the entire property whereas the efforts to get the property reclassified in 1980 (Zoning Map), 1982 (County Board of Appeals) and 1984 (Zoning Map) applied to the entire parcel.

> The Petitioner, admittedly, was attempting to build a bank on the subject site. Without a zoning reclassification, a bank, given the present rezoning reclassification, cannot be placed on the subject site. (Opinion, p.2)

This is patently untrue insofar as the Appellant ever admitting the Petitioner was attempting to build a bank. This has been disputed from its first assertion before the Zoning Commissioner. The Board has yet to hear any testimony regarding the attempt to build a bank at this location except from the Petitioner. His testimony before the Zoning Commissioner and the Board is in conflict and the Board thwarted

attempts by the Appellant to explore exactly what steps had been taken by the Petitioner to interest a bank in placing a branch at this location. The Petitioner never attempted to get clarification of the Special Exception as respects construction of a bank.

The facts adduced before the Board do not warrant these conclusions and, if anything, support the conclusion that the Petitioner was doing everything but pursuing the construction "to completion with reasonable diligence."

RELIEF SOUGHT:

The Appellants petition this Court to reverse the Order of the County Board of Appeals and abate the Order dated April 29, 1986.

Arthur S. Hamilton

209 Aigburth Road
Towson, Maryland 21204
301/828-4077

Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of May, 1986, a copy of the foregoing Petition for Appeal was mailed to: R. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, Maryland 21204, Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Towson, Maryland 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204, attorneys for Appellee, Joseph L. Soley; and to Arnold Jablon, Esquire, Zoning Commissioner for Baltimore County, First Floor, County Office Building, Towson, Maryland 21204; and to Joseph M. Nolan, Office of Permits and Licenses, First Floor, County Office Building, Towson, Maryland 21204; and to the Baltimore County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204; and to Thomas J. Bollinger, Assistant County Attorney, Mezzanine - Courthouse, Towson, Maryland 21204.

Arthur S. Hamilton

IN THE MATTER OF
THE APPLICATION OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK AND AIGBURTH ROADS
9th DISTRICT

: IN THE CIRCUIT COURT
: FOR BALTIMORE COUNTY
: COUNTY BOARD OF APPEALS
: OF
: BALTIMORE COUNTY
: No. 84-CG-1472 and
: 84-CG-1498
: Right & Use Variances and Re-zoning

OPINION

The above captioned matter comes before this Board on Remand from the Circuit Court for Baltimore County.

On April 9, 1986, the parties and counsel appeared. Argument was received and considered. We have the remanded law as mentioned, our opinion remains unchanged.

Our opinion remains unchanged.

Admittedly the Board was remiss in our prior opinion in not stating that both prongs of Section 502.3 "commencement of work and reasonable diligence" had been met.

Judge Hinkel's Opinion and Order supported, on remand, that this Board reconsider the facts in light of the proper law. We have now done so.

The applicable law is contained in Section 502.3 of the Baltimore County Zoning Regulations (BCZR) and provides:

> A Special Exception which requires any construction for its utilization shall be deemed to have been used within the authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence.

Factually, this Board decided, on October 30, 1984, that the Petitioner commenced construction within the prescribed period of time. On remand, this Board is of the same opinion. Consequently, this matter turns,

ultimately, on whether Petitioner has met the second prong of the zoning regulation, to wit: did the Petitioner pursue said construction with reasonable diligence?

For guidance, Judge Hinkel refers this Board to Rupp v Earl H. Cline & Sons, 230 Md. 573 and Penterton v Montgomery County, 275 Md. 363. A careful reading of Rupp convinces this Board that same is distinguishable, on its facts, from the case at bar. Rupp concerned itself with the mechanic's lien law and contractor's rights. Perfection of liens was the germane issue. Penterton, however, which cited Rupp, was quite helpful. Penterton, indeed, concerned itself with similar facts. In Penterton the Court affirmed the Board of Appeals and stated that the issue of whether the Petitioner was pursuing the completion of the construction was "fairly debatable" and the Court would not substitute its judgment for that of the Board of Appeals.

In the case at bar, this Board believes that, under the circumstances, the Petitioner exercised reasonable diligence in completing the construction which had commenced. The critical period appears to be June of 1982 through January of 1983. It is uncontroverted that concrete was poured, grading had occurred and approximately $95,000.00 of work had been performed between April to May, 1982. It is also uncontroverted that Petitions for Reclassification of the subject property had been filed. The Petitioner, admittedly, was attempting to build a bank on the subject site. Without a zoning reclassification, a bank, given the present zoning reclassification, cannot be placed on the subject site. Petitioner contends that the excavation ceased in June of 1982 because he could proceed no further unless he knew for certain whether a reclassification would be granted thus enabling him to erect a bank. Petitioner contends the excavation, etc., would be different if a bank

was to be erected as opposed to a two story office building without a bank. Petitioner also points out that he was not certain, at that time, how much of his property would be taken in the condemnation action involving Bosley Avenue.

The Petition for Reclassification was filed in March of 1982, prior to the commencement of excavation. The requested reclassification was denied in March of 1983. The stop work order was issued in January of 1983.

This Board adopts and incorporates by reference its factual findings as more particularly stated in our Opinion and Order dated October 30, 1984. Additionally, we are persuaded that the Petitioner pursued the completion of construction with reasonable diligence. We are persuaded that the period between June 1982 and January 1983, employing a "reasonable man standard" was a period in which construction could not be pursued unless and until the Petitioner was certain of the ultimate design of the building. Obviously, construction could not continue subsequent to the date of the stop work order. Consequently, a period of seven (7) months, more or less, was the period in which no construction occurred. We believe such inactivity, under the circumstances, was reasonable. The Petitioner, when the Special Exception was initially granted, was entitled, legally, to construct a tank. He was entitled, legally, to wait five (5) years prior to commencing construction. During the interim, the subject site was rezoned, thus precluding the construction of a bank. We do not deem it unreasonable for the Petitioner to endeavor to obtain a reclassification so as to enable the Petitioner to construct that for which he had originally sought and obtained a Special Exception.

Applying the facts to the law, this Board is persuaded that the Petitioner has satisfied both prongs of Section 502.3 of the BCZR.

O R D E R

For the reasons set forth in the aforegoing Opinion, it is this 30th day of April, 1986, by the County Board of Appeals, ORDERED that the decision of the Zoning Commissioner's Order, denying a Special Hearing be and hereby is REVERSED and the Special Exception awarded unto the Petitioner be and hereby is ORDERED to continue in existence and the Buildings Engineer is ORDERED to issue unto the Petitioner a permit for a building and the Petitioner is ORDERED to apply for said Building Permit within thirty (30) days of this Opinion and Order.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William B. Evans

Patricia Phipps

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH
ROAD - 9th DISTRICT

* BEFORE THE
* COUNTY BOARD OF
* APPEALS OF
* BALTIMORE COUNTY
* NO. CBA-83-112 and 84-89-SPH

****

ORDER FOR APPEAL BY APPELLANT,
BALTIMORE COUNTY ON BEHALF OF THE
ZONING COMMISSIONER & BALTIMORE COUNTY, MARYLAND

Mr. Clerk:

Please enter an appeal on behalf of the Zoning Commissioner of Baltimore County, and Baltimore County, Maryland, a body corporate and politic, from the Order of the Board of Appeals of Baltimore County, passed in the above case on October 30, 1984. This appeal is taken pursuant to Maryland Rule B2 and Baltimore County Code, Section 21-164.

MALCOLM F. SPICER, JR.
County Attorney

THOMAS J. BOLLINGER
Assistant County Attorney
Mezzanine - Courthouse
Towson, Maryland 21204
494-4420
Attorneys for Baltimore County, Maryland
and Zoning Commissioner

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that prior to filing the foregoing Order for Appeal by Appellants, the Zoning Commissioner for Baltimore County, and Baltimore County, Maryland, a copy thereof was served upon the County Board of Appeals of Baltimore County.

THOMAS J. BOLLINGER
Assistant County Attorney

RECEIPT of a copy of the foregoing ORDER FOR APPEAL is acknowledged this 23rd day of November, 1984.

County Board of Appeals, by: Edith T. Eisenhart, Administrative Secretary.

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH
ROAD - 9th DISTRICT

* BEFORE THE
* COUNTY BOARD OF
* APPEALS OF
* BALTIMORE COUNTY
* NO. CBA-83-112 and 84-89-SPH

****

PETITION FOR APPEAL

The Zoning Commissioner of Baltimore County and Baltimore County, Marland, a body corporate and politic, Appellants herein, by their attorneys, Malcolm F. Spicer, Jr., County Attorney and Thomas J. Bollinger, Assistant County Attorney, in conjunction with its Order for Appeal, filed herewith, states:

ACTION APPEALED FROM:

The Appellants appeals from the Order of the Baltimore County Board of Appeals dated October 30, 1984, ordering the Assistant Buildings Engineer issue a permit for a building in a D.R. 16 zone and reversing the Order of the Zoning Commissioner of Baltimore County which denied a Petition for Special Hearing and granting a Special Hearing.

ERROR COMMITTED:

The County Board of Appeals, in its opinion, stated that the issue before the Board was simple. Did the Petitioner commence construction within the five (5) year period from which he was granted a Special Exception? (Opinion, P. 1). The Petitioner contended and it was acknowledged by the Appellants, Baltimore County, that certain excavations have occurred on the subject site and that the work was commenced in April of 1982. Shortly thereafter, work stopped and in 1983 the permit was invalidated. The Board found that the sole reason for the delay in construction of the office building was the failure to receive a commitment from a bank for this particular building. (Opinion, P. 2). The Board found that the Petitioner was entitled to utilize his Special Exception within the five (5) years from the granting of same, but by law was required to commence construction within one (1) year of the granting of the building permit, or any extension thereof. (Opionion, P. 2). The Board found that the mere beginning by excavation constituted the commencement of construction within the one (1) year period. The Appellants respectfully aver that the Board of Appeals failed to give any consideration to Section 502.3 of the Zoning Regulations of Baltimore County which provides that construction must be commenced during the authorized period and thereafter pursue to completion with "reasonable diligence". The Appellants respectfully aver that the facts of this case indicate a total lack of any diligence on the part of the Appellee, Joseph Solely. In addition, even the absence of the language of "reasonable diligence" contained in Section 502.3 of the Zoning Regulations of Baltimore County, nonetheless the case law would require a good faith intent and purpose to continue the work until completion. If mere commencement is the test, then it must be coupled with the intent and purpose to complete.

RELIEF SOUGHT:

The Appellants petition this court to reverse the Order of the County Board of Appeals and abate the Order dated October 30, 1984.

MALCOLM F. SPICER, JR.
County Attorney

THOMAS J. BOLLINGER
Assistant County Attorney
Mezzanine - Courthouse
Towson, Maryland 21204
494-4420
Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 23rd day of November, 1984, a copy of the foregoing Petition for Appeal was mailed to: T. Rogers Harrison, Esquire, 306 W. Joppa Road, Towson, Maryland 21204; and to Arnold Jablon, Esquire, Zoning Commissioner for Baltimore County, First Floor, County Office Building, Towson, Maryland 21204; and to Joseph H. Nolan, Office of Permits & Licenses, First Floor, County Office Building, Towson, Maryland 21204; and to William T. Hackett, Chairman, William B. Evans and Patricia Phipps, the County Board of Appeals of Baltimore County, Room 200, Courthouse, Towson, Maryland 21204.

THOMAS J. BOLLINGER
Assistant County Attorney

IN RE: PETITION SPECIAL HEARING
NE/corner of York and Aigburth Roads - 9th Election District
Joseph L. Soley,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-59-SPH

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests an interpretation of the Baltimore County Zoning Regulations (BCZR), specifically Section 502.3, that will determine whether he pursued with reasonable diligence to initiate construction within the authorized time provided as a result of a special exception granted by the County Board of Appeals on April 28, 1977. The obvious purpose of his request is to enable the Petitioner to keep that special exception granted and to allow him to obtain an appropriate building permit for the property in question.

The Petitioner appeared and testified, and was represented by Counsel. Five Protestants appeared, two testified.

Testimony indicated, and was uncontested, that the original Petition for Special Exception was denied by the then Deputy Zoning Commissioner on March 5, 1975, and that on appeal, the Board reversed and granted the Petitioner the right to construct a two-story office building on the site in question, which was a D.R.16 Zone. On or about October 18, 1978, by order of the Zoning Commissioner, the time for utilization of the special exception was extended for a period of three years commencing April 28, 1979 and ending April 28, 1982. It is admitted by the Petitioner that no action towards utilization of the special exception was taken until April 14, 1982, when he first filed for a building permit. After receiving his permit, the Petitioner hired an engineer to do a land survey, cleared the site for construction, excavated to an average of

ORDER RECEIVED FOR FILING
Date October 11 1983
By Stella L. Sawyer
ADMINISTRATIVE ASSISTANT

- 1 -

3.4 feet, placed sediment control devices around the perimeter of the property, and had concrete poured and allowed to cure to the extent he deemed appropriate. Then he had three-quarter inch re-bars placed around the foundation which had been poured with approximately 100 cubic yards of concrete.

On or about September 22, 1981, the Petitioner requested the Zoning Commissioner to further extend his utilization of the special exception, but the Zoning Commissioner noted that no further extensions could be granted inasmuch as the total period for utilization would reach five years by April 28, 1982. On or about March 1, 1982, the Petitioner filed a Petition for Reclassification with the Board which was denied. He has appealed that denial to the Circuit Court for Baltimore County, where it is now pending. On or about March 7, 1983, the Petitioner filed a Petition for Special Hearing as a result of being told that he would need to clarify the legitimacy of the continued existence of the special exception.

The Petitioner argues that at the time of the original filing for special exception in 1975, his intent was to build a bank, but after receiving the special exception from the Board in 1977, he was stymied by the Office of Zoning which apparently indicated to him that in a D.R.16 Zone, a bank was no longer considered an office building. Thereafter, at some point unclear, the Petitioner learned of the proposed zoning change allowing for O-2 zoning which would allow a bank as an accessory use within an office building. His course of action since has revolved around his sofar unsuccessful attempt to gain such zoning. As time for the special exception to be utilized was fast approaching "T" day (for termination) in 1982, the Petitioner received a building permit and proceeded to excavate as previously described.

The Protestants testified that the relief prayed for by the Petitioner be denied and that Section 502.3 was not met by the Petitioner in that he failed to pursue construction with reasonable diligence.

ORDER RECEIVED FOR FILING
Date October 11 1983
By Stella L. Sawyer
ADMINISTRATIVE ASSISTANT

- 2 -

The Petitioner has owned the property for 19 years and has every intention of building on the site. He will build, if the relief prayed for is granted, regardless if he gains reclassification. If he should be successful, a bank will be built within the two- tory office building approved by the special exception. If not, he will build the two-story office building with hope that appropriate zoning can be achieved in the future. The Petitioner proffered the testimony of Dorie Alcarese, his business manager, who would have testified, if necessary, that she received no complaints about any lack of progress of construction.

The Protestants do not argue the validity of the special exception; indeed that issue is not before the Zoning Commissioner. They do argue, and vehemently, that the Petitioner failed to proceed on the special exception with reasonable diligence. In fact, the Protestants contend that the Petitioner throughout the five years for utilization of the special exception made calculated business decisions that now have backfired. After receiving his special exception in 1977, the Petitioner could have built his two-story office building without the bank. He chose not to, making a business decision with knowledge of the potential consequences. Indeed, the Petitioner testified that if the reclassification is not granted now, he would proceed with construction without the bank with the idea to convert if it was to be permitted in the future. The Protestants infer that if he can do that now, why not then?

The Protestants are residents of the neighborhood in which this site is located and have for one and one-half years confronted in their midst a hole they analogize to a "bomb crater".

The Petitioner seeks approval of the Zoning Commissioner to continue his special exception on the grounds that he has fulfilled his obligation pursuant to Section 502.3.

The Petitioner directs attention to the zoning principle "vested rights". A vested right is the right to initiate or continue the establishment of a use

ORDER RECEIVED FOR FILING
Date October 11 1983
By Stella L. Sawyer
ADMINISTRATIVE ASSISTANT

- 3 -

or construction of a structure which, when completed, will be contrary to the restrictions or regulation of a zoning ordinance or an amendment to it which has become effective in the meantime. The particular use or structure will continue after the effective date of the ordinance or amendment as a vested right. 4 Rathkopf, The Law of Zoning and Planning, 57-2. Vested rights arise when the property owner:

1. obtains a building permit, and
2. proceeds under the permit to exercise his right in the land by a substantial beginning to construct, so that the neighborhood may be advised as to the intended land use.

Rockville Fuel & Feed Co. v. City of Gaithersburg, 274 Md. 117 (1975). Claims of vested rights generally arise where the owner seeks to proceed in accordance with prior zoning despite an existing or pending amendment to the zoning regulations.

The Petitioner also raises a defense of equitable estoppel to the termination of his special exception. Estoppel always required proof that the party against whom estoppel is claimed must do or say something calculated or intended to induce another party to believe that certain facts exist and to act on that belief. The other party must also change its position in reliance on those facts, thereby causing some injury. There must be good faith by a party acting on affirmative acts of the municipality. Cash v. D.C. Bd. of Zoning Adjustment, 438 A.2d 1114 (D.C., 1981). In municipal zoning cases, however, estoppel may be invoked only with great caution; only when special circumstances make it highly inequitable or oppressive to enforce the regulations. 8A McQuillin, Municipal Corporations, Sections 25.249 and 25.56; 3 Rathkopf, supra, 45-34. The defense of estoppel is based on a substantial burden of proof, a requirement to show that the agents of Baltimore County acted to induce reliance and that such reliance was to the owner's detriment to such an extent that enforcement of the regulations

ORDER RECEIVED FOR FILING
Date October 11 1983
By Stella L. Sawyer
ADMINISTRATIVE ASSISTANT

- 4 -

would be "highly inequitable or oppressive". Zoning Commission v. Lescynski, 453 A.2d 1144 (Conn., 1982).

However, neither the principles of vested rights or estoppel are relevant to the issue presented herein. If relevant at all, estoppel might have been in 1977, when, as the Petitioner testified, he was granted the special exception and was told by agents of the County that he could not build a bank within the two-story office building approved. Pursuant to the zoning regulations as they existed at that time, a denial of a building permit could be appealed to the Board; for whatever reason, no appeal was made and the Petitioner cannot now argue that his original intent to construct a bank frustrated by a switch in administrative interpretation meets the criteria delineated above. Whether a vested right exists or not, the condition precedents established by Section 502.3 must still be satisfied.

A vested right is held to accrue when:

> "[a] manifest commencement of some work or labor on the ground which everyone can readily see and recognize as the commencement of a building...begun with the intention and purpose then formed to continue the work until the completion of the building."

Rupp v. Cline & Sons, 230 Md. 573, 578 (1963).

Section 502.3 requires that any special exception which requires that construction for its utilization be commenced during an authorized time period, in this case five years, provided that the construction is pursued to completion with reasonable diligence.

The language found in Rupp and in Section 502.3 is similar and must be read in conjunction. From 1977 until April, 1982, the Petitioner took no action. Not until two weeks before the special exception was to terminate for lack of utilization did the Petitioner take some action.

The issue, therefore, is whether the action taken amounts to work or labor readily seen and recognized as the commencement of a building, and done with the

ORDER RECEIVED FOR FILING
Date October 11 1983
By Stella L. Sawyer
ADMINISTRATIVE ASSISTANT

- 5 -

intention and purpose to continue until completion; construction pursued to completion with reasonable diligence. From April, 1982 to January, 1983, when the Petitioner was first notified of a potential zoning violation, and April, 1983, when the building permit was not renewed, no further construction was undertaken. Did the action taken in April, 1982 amount to reasonable diligence and did it in fact create a "vested right" in the special exception granted in 1977?

Reasonable diligence is defined as:

> "A fair, proper and due degree of care and activity, measured with reference to the particular circumstances; such diligence, care, or attention as might be expected from a man of ordinary prudence and activity."

Black's Law Dictionary, 5th Edition.

Was it enough to satisfy the regulations when the Petitioner expended over $20,000 for surveys, excavation, etc? The answer is no. The Court of Appeals rejected the argument that an owner's substantial investment (assuming arguendo that this amount is "substantial") created any vested right. Malmar Assoc. v. Bd. of County Commissioners for Prince Georges County, 260 Md. 292 (1971); 2 Rathkopf, supra, 57-2, 57-4. See also County Council for Montgomery County v. District Land Corp., 274 Md. 691 (1975). The Protestants in fact testified that all that exists is a big hole in the ground, with no footings exposed. The expenditure of moneys by the Petitioner does not in and of itself satisfy the requirement that he proceed with reasonable diligence to pursue completion. There is no way to tell what is to be built.

The Petitioner did not begin any construction from 1977 to April, 1982 because he attempted to have the zoning designation changed for his property. His original purpose was to be allowed to include a bank within the office building. From 1977, he has always had the right to construct a two-story office building pursuant to the site plan approved by the Board. He could have proceeded with construction

ORDER RECEIVED FOR FILING
Date October 11 1983
By Stella L. Sawyer
ADMINISTRATIVE ASSISTANT

- 6 -

in good faith with the idea to reasonably modify the building when he could legally place a bank within, as he testified he would do now.

There have been no violations of any vested right that the Petitioner might have. There exists no defense of estoppel accruing to the Petitioner. He did not proceed with reasonable diligence.

Simply, the Petitioner did not comply with Section 502.3 nor with the strictures as mandated by the Court of Appeals. He did excavate; he did pour concrete; he did provide sediment control devices. He did not pursue to completion with reasonable diligence; he did not begin in April, 1982 with the intention and purpose to continue the work until completion of the building. He did begin with the intention of tolling Section 502.3. The Petitioner's testimony and by his actions clearly show that what he did constituted "construction", and that it was an acceptable beginning. If the zoning regulations required only that work be commenced, as in Pemberton v. Montgomery County, 275 Md. 363, the Petitioner would be granted his relief. But did the Petitioner continue construction diligently under the particular circumstances, within the time specified as required by the BCZR?

After due consideration of the testimony and evidence presented, it is clear that the Petitioner has not met his burden proving that he began construction on the subject site, which is more specifically described on Petitioner's Exhibit 1, prior to the expiration of this special exception approved in 1977, with the intention and purpose to continue the work until completion of the building with reasonable diligence.

Pursuant to the advertisement, posting of the property, and public hearing held, and appearing that the requirements of Section 502.3 have not been met, the relief requested should be denied.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this day of October, 1983, that the Petition for Special Hearing to have the

ORDER RECEIVED FOR FILING
Date October 11 1983
By Stella L. Sawyer
ADMINISTRATIVE ASSISTANT

- 7 -

November 9, 1984

Michael P. Tanczyn, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Case Nos. 84-59-SPH and
CBA-83-112
Joseph L. Soley,
Petitioners

Dear Mr. Tanczyn:

I am in receipt of your letter to Mr. Hackett of the County Board of Appeals regarding the denial of the permit requested by your client after the decision rendered by the Board in Case No. CBA-83-112. At my direction, Mr. Richards of my office denied the permit.

An appeal of the Board's decision to the Circuit Court will in fact be taken, and no permit will be approved until such time as the Board's decision is upheld or the appeal dismissed.

If you have any questions, please contact the County Attorney's Office.

Sincerely,

ARNOLD JABLON
Zoning Commissioner

AJ/srl

cc: Mr. William T. Hackett

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Zoning Commissioner — Date: September 21, 1983

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

SUBJECT: Joseph L. Soley, Item #178, Petition for Variance

In view of the nature of this request, this office offers no comment.

Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:rdw

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 26, 1983

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

c/o
Nicholas B. Commodari
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

Michael P. Tanczyn, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 178 - Case No. 84-89-SPH
Petitioner - Joseph L. Soley
Special Hearing Petition

Dear Mr. Tanczyn:

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 aprties 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.

The subject property, located at the northeast corner of York and Aigburth Roads in the 9th Election District, is proposed to be improved with a two story office building that was granted a special exception (Case No. 75-139-XA). A building permit (C-350-82) to construct said building was issued by this office on April 6, 1982.

At the time of field inspection, excavation had begun but because it had rained previously, it could not be determined for sure, whether the foundation had been constructed. Since no further construction has taken place, this special hearing to determine the status of this proposed building is being requested.

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 accpted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

NICHOLAS B. COMMODARI, Chairman
Zoning Plans Advisory Committee

NBC:bsc
Enclosures
cc: Development Design Design Group, Ltd.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 20, 1983

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

c/o
Nicholas B. Commodari
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

S. Leonard Rottman, Esquire
Suite 1808, Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

RE: Item No. 234 - Case No. 84-30-SPH
Petitioner - Ruxton Crossing Joint Venture
Special Hearing Petition

Dear Mr. Rottman:

Enclosed please find addendum comments for the above referenced case.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosure

cc: Kidde Consultants, Inc.
1020 Cromwell Bridge Road
Baltimore, Md. 21204

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

April 21, 1983

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

Re: Item #178 (1982-1983)
Property Owner: Joseph L. Soley
E/S York Road 73.40' N. from centerline of Aigburth Road
Acres: 5.968 District: 9th

Dear Mr. Hammond:

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

General:

The comments supplied in conjunction with the Zoning Advisory Committee review of this property for Items 158 (1970-1971), 193 (1973-1974), 65 (1974-1975) and Item 8 Zoning Cycle III (April-October 1982) are referred to for your consideration.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 178 (1982-1983).

Very truly yours,

Robert A. Morton, P.E., Chief
Bureau of Public Services

RAM:EAM:FWR:ss

N-NW Key Sheet
35 NE 3 Pos. Sheet
NE 9 A Topo
70 Tax Map

Attachments

April 7, 1982

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

Re: Item #8 Zoning Cycle III (April-October 1982)
Property Owner: Joseph L. Soley
N/E corner York and Aigburth Roads
Existing Zoning: DR 16
Proposed Zoning: O-2
Acres: 5.968
District: 9th

Dear Mr. Hackett:

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

General:

The comments supplied in conjunction with the Zoning Advisory Committee review of this property for Item 158 (1970-1971), Item 193 (1973-1974), and Item 65 (1974-1975) are referred to for your consideration.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 8 Zoning Cycle III (April-October 1982).

Very truly yours,

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

RAM:EAM:FWR:ss

cc: Jack Wimbley

N-NW Key Sheet
35 NE 3 Pos. Sheet
NE 9 A Topo
70 Tax Map

Baltimore County, Maryland
Department Of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau of Engineering
ELLSWORTH N. DIVER, P. E. CHIEF

October 10, 1974

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

Re: Item #65 (1974-1975)
Property Owner: Joseph L. Soley
N/E cor. of Aigburth Rd. & York Rd.
Existing Zoning: D.R. 16
Proposed Zoning: Special Exception for office and office building. Variance from Sec. 1B02.2B (50'-w.2) to permit a front yard setback of 0' instead of the required 30' and to permit a 0' side yard setback instead of the required 25' and a Variance of Sec. 409.2C.1 to permit off street parking to be 3' from a street property line instead of the required 5'
No. of Acres: 0.68 District: 9th

Dear Mr. DiNenna:

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

General:

The comments supplied in connection with the Zoning Advisory Committee review of this site for Item #193 (1973-1974) remain valid, applicable and are reemphasized in connection with this Item #65 (1974-1975); the submitted plan must be revised accordingly.

Very truly yours,

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss

N-NW Key Sheet
35 NE 3 Pos. Sheet
NE 9 A Topo
70 Tax Map

Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell, Secretary
M. S. Caltrider, Administrator

March 23, 1983

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

Re: ZAC Meeting of 3-22-83
ITEM: #178
Property Owner: Joseph L. Soley
Location: E/S York Road
Route 45, 73.40' N. from centerline of Aigburth Road
Existing Zoning: D.R. 16
Proposed Zoning: Special Hearing to approve and find as fact that the Petitioner has complied with the zoning regulations as far as issuance of a permit for the Special Exception Case No. 75-139-XA and with reasonable diligence thereafter, under all the facts and circumstances: in the alternative, that the Petitioner has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception and in the alternative that the Petitioner has under all the circumstances, begun construction during the authorized period and has, thereafter, pursued his Special Exception through the present with reasonable diligence.
Acres: 5.968
District: 9th

My telephone number is (301) 659-1350
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro — 565-0451 D.C. Metro — 1-800-492-5062 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203 - 0717

Mr. W. Hammond — March 23, 1983

Dear Mr. Hammond:

On review of the [illegible] dated March 7, 1983 [illegible] Engineering, the [illegible] Committee [illegible] the Office of Planning.

The [illegible] are as follows:

1. [illegible] 30' [illegible] Road [illegible] Aigburth Road.

2. [illegible] [illegible]

3. [illegible]

All [illegible] Engineering [illegible] Engineering [illegible] Engineering

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

Michael P. Tanczyn
Agatha M. Rosenbaum

November 8, 1984

RECEIVED 9:34 AM
ZONING DEPARTMENT

Chairman, Board of Appeals
Baltimore County
Second Floor
Old Courthouse
Towson, MD 21204

Re: Case No. 84-89-SPH & CEA-83-112
Joseph L. Soley
N/E Corner Aigburth & York Roads

Dear Mr. Hackett:

I am writing in respect to your Order approving Mr. Soley's Special Hearing Petition, which required in pertinent part that he apply for a Building Permit within thirty (30) days.

One of Mr. Solley's employees, Mrs. Alcarese, did apply for a permit this week and hand carried the application through until she reached the Zoning Office, where Mr. Carl Richards, after consulting with persons unknown, denied the Building Permit and marked on her application that the Zoning Commissioner would be appealing the decision of the Board of Appeals. To my knowledge, an appeal has not yet been filed and my client has been wrongfully denied, in my opinion, a Building Permit which he was ordered to obtain within thirty (30) days.

By copy of this letter to the Zoning Commissioner, I respectfully request that he reply, in writing, and advise my client the legal basis on which he relied to deny the Building Permit ordered to be issued by the Board of Appeals.

The purpose of this letter then is to record the attempt of my client to obtain a Building Permit and pursue completion of the building, which was denied by the Zoning Commissioner's office.

Also, please accept this letter as an appeal to the Board of Appeals

Chairman, Board of Appeals
Re: Joseph L. Soley

November 8, 1984
Page 2

from this wrongful permit denial.

Very truly yours,

Michael P. Tanczyn

MPT/ed

cc: Newton A. Williams, Esq.
Joseph Nolan, Asst. Building Engineer
Arnold Jablon, Esq., Zoning Commissioner
Mr. Joseph L. Soley
Mrs. Doris Alcarese

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

ARNOLD JABLON
ZONING COMMISSIONER

October 28, 1983

Arthur S. Hamilton, Esquire
Towson Manor Improvement Association
209 Aigburth Road
Towson, Maryland 21204

Re: Petition for Special Hearing
NE/corner of York and Aigburth Roads
Joseph L. Soley - Petitioner
Case No. 84-89-SPH

Dear Mr. Hamilton:

Please be advised that an appeal has been filed by Michael P. Tanczyn, attorney for the petitioner, from the decision rendered by the Zoning Commissioner of Baltimore County, in the above-referenced matter.

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

Very truly yours,

Arnold Jablon
Zoning Commissioner

AJ:aj

cc: Mr. Carl E. Bruff
15 Hillside Avenue
Towson, Maryland 21204

Miss Gertrude Muth
8013 York Road - B8
Towson, Maryland 21204

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

Law Offices
Michael P. Tanczyn, P.A.
118 West Pennsylvania Ave.
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

October 17, 1983

Arnold Jablon, Esq.
Zoning Commissioner
County Office Building
Towson, MD 21204

RE: Case No. 84-89-SPH
NE/corner of York and Aigburth Roads
9th Election District
Property of Joseph L. Soley

Dear Mr. Commissioner:

Please note an Appeal to the Board of Appeals from your Order passed in the above case on October 11, 1983 which was, apparently, mailed the following day and received by Petitioner's Counsel for the first time on October 13, 1983.

Enclosed please find my client's check made payable to Baltimore County for the costs of filing this Appeal.

Very truly yours,

Michael P. Tanczyn

RECEIVED 10 18 AM
ZONING DEPARTMENT

MPT/kvm

Enc.

cc: Mr. Joseph L. Soley
Mrs. Dorie Alcarese

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

ARNOLD JABLON
ZONING COMMISSIONER

October 11, 1983

Michael P. Tanczyn, Esquire
118 West Pennsylvania Avenue
Towson, Maryland 21204

IN RE: Petition Special Hearing
NE/corner of York and Aigburth Roads - 9th Election District
Joseph L. Soley, Petitioner
Case No. 84-89-SPH

Dear Mr. Tanczyn:

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

Sincerely,

ARNOLD JABLON
Zoning Commissioner

AJ/srl

Attachments

cc: Arthur S. Hamilton, Esquire
Towson Manor Improvement Association
209 Aigburth Road
Towson, Maryland 21204

Mr. Carl E. Bruff
15 Hillside Avenue
Towson, Maryland 21204

Miss Gertrude Muth
8013 York Road - B8
Towson, Maryland 21204

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

PETITION FOR SPECIAL HEARING

84-89-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 and... find as fact that the Petitioner has complied with the zoning regulations so far as issuance of a permit for the Special Exception, case 79-139-XA and with reasonable diligence thereafter, under all the facts and circumstances; in the alternative, that the Petitioner has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception; and, in the alternative, that the Petitioner has, under all the circumstances, begun (cont.)

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

Legal Owner(s):

Joseph L. Soley
(Type or Print Name)

Signature

(Type or Print Name)

Signature

Attorney for Petitioner:

Michael P. Tanczyn
(Type or Print Name)

Signature

118 W. Pennsylvania Avenue
Address

Towson, MD 21204
City and State

Attorney's Telephone No.: 296-8823

8001 York Road 321-7212
Address Phone No.

Towson, MD 21204
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of August, 19 83, 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 5th day of October, 19 83, at 1:30 o'clock P.M.

Zoning Commissioner of Baltimore County.

(over)

PETITION FOR SPECIAL HEARING
Page Two

construction during the authorized period and has, thereafter, pursued his Special Exception through the present with reasonable diligence.

DESCRIPTION FOR SPECIAL HEARING

BEGINNING for the same at a stone heretofore planted at the corner formed by the intersection of the east side of York Road with the north side of Aigburth Road; and running thence binding on the east side of York Road, (1) North 11°50'00" East 310feet, thence for lines of division now made, the four following courses and distances, (2) South 80°47'50" East 75 feet, (3) South 11° 50'00" West 50 feet, (4) South 80°47'50" East 25 feet, and (5) South 11°50'00" West 260 feet, thence binding on the north side of Aigburth Road, (6) North 80° 47'50" West 100 feet to the place of beginning.

CONTAINING 0.68 Acres of land more or less.

LAW OFFICES
MICHAEL P. TANCZYN
P.A.

PETITION FOR SPECIAL HEARING

9th Election District

ZONING: Petition for Special Hearing

LOCATION: Northeast corner York and Aigburth Roads

DATE & TIME: Wednesday, October 5, 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 and find, as fact, that the Petitioner has complied with the zoning regulations so far as issuance of a permit for the Special Exception Case No. 79-139-XA, and with reasonable diligence thereafter, under all the facts and circumstances; in the alternative, that the Petitioner has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception; and, in the alternative, that the Petitioner has, under all the circumstances, begun construction during the authorized period and has, thereafter, pursued his Special Exception through the present with reasonable diligence

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

Being the property of Joseph L. Soley, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
NE Corner York & Aigburth Rds., :
9th District : OF BALTIMORE COUNTY
JOSEPH L. SOLEY, Petitioner : Case No. 84-89-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 13th day of September, 1983, a copy of the foregoing Order was mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner.

John W. Hessian, III

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

ARNOLD JABLON
ZONING COMMISSIONER

September 26, 1983

Michael P. Tanczyn, Esquire
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
NE/corner York & Aigburth Roads
Joseph L. Soley - Petitioner
Case No. 84-89-SPH

Dear Mr. Tanczyn:

This is to advise you that $84.90 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

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

Sincerely,

ARNOLD JABLON
Zoning Commissioner

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

No. 121563

DATE 10-5-83 ACCOUNT 1-01-615-000
AMOUNT $84.90
RECEIVED FROM Co. Coll. Hill Assn.
FOR Advert. & Posting Case #84-89-SPH
(Joseph L. Soley)

VALIDATION OR SIGNATURE OF CASHIER

84-89-SPH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9th Date of Posting 9/18/83
Posted for: Petition for Special Hearing
Petitioner: Joseph L. Soley
Location of property: NE/C York & Aigburth Rds.
Location of Signs: facing intersection of York & Aigburth
Remarks:
Posted by [signature] Date of return: 9/23/83
Signature
Number of Signs: 3

September 6, 1983

Michael P. Tanczyn, Esquire
118 W. Pennsylvania Avenue
Towson, Maryland 21204

NOTICE OF HEARING
Re: Petition for Special Hearing
NE/corner York and Aigburth Roads
Joseph L. Soley - Petitioner
Case No. 84-89-SPH

TIME: 1:30 P.M.
DATE: Wednesday, October 5, 1983
PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

Zoning Commissioner
of Baltimore County

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

No. 115096

DATE 9-7-83 ACCOUNT 1-01-615-000
AMOUNT $84.90
RECEIVED FROM Michael P. Tanczyn, Esq.
FOR Petition for Special Hearing Case #84-89-SPH

VALIDATION OR SIGNATURE OF CASHIER

PETITION FOR SPECIAL HEARING
9th Election District

ZONING: Petition for Special Hearing
LOCATION: Northeast corner York and Aigburth Roads
DATE & TIME: Wednesday, October 5, 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 and to approve the issuance of a permit for the Special Exception Case No. 79-139-XA, and with reasonable and to determine whether or not the Petitioner has complied with the zoning regulations as to the issuance of a permit for the Special Exception Case No. 79-139-XA, and with reasonable diligence, thereafter, under all the facts and circumstances in the alternative, that the Petitioner has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception; and, in the alternative, that the Petitioner has, under all the circumstances, begun the construction during the extended period and has, thereafter, pursued his Special Exception through the present with reasonable diligence.

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

Beginning for the same at a stone heretofore planted at the corner formed by the intersection of the east side of York Road with the north side of Aigburth Road; and running thence binding on the east side of York Road, (1) North 11° 50' 00" East 210 feet, thence for lines of division now made, the four following courses and distances, (2) South 80° 45' 30" East 100 feet, (3) South 11° 50' 00" West 50 feet, (4) South 80° 45' 30" West 25 feet, and (5) South 11° 50' 00" West 200 feet, thence binding on the 200 feet, thence binding on the north side of Aigburth Road, (6) North 80° 45' 30" West 100 feet to North 80° 45' 30" West 100 feet to the place of beginning

Containing 0.46 Acres of land more or less.

Being the property of Joseph L. Soley, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

By Order Of
ARNOLD JABLON,
Zoning Commissioner
of Baltimore County

Pgt. 1b

84-89-SPH

CERTIFICATE OF PUBLICATION

TOWSON, MD., September 22, 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 successive weeks before the 3rd day of October, 1983, the first publication appearing on the 22nd day of September, 1983.

THE JEFFERSONIAN,
D. Frank Hennegan
Manager.

Cost of Advertisement, $ 84.90

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Malcolm F. Spicer, Jr.
County Attorney
Date October 10, 1986

FROM Arnold Jablon
Zoning Commissioner

Case No. 84-89-SPH
SUBJECT Joseph L. Soley, Petitioner

I would like to take an appeal to the Court of Special Appeals in this matter.

AJ/srl

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Arnold Jablon
Zoning Commissioner
Date January 7, 1987

FROM Nancy C. West
Assistant County Attorney

SUBJECT Baltimore County v. Joseph L. Soley
Case No. 86-CG-2031/CA/171

Please be advised that this office needs the following files to assist in the preparation of the record for the appeal of the above-referenced matter: File Nos. 84-89SPH, 83-112, and 75-159XA. It will be appreciated if you could prepare three copies of all site plans or large plats in each file.

Thank you for your kind assistance in this matter.

Mr. Gablon

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 27 PAGE 171 CASE NO. 86CG2031 CATEGORY APPEAL

ATTORNEYS

#84-89-SPH

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING AND BUILDING PERMIT
ON PROPERTY LOCATED ON THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH RD. 9th District
Cross Appellee
THE ZONING COMMISSIONER OF BALTIMORE COUNTY &
BALTIMORE COUNTY, MARYLAND

BOARD OF APPEALS OF BALTIMORE COUNTY

CARL E. BRUFF
TOWSON MANOR ASSOCIATION
Cross Appellants

E

Malcolm F. Spicer
Thomas J. Bollinger
Mezzanine Courthouse
(04) 4944420
Nolan, Plumhoff & Williams
R. Bruce Alderman, Michael P. Tanczyn
Newton A. Williams

Arthur S. Hamilton
209 Aigburth Rd. (04) 828-4077

RECEIVED
OCT 8 PM 1 09

COSTS

(1) May 26, 1986 - Zoning Commissioner of Baltimore County, and Baltimore County, Maryland Order for Appeal from the Order of the Board of Appeals of Baltimore County fd.

(2) May 26, 1986 - Certificate of Compliance fd.

(3) May. 27, 1986 - App. of Arthur S. Hamilton for Carl E. Bruff and Towson Manor Association and Same Day Order for Appeal from the Order of the Bd. of Appeals of Balto. Co. and Petition for Appeal fd.

(4) May. 27, 1986 - Certificate of Notice fd.

(5) June 4, 1986 - The Zoning Commissioner of Baltimore County & Baltimore County, MD Petition for Appeal fd.

(6) June 13, 1986 - Deft's Memorandum fd.

(7) June 23, 1986 - Transcript of Record fd.

(8) June 23, 1986 - Notice of Filing of Record fd.

(9) Aug. 18, 1986 - App. of R. Bruce Alderman, Michael P. Tanczyn and Newton A. Williams of Nolan, Plumhoff & Williams as attys' for Appellee Joseph L. Soley and Same Day Answe to Petitions on Appeal fd.

October 2, 1986 - Hon. John F. Fader II. Hearing had. Decision of the Board of Appeals - AFFIRMED.

DOCKET 27 PAGE 171 CASE NO. 86CG2031

L53359 p.47

PETITION FOR VARIANCE
9th Election District

ZONING: Petition for Special Hearing
LOCATION: Northeast corner York and Aigburth Roads
DATE & TIME: Wednesday, October 5, 1983 at 1:30 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

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

Petition for 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 and to approve the issuance of a permit for the Special Exception Case No. 79-139-XA, and with reasonable and to determine whether or not the Petitioner has complied with the zoning regulations as to the issuance of a permit for the Special Exception Case No. 79-139-XA, and with reasonable diligence, thereafter, under all the facts and circumstances in the alternative, that the Petitioner has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception; and, in the alternative, that the Petitioner has, under all the circumstances, begun the construction during the extended period and has, thereafter, pursued his Special Exception through the present with reasonable diligence.

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

Beginning for the same at a stone heretofore planted at the corner formed by the intersection of the east side of York Road with the north side of Aigburth Road; and running thence binding on the east side of York Road, (1) North 11° 50' 00" East 210 feet, thence for lines of division now made, the four following courses and distances, (2) South 80° 45' 30" East 100 feet, (3) South 11° 50' 00" West 50 feet, (4) South 80° 45' 30" West 25 feet, and (5) South 11° 50' 00" West 200 feet, thence binding on the 200 feet, thence binding on the north side of Aigburth Road, (6) North 80° 45' 30" West 100 feet to North 80° 45' 30" West 100 feet to the place of beginning

Containing 0.46 Acres of land more or less.

Being the property of Joseph L. Soley, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF ARNOLD JABLON
ZONING COMMISSIONER OF
BALTIMORE COUNTY

84-89-SPH

CERTIFICATE OF PUBLICATION

TOWSON, MD. 9/15, 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 15th day of Sept 1983.

THE TOWSON TIMES
[signature]

Cost of Advertisement, $ 38.40

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 27 PAGE 171 CASE NO. 86CG2031 CATEGORY APPEAL

ATTORNEYS

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING AND BUILDING PERMIT
ON PROPERTY LOCATED ON THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH RD. 9th District
Cross Appellee
THE ZONING COMMISSIONER OF BALTIMORE COUNTY &
BALTIMORE COUNTY, MARYLAND

BOARD OF APPEALS OF BALTIMORE COUNTY

CARL E. BRUFF
TOWSON MANOR ASSOCIATION
Cross Appellants

E

Malcolm F. Spicer
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Mezzanine Courthouse
(04) 4944420
Nolan, Plumhoff & Williams
R. Bruce Alderman, Michael P. Tanczyn
Newton A. Williams

Arthur S. Hamilton
209 Aigburth Rd. (04) 828-4077

10-3-86 DE Issue

CV GEN COSTS 86CG2031 #
CV CLK 20.00
EXCHECK TL 20.00
#01114 C001 R02 T10:27
10/29/86

(1) May 26, 1986 - Zoning Commissioner of Baltimore County, and Baltimore County, Maryland Order for Appeal from the Order of the Board of Appeals of Baltimore County fd.

(2) May 26, 1986 - Certificate of Compliance fd.

(3) May. 27, 1986 - App. of Arthur S. Hamilton for Carl E. Bruff and Towson Manor Association and Same Day Order for Appeal from the Order of the Bd. of Appeals of Balto. Co. and Petition for Appeal fd.

(4) May. 27, 1986 - Certificate of Notice fd.

(5) June 4, 1986 - The Zoning Commissioner of Baltimore County & Baltimore County, MD Petition for Appeal fd.

(6) June 13, 1986 - Deft's Memorandum fd.

(7) June 23, 1986 - Transcript of Record fd.

(8) June 23, 1986 - Notice of Filing of Record fd.

(9) Aug. 18, 1986 - App. of R. Bruce Alderman, Michael P. Tanczyn and Newton A. Williams of Nolan, Plumhoff & Williams as attys' for Appellee Joseph L. Soley and Same Day Answe to Petitions on Appeal fd.

October 2, 1986 - Hon. John F. Fader II. Hearing had. Decision of the Board of Appeals - AFFIRMED.

(10) October 29,1986 Plaintiff's order for appeal fd. (3/221)

(11) Nov. 13, 1986 - Order for Court from the Court of Special Appeal that the above captioned appeal proceed without a Prehearing Conference fd. (SLK)

(12) Court's Opinion Transcript (JFF,II) fd.

DOCKET 27 PAGE 171 CASE NO. 86CG2031

RECEIVED
JAN 12 1987
ZONING OFFICE

IN THE MATTER OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT,ETC.	*	IN THE CIRCUIT COURT
BALTIMORE COUNTY, MARYLAND, A/B/C AND POLITIC	*	FOR BALTIMORE COUNTY
THE ZONING COMMISSIONER OF BALTIMORE COUNTY	*	CIVIL GENERAL
BOARD OF APPEALS OF BALTIMORE COUNTY	*	DOCKET EHK,JR. 27
CARL E. BRUFF	*	PAGE 171
TOWSON MANOR ASSOCIATION	*	CASE NO. 86 CG 2031

INDEX

Court's Notations	1
Order for Appeal to the Circuit Court For Baltimore County	2 and 3
Certificate of Notice	4 and 5
Certificate of Notice	6 and 7
Order for Appeal to the Circuit Court for Baltimore County	8 and 9
Petition for Appeal	10 thru 14
Petition for Appeal	15 thru 17
Bruff and Towson Manor Assoc. Memorandum	18 thru 27
Proceeding before the Zoning Commissioner and Baord of Appeals of Baltimore County	28 thru 31
Soley Answer to Petition on Appeal	32 thru 37
Notice of Trial Date	38
Baltimore County,Maryland Appeal to Circuit Court for Baltimore County	39 and 40
Correspondence to Appellant	41
Order (RLK)	42
Court's Opinion Trasncript,(JFF,II)	43

EXHIBITS UNDER SEPARATE COVER

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Thomas J. Bollinger, Zoning Attorney — Date March 14, 1985

FROM Arnold Jablon, Zoning Commissioner

Case No. 84-89-SPH

SUBJECT Joseph L. Soley, Petitioner

I will not agree to the "settlement" as proposed by Mr. Williams. It obviously does not address the issue involved.

AJ/srl

April 27, 1987

Xerox Corporation
~~XRX SQ-0870-87L~~
~~Reproduction Center~~
ROCHESTER, NEW YORK 14644
~~1900 Wilson Boulevard~~

~~Arlington, Virginia 22201~~

Costs Due for Preparation of Brief — $ 477.27

Case No. 84-89-SPH

Joseph L. Soley, Defendant

7 01-12-02-03-11 X $477.27 33

Zoning Office

X Arnold Jablon, Zoning Commissioner April 27, 1987

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Arnold Jablon, Zoning Commissioner — Date April 24, 1987

FROM Office of Law

SUBJECT County v. Soley
84-89-SPH

Attached please find the invoice from Xerox Corporation for the preparation of the Brief in the above-captioned case.

I would appreciate your Department processing same for payment.

Thank you for your attention and cooperation in this regard.

Gen Haines

GH

Attachment.

RECEIVED
APR 27 1987
ZONING OFFICE

CPS-008

4-6

Customer Information

XEROX CORPORATION
REPRODUCTION CENTER
1900 WILSON BLVD
ARLINGTON VIRGINIA
22201
Telephone 703-841-0900 Please Direct Inquiries To:

Ship To ~~Law Office~~ ~~STATES ATTY OFFICE~~
BALTIMORE COUNTY
ROOM 110 COURT HSE
400 WASHINGTON AVE
TOWSON MARYLAND
21204

086461407 Customer No. | 131144845 Invoice No. | 03/31/87 Invoice Date
BAL CO V SOLEY Purchase Order No. | 03/19/87 Date | GSA Contract No.
X861782 Xerox Order No. | 03/20/87 Date Proc. | Registration No.
8800428617 Special Reference No. | Tax | PAYABLE ON RECPT Terms of Sale

Bill To
BALTIMORE COUNTY MD
OFFC OF CENTRAL SVCS
SUITE #412
COURTS BLDG
401 BOSLEY AVE
TOWSON MD 21204
Master Order No.

NANCY WEST

Invoice

Reorder No.	Description		Quantity Ordered	Quantity Shipped	Unit Price	Amount
585887206	XRC MESSENGER DLVY CHG		1	1	25.000	25.00
XRC889230	9500 DUPLICATING	*	6510	6510	.050	325.50
XRC889230	9500 DUPLICATING	*	1015	1015	.050	50.75
XRC843230	BINDING	*	35	35	1.890	66.15
XRC839230	STITCHING	*	35	35	.090	3.15
XRC877230	SPECIAL STOCK	*	280	280	.024	6.72
				INVOICE TOTAL		$477.27

< DENOTES A PRICE OVERRIDE ON A NON-TAXABLE ITEM

Payment

Detach and Return Payment Section With Payment — Contact Customer Service Department for Change of Address

Ship To
STATES ATTY OFFICE
BALTIMORE COUNTY
ROOM 110 COURT HSE
400 WASHINGTON AVE
TOWSON MARYLAND
21204

Bill To
BALTIMORE COUNTY MD
OFFC OF CENTRAL SVCS
SUITE #412
COURTS BLDG
401 BOSLEY AVE
TOWSON MD 21204

Send Payment To:
XEROX CORPORATION
XRX SQ-0870-87L
ROCHESTER,NEW YORK
14664

When paying electronically see reverse side — Invoice Amount

For Xerox Use Only

00-495-2880 1 086461407 131144845 03/31/87 2273 > 477.27

W03 190050620 P P00000 T00000 D00000 S858 1 ZMD31 Z026650 X X

202100008070060 1311448453 0300477272 208646140726

PROPOSED SOLEY BUILDING - York and Aigburth Roads

1. Go back to Board - Reinstate Permit No. 42511 to run for one (1) year from the date of its reinstatements, with right to build as in No. 3.
2. Remove all barring Orders and revocations by any County agency, including permits and licenses and Office of Planning and Zoning.
3. To complete 60 x 60' Masonry Building
   Stone Trim per Cardiff Hall style,
   2 1/2 stories at rear - E/S,
   3 stories on York Road side per testimony to Board.
4. The building would be offices only - built in accordance with Case 75-139-XA, Special Exception and variances granted.
5. No request for correrical zoning or uses could be made by the property owner until after January 1, 1990.
6. All parties would cooperate in any C.R.G. proceeding or other process, if required, to allow construction to proceed.
7. The eyesore excavation would be promptly utilized for the building as above.
8. These points would be embodied in a written agreement to be signed by all parties.

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

OF COUNSEL
RALPH E. DITZ
9025 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
301 922 2121
RUSSELL D. WHITE

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM V. 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.

March 7, 1985

Honorable Edward A. DeWaters, Jr.
Circuit Court for Baltimore County
County Courts Building
P.O. Box 6754
401 Bosley Avenue
Towson, Maryland 21204

Ms. Jobi Adams
Civil Assignment Commissioner
Ms. Irene Summers
Assignment - Non Jury - Motions
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204

Re: Non - Jury - 84CG1498
Bruff vs. County Board of Appeals (Soley)
Motions Scheduled and Postponed on
Friday, March 1, 1985 at 11:30 a.m.
Non - Jury - 84-CG 1472 - Zoning Commissioner of Baltimore County, et al. vs. Board of Appeals of Baltimore County
Scheduled on Merits, Thursday, March 28, 1985 at 9:30 a.m.
REQUESTED HEARING ON ALL OPEN MOTIONS ON MARCH 28, 1985 with later hearing on merits, if needed

Dear Judge DeWaters, Ms. Adams and Ms. Summers:

Despite the fact that Mr. Tanczyn and our office appeared in both of the above matters, as Judge DeWaters knows, we received no notice of either the March 1st or March 28th hearings.

Mr. Bollinger very courteously brought this to the attention of the Court on the 1st.

MAR 7 AM

Honorable Edward A. DeWaters, Jr.
Ms. Jobi Adams
Ms. Irene Summers
March 7, 1985
Page 2

Mr. Tanczyn is in Europe for two (2) weeks with an armed forces reserve unit from March 6th forward.

Completely without prejudice by a carbon copy of this letter to Mr. Bruff and Mr. Hamilton, Esquire, of the Towson Manor Association, we are putting forward a proposed solution to the case which may obviate a need for a full hearing on the merits on the 28th.

Accordingly, we respectfully ask that all open motions in the above matter be heard on the 28th of March at 9:30 a.m., and, if not settled, the case be rescheduled on the merits at a later date before the Court.

In view of the lack of notice, the absence of Mr. Tanczyn in the armed forces, and our bona fide offer of settlement, we hope the Court and the Assignment Office will agree to such a resolution of these two (2) cases. Thanking the Court and the Assignment Office for its consideration of these requests, I am

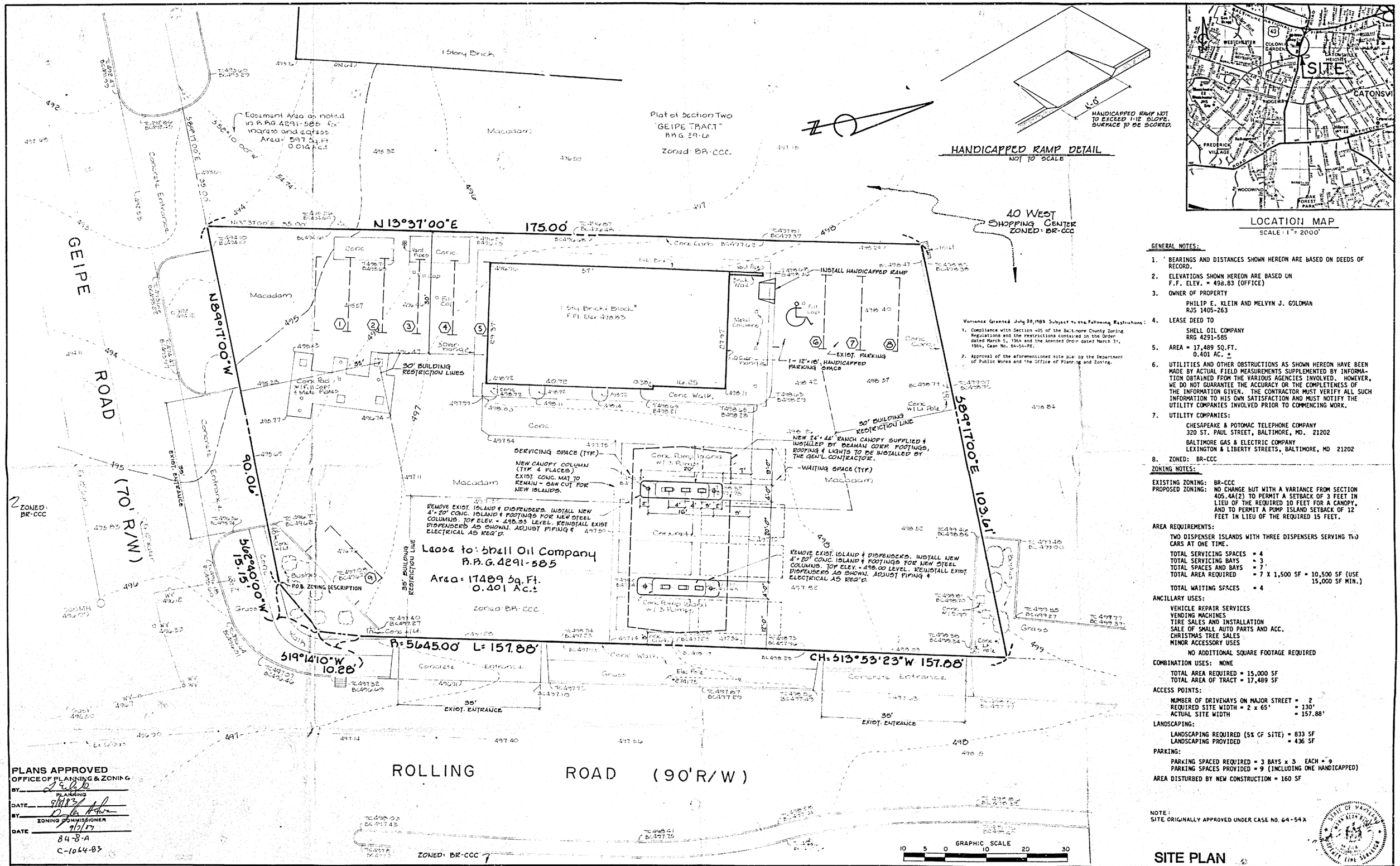
Respectfully,

Newton A. Williams

NAW:ylm

Enclosure

cc: Honorable Barbara F. Bachur
Honorable Arnold Jablon
Honorable William T. Hackett (without enclosure)
Honorable Malcolm F. Spicer
Thomas J. Bollinger, Esquire
Arthur S. Hamilton, Esquire
Miss Gertrude Muth
Mr. Carl E. Bruff
Mr. Joseph Soley
Mrs. Dori Alcarese



HANDICAPPED RAMP DETAIL
NOT TO SCALE

LOCATION MAP
SCALE: 1" = 2000'

Variance Granted July 20,1983 Subject to the Following Restrictions:

1. Compliance with Section 405 of the Baltimore County Zoning Regulations and the restrictions contained in the Order dated March 5, 1964 and the Amended Order dated March 31, 1964, Case No. 64-54-RX.
2. Approval of the aforementioned site plan by the Department of Public Works and the Office of Planning and Zoning.

GENERAL NOTES:

1. BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON DEEDS OF RECORD.
2. ELEVATIONS SHOWN HEREON ARE BASED ON F.F. ELEV. = 498.83 (OFFICE)
3. OWNER OF PROPERTY
   PHILIP E. KLEIN AND MELVYN J. GOLDMAN
   RJS 1405-263
4. LEASE DEED TO
   SHELL OIL COMPANY
   RRG 4291-585
5. AREA = 17,489 SQ.FT.
   0.401 AC. ±
6. UTILITIES AND OTHER OBSTRUCTIONS AS SHOWN HEREON HAVE BEEN MADE BY ACTUAL FIELD MEASUREMENTS SUPPLEMENTED BY INFORMATION OBTAINED FROM THE VARIOUS AGENCIES INVOLVED. HOWEVER, WE DO NOT GUARANTEE THE ACCURACY OR THE COMPLETENESS OF THE INFORMATION GIVEN. THE CONTRACTOR MUST VERIFY ALL SUCH INFORMATION TO HIS OWN SATISFACTION AND MUST NOTIFY THE UTILITY COMPANIES INVOLVED PRIOR TO COMMENCING WORK.
7. UTILITY COMPANIES:
   CHESAPEAKE & POTOMAC TELEPHONE COMPANY
   320 ST. PAUL STREET, BALTIMORE, MD. 21202
   BALTIMORE GAS & ELECTRIC COMPANY
   LEXINGTON & LIBERTY STREETS, BALTIMORE, MD 21202
8. ZONED: BR-CCC

ZONING NOTES:

EXISTING ZONING: BR-CCC
PROPOSED ZONING: NO CHANGE BUT WITH A VARIANCE FROM SECTION 405.4A(2) TO PERMIT A SETBACK OF 3 FEET IN LIEU OF THE REQUIRED 10 FEET FOR A CANOPY, AND TO PERMIT A PUMP ISLAND SETBACK OF 12 FEET IN LIEU OF THE REQUIRED 15 FEET.

AREA REQUIREMENTS:

TWO DISPENSER ISLANDS WITH THREE DISPENSERS SERVING TWO CARS AT ONE TIME.

TOTAL SERVICING SPACES = 4
TOTAL SERVICING BAYS = 3
TOTAL SPACES AND BAYS = 7
TOTAL AREA REQUIRED = 7 X 1,500 SF = 10,500 SF (USE 15,000 SF MIN.)
TOTAL WAITING SPACES = 4

ANCILLARY USES:

VEHICLE REPAIR SERVICES
VENDING MACHINES
TIRE SALES AND INSTALLATION
SALE OF SMALL AUTO PARTS AND ACC.
CHRISTMAS TREE SALES
MINOR ACCESSORY USES

NO ADDITIONAL SQUARE FOOTAGE REQUIRED

COMBINATION USES: NONE

TOTAL AREA REQUIRED = 15,000 SF
TOTAL AREA OF TRACT = 17,489 SF

ACCESS POINTS:

NUMBER OF DRIVEWAYS ON MAJOR STREET = 2
REQUIRED SITE WIDTH = 2 x 65' = 130'
ACTUAL SITE WIDTH = 157.88'

LANDSCAPING:

LANDSCAPING REQUIRED (5% OF SITE) = 833 SF
LANDSCAPING PROVIDED = 436 SF

PARKING:

PARKING SPACED REQUIRED = 3 BAYS x 3 EACH = 9
PARKING SPACES PROVIDED = 9 (INCLUDING ONE HANDICAPPED)

AREA DISTURBED BY NEW CONSTRUCTION = 160 SF

NOTE:
SITE ORIGINALLY APPROVED UNDER CASE NO. 64-54 X

PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY _____ PLANNING
DATE 9/7/83
BY _____ ZONING COMMISSIONER
DATE 9/7/83
84-8-A
C-1064-83

SITE PLAN

LYON ASSOCIATES, INC.
7131 Rutherford Road, Baltimore, Maryland 21207
Telephone: 301-944-9112

REVISIONS

NO.	DATE	DESCRIPTION
1	8-22-83	ADDED RESTRICTION NOTES

SURVEYOR'S CERTIFICATION

I, MARK A. RIDDLE, A REGISTERED PROPERTY LINE SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN SURVEYED BY LYON ASSOCIATES, INC., AND TO THE BEST OF MY KNOWLEDGE MEETS ALL OF THE REQUIREMENTS AS CONTRACTED FOR BY SHELL OIL CO.

MARK A. RIDDLE, L.S. No. 214 — 4.13.83 DATE

PLAN PREPARATION

DRAWN BY AG	DATE FEB. 23, 1983
DESIGNED BY	SCALE 1" = 10'
CHECKED BY AJ CORTEAL	

INSTALLATION OF NEW PUMP ISLANDS AND CANOPY
SHELL OIL CO.
700 N. ROLLING RD.
ELECT. DIST. 1 BALTIMORE CO., MD.

DRAWING NO. 3-86-27
SHEET NO. 1 of 1

Baltimore County, Maryland
Department Of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau of Engineering
ELLSWORTH N. DIVER, P. E. CHIEF

June 3, 1974

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

Re: Item #193 (1973-1974)
Property Owner: Joseph L. Soley
E/S of York Rd. & the N/S of Aigburth Rd.
Existing Zoning: D.R. 16
Proposed Zoning: Variance from Section 1B02.2B (504.7.3.c) to permit a front yard setback of 0' instead of the required 30' and to permit a Variance to Section 409.2c.4 to permit off street parking to be 3' from a street property line instead of the required 8'.
No. of Acres: 0.63 District: 9th

Dear Mr. DiNenna:

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

General:

The submitted plan is a revision (April 17, 1974) of the plan submitted by the Petitioner in connection with Item #153 (1970-1971). The comments supplied for this site in connection therewith are referred to for your consideration.

The submitted plan should be revised to more correctly correlate the existing and proposed road improvements in relation to this site and the proposed highway right-of-way widening requirements.

Further, this site is tributary to the Towson-Roland Run - Jones Falls Sewerage System, subject to State Health Department imposed moratorium restrictions.

Very truly yours,
Ellsworth N. Diver
ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss
cc: G. Meier
J. Trenner
NE-NW Key Sheet 35 NE 3 Pos. Sheet
NE 9A Topo 70 Tax Map

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William E. Hammond, Zoning Commissioner
Office of Planning and Zoning Date: May 23, 1983

FROM: Ian J. Forrest

SUBJECT: Zoning Variance Items

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

Item # 172 - P & M Enterprises, Inc.
Item # 178 - Joseph L. Soley
Item # 181 - Robert H. & Mildred J. McKenny
Item # 190 - J. W. G. Company, Inc.
Item # 191 - Fred L. Ehrick, Sr.
Item # 192 - Cohn Brothers
Item # 198 - Galway, Incorporated
Item # 199 - Clarence & Irene McNeal
Item # 204 - Robert C. Baumgartner
Item # 207 - P & S Partnership
Item # 210 - Erwin J. & Joan W. Cerveny
Item # 211 - Middle River Realty Company, Inc.
Item # 221 - Barry L. & Ruth Green
Item # 225 - Hattie Kirson
Item # 228 - Christopher R. & Pamela L. Burrow
Item # 230 - Richard L. & Licia M. Hilbert
Item # 231 - James R. & Mary H. O'Meara, Jr.
Item # 232 - Venice K. Paterakis
Item # 233 - Merritt Blvd. Limited Partnership
Item # 234 - Raxton Crossing Joint Venture
Item # 236 - Owen O. & Elsie M. Smith, Jr.
Item # 237 - Joseph W. & Donna M. Stack
Item # 238 - John W. & Maureen S. Diegel
Item # 241 - Broadus B. & Ruth W. Whitlock, Jr.
Item # 242 - Herbert L. & Patricia H. Grymes
Item # 243 - Lawrence J. & Patricia A. Sadowski
Item # 244 - Edwin B. & Sharyn A. Brager
Item # 246 - Martin Plaza, Inc.
Item # 248 - Martin H. Peckeley, Jr., et ux

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/fth

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
525-7310

PAUL H. REINCKE
CHIEF

April 12, 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: Joseph L. Soley

Location: E/S York Road 73.40' N. from centerline of Aigburth Road

Item No.: 178 Zoning Agenda: March 22, 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.

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

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

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

REVIEWER: [illegible] Date: April 14, 1983 Noted and Approved: George W. Wagner
Planning Group
Special Inspection Division
Fire Prevention Bureau

JK/mb/sam

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALESKI, JR.
DIRECTOR

March 31, 1983

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

Dear Mr. Hammond:

Comments on Item # 178 Zoning Advisory Committee Meeting March 22, 1983 are as follows:

Property Owner: Joseph L. Soley
Location: E/S York Rd. 73.40' N. from centerline of Aigburth Road
Existing Zoning: D.R. 16
Proposed Zoning: See reverse side

Acres: 0.968
District: 9th

The items checked below are applicable:

X A. All structure shall conform to the Baltimore County Building Code 1981/ Council Bill 1-82 State of Maryland Code for the Handicapped and Aged; and other applicable Codes.

X B. A building/and other miscellaneous permits shall be required before beginning construction.

C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.

X D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.

E. An exterior wall erected within 6'0 of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'-0 of lot lines. A firewall is required if construction is on the lot line. See Table 401, line 2, Section 1A07 and Table 1A09.

F. Requested variance conflicts with the Baltimore County Building Code, Section/s _____.

G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.

H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401.

I. Comments:

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit.
If desired, additional information may be obtained by visiting Room #122 (Plans Review) at 111 west Chesapeake Ave., 21204.

Very truly yours,
Charles E. Burnham
Charles E. Burnham, Chief
Plans Review

CEB:rrj

FORM 01-82

BALTIMORE COUNTY PUBLIC SCHOOLS

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

Date: 3/22/83

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

Z.A.C. Meeting of: March 22, 1983

RE: Item No: 177, (178) 179, 180, 181, 182
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

All of the above have no adverse effect on student population.

Very truly yours,
Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

TOWSON STATE UNIVERSITY

EX ZONING DR 2

EX 75' R/W
FUTURE 84' R/W

YORK ROAD

(MD ROUTE 45)

EX. F.H.

EX. 75' R/W
FUTURE 84' R/W

DR-2

EXISTING ZONING LINE

DR-16

PROPOSED SCREEN PLANTING (SEE NOTE 7)

PROPOSED SIGN

EX. F.H.

N 11° 50' 00" E 269.48'

N 28° 27' 00" W 34.19'

60'

PROPOSED 2 STY. BLDG

PROP. LOWER LEVEL 430.5

PROP. UPPER LEVEL 442.5

PROP. CONC. WHEEL STOP (22)

PROPOSED EDGE (21) OF PAVING

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UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

NO. 1475

September Term, 1986

RECEIVED
JUL 7 1987
OFFICE OF LAW

BALTIMORE COUNTY, MARYLAND

v.

JOSEPH L. SOLEY

CASE NO. CBA-83-112 and 84-89-SPH

Moylan
Bloom
Wenner,

JJ.

PER CURIAM

Filed: July 6, 1987

In this appeal we are asked to reverse a decision of the Circuit Court for Baltimore County which affirmed on appeal an order of the Board of Appeals for Baltimore County (the "Board") awarding Joseph L. Soley, the appellee, a building permit. We shall decline to do so and affirm the judgment of the circuit court.

Mr. Soley owns a parcel of land on the northeast corner of York and Aigburth Roads in Baltimore County, in an area zoned DR 16 (Density Residential, 16 dwelling units per acre). On April 28, 1977 he was granted a special exception, valid for two years, for the construction of a two-story office building. The special exception was subsequently extended for three years commencing April 28, 1979 and ending April 28, 1982.

Mr. Soley wanted to include a bank in the proposed office building. According to his testimony before the Board, he was told in 1977 "by the head of the Zoning Office at that time that there was absolutely no problem in having a bank in a DR 16 zone with a special exception as part of an office complex." Upon later learning that a bank was not a permitted use in a DR 16 zone, he tried twice, unsuccessfully, to have the property reclassified, either as B.L. (Business Local) or O-2 (Office Park).

He also filed for a building permit to begin construction of an office building. As soon as the permit was issued, on April 14, 1982, Mr. Soley commenced construction. The site was surveyed and cleared, the land was excavated, and sediment control devices and utilities were installed. At the end of April and the beginning of May 1982, Mr. Soley had concrete and foundation footers poured. For the next eight months the only work done on the site was the regular dousing of the footers with water in an effort to cure the concrete. According to Mr. Soley, during the pause in the construction he was attempting to determine whether he would be permitted to include a branch bank, in which case the building would require a considerably heavier foundation in order to support a bank vault.

In January of 1983 Mr. Soley received a communication from the Zoning Office, not included in the record before us, that raised a question regarding the continuing validity of the special exception. As a result, Mr. Soley petitioned for a special hearing before the Zoning Commissioner and also applied for an extension of the building permit. He received an extension of the building permit on April 4, 1983, but, due to a clerical error, the extension was for ten days rather than one year. On April 7, 1983, the Office of Zoning informed the Department of Permits and Licenses that the continuing validity of the special exception was being questioned and that no further extensions of the building permit should be granted until the matter was resolved. The building permit was revoked the next day.

Subsequently, a hearing was held before the Zoning Commissioner on the issue of whether Mr. Soley had complied with Section 502.3 of the Baltimore County Zoning Regulations, so as to permit him to keep the special exception and to obtain the building permit. Section 502.3 provides in pertinent part:

> A Special Exception which has not been utilized within a period of two years from the date of the final order granting same, or such longer period not exceeding five years, as may have been specified therein, shall thereafter be void. The Zoning Commissioner or, on appeal, the County Board of Appeals, in connection with the grant of any Special Exception, shall fix within the aforegoing limits, the period of time for its utilization. Any party to the proceedings may, by so specifying, appeal from either the order of the Zoning Commissioner or of the County Board of Appeals as the case may be, solely as to the reasonableness of the period of time allowed or, alternatively, may have such question determined in conjunction with any appeal from the grant or refusal of the application for a Special Exception. After a final order granting a Special Exception the Zoning Commissioner, at any time prior to the expiration of the period of time authorized for

> its utilization, may grant one or more extensions of such period, provided that a maximum time for utilization of the Special Exception is not thereby extended for a period of more than five years from the date of the final order granting same.
>
> A Special Exception which requires any construction for its utilization shall be deemed to have been used within its authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence.

The Zoning Commissioner, relying heavily on Mr. Soley's failure to commence construction during the period from 1977 to April 1982, found that he had not acted with "reasonable diligence" and therefore had not complied with the statute. Mr. Soley appealed to the Board, which reversed the ruling of the Zoning Commissioner. The Board stated that,

> By law, [Mr. Soley] was entitled to utilize his Special Exception within five (5) years from the granting of the same. By law he is required to commence construction within one (1) year of granting the building permit, or any extension thereof. Clearly, he has done so, although the construction or work completed is minimal.... This Board is sympathic to the plight of the Protestants and the County. Clearly the subject site is an eyesore. Nevertheless, this Board finds no precedent in the law to enable us to define how much or how little work and/or construction must be completed to satisfy the law.

> Mere commencement of work appears to be the test. There was no requirement for [Mr. Soley] to commence work immediately. Indeed, he could have waited, were he so inclined, four (4) years and three hundred sixty-four (364) days. It was his right.

The Board therefore ordered that Mr. Soley be granted a building permit, provided he applied for it within thirty days.

Baltimore County (the appellant herein) appealed the Board's ruling to the circuit court (Hinkel, J.), which concluded that the Board had merely determined whether Mr. Soley commenced construction, and that that was not the correct test. After citing the applicable portion of Section 502.3 of the Baltimore County Zoning Regulations, the circuit court continued:

> In Rupp v. Earl H. Cline & Sons, 230 Md. 573, [188 A.2d 146] (1963), the Court of Appeals was asked to determine when there was a commencement of a building which would give a mechanic's lien claimant preference over a recorded mortgage. The Court applied a two prong test: "(i) a manifest commencement of some work or labor on the ground which every one can readily see and recognize as the commencement of a building and (ii) the work done must have been begun with the intention and purpose then formed to continue the work until the completion of the building." Id. at 578, cited with approval in Pemberton v. Montgomery County, 275 Md. 363, 370 [340 A.2d 240] (1974).

> It is clear from the Board's Opinion that the Board only applied the first prong of the test. This Court is of the opinion that it would be appropriate for the Board to apply the correct law to its findings of fact.

The case was thus remanded to the Board to consider the facts in light of the proper law.

On remand, following further argument by counsel and research into the law "as instructed," the Board again concluded that Mr. Soley had complied with Section 502.3 of the Baltimore County Zoning Regulations and was entitled to a building permit. Again the County appealed to the circuit court. Upon the second appeal the circuit court concluded that there was a sufficient factual basis in the record to support the Board's determination, and affirmed the Board's decision.

Understandably chagrined, Baltimore County has appealed to us and asks us to decide

> Whether the evidence before the Board of Appeals was "fairly debatable" that [Mr. Soley] commenced construction of his office building and pursued it to completion with reasonable diligence, as required by Section 502.3 of the Baltimore County Zoning Regulations, when he obtained a building permit only two weeks before his special exception expired and thereafter cleared the site, excavated to an average of 3.5 feet, installed sediment control devices and utilities, poured concrete footers and then ceased construction for the next eight months.

Although we are tempted to reframe the issue for brevity and clarity, we have set it forth verbatim because it illustrates some of the confusion regarding the applicable law that has adhered to this case as it bounced from forum to forum.

As the circuit court recognized in its first opinion, there is a two-pronged test to be applied. It is not, however, the test enunciated in Rupp v. Cline & Sons, supra, and cited with approval in Pemberton v. Montgomery County, supra. The test in the case sub judice is that found in Section 502.3 of the Baltimore County Zoning Regulations, which requires, in order for a special exception to be deemed to have been used, (i) that "construction shall have commenced during the authorized period, or any extension thereof," and that (ii) the construction be "thereafter pursued to completion with reasonable diligence." Rupp and Pemberton were concerned with what constitutes the "commencement of construction;" thus, the two-pronged test of Rupp and Pemberton relates only to the first prong of the statutory test applicable here.

There is no dispute in this case that "construction commenced" within the authorized time; the entire dispute has been whether Mr. Soley has been "reasonably diligent." We believe the confusion as to the applicable law began when the Zoning Commissioner overlooked the word "thereafter" in the statute, so that the issue came to be viewed as whether Mr. Soley

had been reasonably diligent in commencing construction. But, as the Board of Appeals recognized, that was not the issue. Under the statute, Mr. Soley was not required to be reasonably diligent in commencing construction; he simply had to commence construction within the authorized time period. Once he began construction, he was thereafter required to pursue construction to completion with reasonable diligence.

With that clarification in mind, we see that the issue before the Board was whether, inasmuch as Mr. Soley had commenced construction of the building within the authorized time, he had thereafter pursued the construction with reasonable diligence.

The Board was correct in noting a dearth of "precedent" on this issue - "reasonableness" is almost never a matter of law, it is essentially a factual determination. The answer will rarely be found in the caselaw. It depends on the facts and circumstances of each case, and the judgment of the fact-finder.

The Board found that Mr. Soley had met both parts of the statutory requirement. The only question before us, then, is was the evidence supporting that finding "fairly debatable"? We believe that it was.

The Board noted that the critical period was June of 1982 (after the concrete was poured) through January of 1983.

After carefully examining the facts, which we will not repeat here, the Board concluded:

> [W]e are persuaded that [Mr. Soley] pursued the completion of construction with reasonable diligence. We are persuaded that the period between June 1982 and January 1983, employing a "reasonable man standard" was a period in which construction could not be pursued unless and until [Mr. Soley] was certain of the ultimate design of the building. Obviously, construction could not continue subsequent to the date of the stop work order. Consequently, a period of seven (7) months, more or less, was the period in which no construction occurred. We believe such inactivity, under the circumstances, was reasonable. [Mr. Soley], when the Special Exception was initially granted, was entitled, legally, to construct a bank. He was entitled, legally, to wait five (5) years prior to commencing construction. During the interim, the subject site was rezoned, thus precluding the construction of a bank. We do not deem it unreasonable for [Mr. Soley] to endeavor to obtain a reclassification so as to enable [him] to construct that for which he had originally sought and obtained a Special Exception.
>
> Applying the facts to the law, this Board is persuaded that [Mr. Soley] has satisfied both prongs of Section 502.3 of the BCZR.

We may not substitute our judgment for that of the Board. We are to determine only whether a reasoning mind could have

reached the conclusion reached by the Board. Cicala v. Disability Review Board, 288 Md. 254, 260, 418 A.2d 205 (1980). To that narrow question we answer, unequivocally, "Yes."

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY THE APPELLANT.

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NORTHEAST CORNER YORK AND AIGBURTH ROADS 9th DISTRICT

ON REMAND FROM THE CIRCUIT COURT BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

No. CBA-83-112 and 84-89-SPH

4/372 & 398/84-CG-1472 and 84-CG-1498

OPINION

The above captioned matter comes before this Board on Remand from the Circuit Court for Baltimore County.

On April 9, 1986, the parties and counsel appeared. Argument was received and considered. We have now researched the law as instructed.

Our opinion remains unchanged.

Admittedly the Board was remiss in our prior opinion in not stating that both prongs of Section 502.3 (commencement of work and reasonable diligence) had been met.

Judge Hinkel's Opinion and Order suggested, on remand, that this Board reconsider the facts in light of the proper law. We have now done so.

The applicable law is contained in Section 502.3 of the Baltimore County Zoning Regulations (BCZR) and provides:

> A Special Exception which requires any construction for its utilization shall be deemed to have been used within the authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence.

Factually, this Board decided, on October 30, 1984, that the Petitioner commenced construction within the prescribed period of time. On remand, this Board is of the same opinion. Consequently, this matter turns,

ultimately, on whether Petitioner has met the second prong of the zoning regulation, to wit; did the Petitioner pursue said construction with reasonable diligence?

For guidance, Judge Hinkel refers this Board to Rupp v Earl H. Cline & Sons, 230 Md. 573 and Pemberton v Montgomery County, 275 Md. 363. A careful reading of Rupp convinces this Board that same is distinguishable, on its facts, from the case at bar. Rupp concerned itself with the mechanic's lien law and contractor's rights. Perfection of liens was the germane issue. Pemberton, however, which cited Rupp, was quite helpful. Pemberton, indeed, concerned itself with similar facts. In Pemberton the Court affirmed the Board of Appeals and stated that the issue of whether the Petitioner was pursuing the completion of the construction was "fairly debatable" and the Court would not substitute its judgment for that of the Board of Appeals.

In the case at bar, this Board believes that, under the circumstances, the Petitioner exercised reasonable diligence in completing the construction which had commenced. The critical period appears to be June of 1982 through January of 1983. It is uncontroverted that concrete was poured, grading had occurred and approximately $25,000.00 of work had been performed between April to May, 1982. It is also uncontroverted that Petitions for Reclassification of the subject property had been filed. The Petitioner, admittedly, was attempting to build a bank on the subject site. Without a zoning reclassification, a bank, given the present zoning reclassification, cannot be placed on the subject site. Petitioner contends that the excavation ceased in June of 1982 because he could proceed no further unless he knew for certain whether a reclassification would be granted thus enabling him to erect a bank. Petitioner contends the excavation, etc., would be different if a bank

was to be erected as opposed to a two story office building without a bank. Petitioner also points out that he was not certain, at that time, how much of his property would be taken in the condemnation action involving Bosley Avenue.

The Petition for Reclassification was filed in March of 1982, prior to the commencement of excavation. The requested reclassification was denied in March of 1983. The stop work order was issued in January of 1983.

This Board adopts and incorporates by reference its factual findings as more particularly stated in our Opinion and Order dated October 30, 1984. Additionally, we are persuaded that the Petitioner pursued the completion of construction with reasonable diligence. We are persuaded that the period between June 1982 and January 1983, employing a "reasonable man standard" was a period in which construction could not be pursued unless and until the Petitioner was certain of the ultimate design of the building. Obviously, construction could not continue subsequent to the date of the stop work order. Consequently, a period of seven (7) months, more or less, was the period in which no construction occurred. We believe such inactivity, under the circumstances, was reasonable. The Petitioner, when the Special Exception was initially granted, was entitled, legally, to construct a bank. He was entitled, legally, to wait five (5) years prior to commencing construction. During the interim, the subject site was rezoned, thus precluding the construction of a bank. We do not deem it unreasonable for the Petitioner to endeavor to obtain a reclassification so as to enable the Petitioner to construct that for which he had originally sought and obtained a Special Exception.

Applying the facts to the law, this Board is persuaded that the Petitioner has satisfied both prongs of Section 502.3 of the BCZR.

O R D E R

For the reasons set forth in the aforegoing Opinion, it is this 29th day of April, 1986, by the County Board of Appeals, ORDERED that the decision of the Zoning Commissioner's Order, denying a Special Hearing be and hereby is REVERSED and the Special Exception awarded unto the Petitioner be and hereby is ORDERED to continue in existence and the Buildings Engineer is ORDERED to issue unto the Petitioner a permit for a building and the Petitioner is ORDERED to apply for said Building Permit within thirty (30) days of this Opinion and Order.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans

Patricia Phipps
Patricia Phipps

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BALTIMORE COUNTY, MD. : IN THE CIRCUIT COURT
VS. : FOR BALTIMORE COUNTY
JOSEPH L. SOLEY : CASE NO. 84-CG-1472

CARL E. BRUFF : IN THE CIRCUIT COURT
VS. : FOR BALTIMORE COUNTY
JOSEPH L. SOLEY : CASE NO. 84-CG-1498

OPINION AND ORDER

On September 6, 1985 this court heard oral argument on an appeal from the Zoning Commissioner of Baltimore County (Commissioner) from the October 30, 1984 Order of the Baltimore County Board of Appeals (Board) ordering the Assistant Buildings Engineer to issue a permit for a building in a DR 16 zone. This Order reversed the Commissioner's Order which denied a Petition for a Special Hearing.

Joseph L. Soley (Soley), the owner of the subject property obtained a special exception on April 28, 1977 to construct a two story office building in a DR 16 zone. No work was performed on the property until April 14, 1982, at which time Soley obtained a building permit. He hired an engineer to perform a land survey, cleared the subject site, and poured concrete footings. In January, 1983 Soley was notified of a potential zoning violation for failure to utilize his special exception; therefore, in April, 1983, Soley applied for, and received, an extension of his building permit. Because of a clerical

FILED SEP 11 1985

error, the extension was granted only for ten days, rather than the standard one year. On April 7, 1983 the Coordinator of the Developer Control Section determined that no further extension of the building permit should be granted until the question of whether the special exception was still valid is resolved.

The sole issue before the Board was whether the special exception was still valid. Only if the special exception was valid should the building permit be issued. In its Opinion, the Board stated:

> By law, the Petitioner was entitled to utilize his Special Exception within five (5) years from the granting of same. By law he is required to commence construction within one (1) year of the granting of a building permit, or any extension thereof. Clearly, he has done so, although the construction or work completed is minimal.

The Board merely determined whether Soley commenced construction. This is not the correct test. Regulation 502.3 of the Baltimore County Zoning Regulations (BCZR) provides:

> A Special Exception which requires any construction for its utilization shall be deemed to have been used within the authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence. (Emphasis supplied)

In Rupp v. Earl H. Cline & Sons, 230 Md. 573 (196), the Court of Appeals was asked to determine when there was commencement of a building which would give a mechanic's lien claimant preference over a recorded mortgage. The Court applied a two

prong test: "(1) a manifest commencement of some work or labor on the ground which every one can readily see and recognize as the commencement of a building and (ii) the work done must have been begun with the intention and purpose then formed to continue the work until the completion of the building." Id. at 578, cited with approval in Pemberton v. Montgomery County, 275 Md. 363, 370 (1974).

It is clear from the Board's Opinion that the Board only applied the first prong of the test. This court is of the opinion that it would be appropriate for the Board to apply the correct law to its findings of facts. It is not for this court to interpret the facts presented to the Board. The case therefore is remanded to the Baltimore County Board of Appeals to consider the facts in light of the proper law.

J. WILLIAM HINKEL
JUDGE

DATED: September 10, 1985

cc: Thomas J. Bollinger, Esquire
Michael P. Tanczyn, Esquire
Newton A. Williams, Esquire
Arthur S. Hamilton, Esquire
Baltimore County Board of Appeals

Joseph L. Soley
Case No. CBA-83-112 and #84-89-SPH

ORDER

For the reasons set forth in the aforegoing Opinion, it is this 30th day of October, 1984, by the County Board of Appeals, ORDERED:

1. That the Order of the Assistant Buildings Engineer invalidating the building permit to construct a two (2) story building in a DR 16 zone BE REVERSED and that said permit be issued. The Board FURTHER ORDERS that the Petitioner apply for a building permit within thirty (30) days from the date of this Order.

2. That the Order of the Zoning Commissioner, dated October 11, 1983, denying the Petition for Special Hearing, BE REVERSED, and that said Petition for Special Hearing BE GRANTED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans

Patricia Phipps

IN RE: PETITION SPECIAL HEARING
NE/corner of York and Aigburth Roads - 9th Election District
Joseph L. Soley,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-89-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests an interpretation of the Baltimore County Zoning Regulations (BCZR), specifically Section 502.3, that will determine whether he pursued with reasonable diligence to initiate construction within the authorized time provided as a result of a special exception granted by the County Board of Appeals on April 28, 1977. The obvious purpose of his request is to enable the Petitioner to keep that special exception granted and to allow him to obtain an appropriate building permit for the property in question.

The Petitioner appeared and testified, and was represented by Counsel. Five Protestants appeared, two testified.

Testimony indicated, and was uncontested, that the original Petition for Special Exception was denied by the then Deputy Zoning Commissioner on March 5, 1975, and that on appeal, the Board reversed and granted the Petitioner the right to construct a two-story office building on the site in question, which was in a D.R.16 Zone. On or about October 18, 1978, by order of the Zoning Commissioner, the time for utilization of the special exception was extended for a period of three years commencing April 28, 1979 and ending April 28, 1982. It is admitted by the Petitioner that no action towards utilization of the special exception was taken until April 14, 1982, when he first filed for a building permit. After receiving his permit, the Petitioner hired an engineer to do a land survey, cleared the site for construction, excavated to an average of

IN THE MATTER OF
JOSEPH L. SOLEY
FOR SPECIAL HEARING
AND BUILDING PERMIT
ON PROPERTY LOCATED ON
THE NORTHEAST CORNER
YORK ROAD AND AIGBURTH
ROAD - 9th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. CBA-83-112 and
84-89-SPH

OPINION

The above captioned matters came on for hearing before the County Board of Appeals as a result of an Assistant Buildings Engineer invalidating the building permit and the denial by the Zoning Commissioner of the Special Hearing Petition.

The Petitioner-Appellant has appealed both of those actions.

Evidence produced by the Petitioner-Appellant indicated that on April 28, 1977, he was granted a Special Exception on the subject property so as to permit the construction of a two (2) story office building in a DR 16 zone. It is uncontroverted that the Petitioner's proposed building, at that time, was intended, among other things, to house a physician's office.

No actual construction was commenced, although a building permit was issued on April 14, 1982 and an extension of same was requested on April 4, 1983. The extension was granted but only until April 14, 1983. The County acknowledges that the extension for a period of ten (10) days only was merely a clerical error, as the standard extension is, normally, for a period of one (1) year.

On April 7, 1983, Nicholas Commodari, Coordinator of the Developer Control Section, issued a letter to the effect that no further extension of a building permit should be granted until such time as the question concerning the Special Exception is resolved.

Thereafter, the building permit was invalidated and a correction notice for an alleged zoning violation was issued.

The issue before this Board is simple. Did the Petitioner commence construction within the five (5) year period from which he was granted a Special Exception?

The Petitioner contends and the County acknowledges that certain excavations have occurred at the subject site and that said work was commenced in early April of 1982. However, shortly thereafter, work stopped and, of course in 1983

the permit was invalidated. Petitioner contends that work stopped, initially because he had to allow several months for the poured concrete to settle and harden. At the risk of sounding presumptious, this Board finds Petitioner's contentions incredulous.

To the contrary, we are persuaded that the Petitioner did nothing and intended to do nothing until such time as he had a commitment from a bank for his office building. We are persuaded by and through the examination by Protestant's Counsel that the unsettled issue of a bank was and is soley the reason for the delay in construction of this office building.

However, the bank and the Petitioner's dependence thereon is not dispositive of the issue. By law, the Petitioner was entitled to utilize his Special Exception within five (5) years from the granting of same. By law he is required to commence construction within one (1) year of the granting of a building permit, or any extension thereof. Clearly, he has done so, although the construction or work completed is minimal.

Of course compounding Petitioner's problems is the fact that there has been a subsequent change in the law. Despite the desires of the Petitioner, he can no longer place a bank in a DR 16 zone. The law has changed as a bank is not a permitted use within the existing zone.

This Board is sympathetic to the plight of the Protestants and the County. Clearly, the subject site is an eyesore. Nevertheless, this Board finds no precedent in the law to enable us to define how much or how little work and/or construction must be completed to satisfy the law. Mere commencement of work appears to be the test. There was no requirement for the Petitioner to commence work immediately. Indeed, he could have waited, were he so inclined, four (4) years and three hundred sixty-four (364) days. It was his right.

Consequently, this Board has no alternative but to overrule the decision of the Assistant Buildings Engineer and the Zoning Commissioner and we shall so rule. However, this Board, further, shall order that the Petitioner apply for a building permit within thirty (30) days from the date of this Order.

The Petitioner has owned the property for 19 years and has every intention of building on the site. He will build, if the relief prayed for is granted, regardless if he gains reclassification. If he should be successful, a bank will be built within the two-story office building approved by the special exception. If not, he will build the two-story office building with hope that appropriate zoning can be achieved in the future. The Petitioner proffered the testimony of Dorie Alcarese, his business manager, who would have testified, if necessary, that she received no complaints about any lack of progress of construction.

The Protestants do not argue the validity of the special exception; indeed that issue is not before the Zoning Commissioner. They do argue, and vehemently, that the Petitioner failed to proceed on the special exception with reasonable diligence. In fact, the Protestants contend that the Petitioner throughout the five years for utilization of the special exception made calculated business decisions that now have backfired. After receiving his special exception in 1977, the Petitioner could have built his two-story office building without the bank. He chose not to, making a business decision with knowledge of the potential consequences. Indeed, the Petitioner testified that if the reclassification is not granted now, he would proceed with construction without the bank with the idea to convert if it was to be permitted in the future. The Protestants infer that if he can do that now, why not then?

The Protestants are residents of the neighborhood in which this site is located and have for one and one-half years confronted in their midst a hole they analogize to a "bomb crater".

The Petitioner seeks approval of the Zoning Commissioner to continue his special exception on the grounds that he has fulfilled his obligation pursuant to Section 502.3.

The Petitioner directs attention to the zoning principle "vested rights". A vested right is the right to initiate or continue the establishment of a use

would be "highly inequitable or oppressive". Zoning Commission v. Lescynski, 453 A.2d 1144 (Conn., 1982).

However, neither the principles of vested rights or estoppel are relevant to the issue presented herein. If relevant at all, estoppel might have been in 1977, when, as the Petitioner testified, he was granted the special exception and was told by agents of the County that he could not build a bank within the two-story office building approved. Pursuant to the zoning regulations as they existed at that time, a denial of a building permit could be appealed to the Board; for whatever reason, no appeal was made and the Petitioner cannot now argue that his original intent to construct a bank frustrated by a switch in administrative interpretation meets the criteria delineated above. Whether a vested right exists or not, the condition precedents established by Section 502.3 must still be satisfied.

A vested right is held to accrue when:

> "[a] manifest commencement of some work or labor on the ground which everyone can readily see and recognize as the commencement of a building...begun with the intention and purpose then formed to continue the work until the completion of the building."

Rupp v. Cline & Sons, 230 Md. 573, 578 (1963).

Section 502.3 requires that any special exception which requires that construction for its utilization be commenced during an authorized time period, in this case five years, provided that the construction is pursued to completion with reasonable diligence.

The language found in Rupp and in Section 502.3 is similar and must be read in conjunction. From 1977 until April, 1982, the Petitioner took no action. Not until two weeks before the special exception was to terminate for lack of utilization did the Petitioner take some action.

The issue, therefore, is whether the action taken amounts to work or labor readily seen and recognized as the commencement of a building, and done with the

in good faith with the idea to reasonably modify the building when he could legally place a bank within, as he testified he would do now.

There have been no violations of any vested right that the Petitioner might have. There exists no defense of estoppel accruing to the Petitioner. He did not proceed with reasonable diligence.

Simply, the Petitioner did not comply with Section 502.3 nor with the strictures as mandated by the Court of Appeals. He did excavate; he did pour concrete; he did provide sediment control devices. He did not pursue to completion with reasonable diligence; he did not begin in April, 1982 with the intention and purpose to continue the work until completion of the building. He did begin with the intention of tolling Section 502.3. The Petitioner's testimony and by his actions clearly show that what he did constituted "construction", and that it was an acceptable beginning. If the zoning regulations required only that work be commenced, as in Pemberton v. Montgomery County, 275 Md. 363, the Petitioner would be granted his relief. But did the Petitioner continue construction diligently under the particular circumstances, within the time specified as required by the BCZR?

After due consideration of the testimony and evidence presented, it is clear that the Petitioner has not met his burden proving that he began construction on the subject site, which is more specifically described on Petitioner's Exhibit 1, prior to the expiration of this special exception approved in 1977, with the intention and purpose to continue the work until completion of the building with reasonable diligence.

Pursuant to the advertisement, posting of the property, and public hearing held, and it appearing that the requirements of Section 502.3 have not been met, the relief requested should be denied.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 11th day of October, 1983, that the Petition for Special Hearing to have the

8-356 11-1H3

PETITION FOR SPECIAL HEARING 84-89-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 and find as fact that the Petitioner has complied with the zoning regulations so far as issuance of a permit for the Special Exception, case 75139-XA and with reasonable diligence thereafter, under all the facts and circumstances; in the alternative, that the Petitioner has the right to continue with the Special Exception previously obtained for which permit was received prior to the expiration of the use for Special Exception; and, in the alternative, that the Petitioner has, under all the circumstances, begun construction during the authorized period and has, thereafter, pursued his Special Exception through the present with reasonable diligence.

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

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:

Michael P. Tanczyn
(Type or Print Name)

Signature

118 W. Pennsylvania Avenue
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: 296-8823

Legal Owner(s):

Joseph L. Soley
(Type or Print Name)

Signature

(Type or Print Name)

Signature

8001 York Rd. 321-7212
Address Phone No.

Towson, Maryland 21204
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address Phone No.

MAP 3C 4A
ACCT.
REC'D 3/30
TOT. SPH
DATE 7/5/83
200 AF
1000 AF
DP

8-30 ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of August, 19 83, 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 5th day of October, 19 83, at 1:30 o'clock P. M.

Zoning Commissioner of Baltimore County.

(over)

PETITION FOR SPECIAL HEARING
Page Two

construction during the authorized period and has, thereafter, pursued his Special Exception through the present with reasonable diligence.

DESCRIPTION FOR SPECIAL HEARING

BEGINNING for the same at a stone heretofore planted at the corner formed by the intersection of the east side of York Road with the north side of Aigburth Road; and running thence binding on the east side of York Road, (1) North 11°50'00" East 310feet, thence for lines of division now made, the four following courses and distances, (2) South 80°47'50" East 75 feet, (3) South 11° 50'00" West 50 feet, (4) South 80°47'50" East 25 feet, and (5) South 11°50'00" West 260 feet, thence binding on the north side of Aigburth Road, (6) North 80° 47'50" West 100 feet to the place of beginning.

CONTAINING 0.68 Acres of land more or less.

Revised 8-30-83
+ 178

JOSEPH L. SOLEY
NE corner York & Aigburth Roads
Special Hearing and Building Permit

No. 84-89-SPH
No. CBA-83-112
9th Election District

July 6, 1987 — Order filed by Court of Special Appeals on appeal AFFIRMING Judgement. (Moylan, Bloom, Wenner, JJ.)

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

May 27, 1986

Arthur S. Hamilton, Esquire
209 Aigburth Road
Towson, MD 21204

Re: Case #CBA-83-112 and
Case #84-89-SPH
Joseph L. Soley

Dear Mr. Hamilton:

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 appeal which you have taken to the Circuit Court for Baltimore County in the above entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of 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 file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

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

Enclosures

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NE CORNER OF YORK AND AIGBURTH ROADS 9TH DISTRICT

CASE #CBA-83-112 and CASE #84-89-SPH

CARL E. BRUFF, TOWSON MANOR ASSN., BALTIMORE COUNTY, MD. and ZONING COMMISSIONER
Plaintiffs

: ON REMAND
: FROM THE CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: 4/372 and 398/ 84-CG-1472 and 84-CG-1498 and 27/171/86-CG-2031

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, William R. Evans and Patricia Phipps, 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:

Case #CBA-83-112
and
Case #84-89-SPH

Sept. 10, 1985 — REMANDED to the County Board of Appeals by the Circuit Court for Baltimore County, Judge J. William Hinkel, "to consider the facts in light of the proper law"

April 9, 1986 — Hearing held before the Board of Appeals - case held sub curia

" 29 — Board ORDERED: ". . that the Special Exception awarded unto the Petitioner be and hereby is ORDERED to continue in existence and the Buildings Engineer is ORDERED to issue unto the Petitioner a permit for a building and the Petitioner is ORDERED to apply for said Building Permit within thirty (30) days of this Opinion and Order."

May 26 — Order for Appeal filed in the Circuit Court for Baltimore County by the County Attorney on behalf of Baltimore County, Maryland and the Zoning Commissioner

" 27 — Order for Appeal filed in the Circuit Court for Baltimore County by Arthur S. Hamilton, Esquire on behalf of Carl E. Bruff and the Towson Manor Association

JOSEPH L. SOLEY - 86-CG-2031 2.

May 27, 1986 — Petition to Accompany Order for Appeal filed in the Circuit Court for Baltimore County by Arthur S. Hamilton, Esquire

" 26 — Certificate of Notice sent to all interested parties on the Appeal filed by the County Attorney

" 27 — Certificate of Notice sent to all interested parties on the Appeal filed by Arthur S. Hamilton, Esquire

June 4 — Petition to Accompany Order for Appeal filed in the Circuit Court for Baltimore County by the County Attorney

" 23 — Transcript of testimony filed

" 23 — 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, as are also the use district maps, 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, together with the zoning use district maps, at the hearing on this petition or whenever directed to do so by this Court.

Respectfully submitted

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

cc: Michael P. Tanczyn, Esquire
Arthur S. Hamilton, Esquire
Thomas J. Bollinger, Esquire
Newton A. Williams, Esquire
R. Bruce Alderman, Esquire

IN THE MATTER OF THE APPLICATION OF JOSEPH L. SOLEY FOR SPECIAL HEARING AND BUILDING PERMIT ON PROPERTY LOCATED ON THE NE CORNER OF YORK AND AIGBURTH ROADS 9th DISTRICT

CASE #CBA-83-112 and CASE #84-89-SPH

BALTIMORE COUNTY, MARYLAND and ZONING COMMISSIONER
Plaintiffs

: ON REMAND
: FROM THE CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: 4/372 and 398/ 84-CG-1472 and 84-CG-1498 and 27/171/86-CG-2031

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, William R. Evans and Patricia Phipps, 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, Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204, Counsel for the Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and R. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, MD 21204, Co-counsel for Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, MD 21204 and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire, Assistant County Attorney, and Malcolm F. Spicer, Jr., Esquire, County Attorney, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland and the Zoning Commissioner, a copy of which notice is attached hereto and prayed

JOSEPH L. SOLEY - 84-CG-1472 & 1498 2.

that it may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse, Towson, MD 21204
494-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Michael P. Tanczyn, Esquire, 118 W. Pennsylvania Avenue, Towson, MD 21204 and Newton A. Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, MD 21204, Counsel for Petitioner, and Joseph L. Soley, 8001 York Road, Towson, MD 21204, Petitioner, and R. Bruce Alderman, Esquire, 29 W. Susquehanna Avenue, Towson, MD 21204, Co-counsel for Petitioner, and Arthur S. Hamilton, Esquire, 209 Aigburth Road, Towson, MD 21204, Counsel for Towson Manor Improvement Association, and Carl E. Bruff, 15 Hillside Avenue, Towson, Md 21204 and Miss Gertrude Muth, 8013 York Road - B8, Towson, MD 21204, Protestants, and Thomas J. Bollinger, Esquire, Assistant County Attorney, and Malcolm F. Spicer, Jr., Esquire, County Attorney, Baltimore County Office of Law, Courthouse, Towson, MD 21204, Counsel for Baltimore County, Maryland and the Zoning Commissioner, on this 26th day of May, 1986.

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

cc: Zoning, Bettye DuBois
Planning, J. Hoswell
Permits & Licenses, Jos. M. Nolan