PETITION FOR SPECIAL EXCEPTION 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 z part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Office of physician (Ophthalmologist) in residence at 1012 Dulaney Valley Road Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. 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: Legal Owner(s): Dr. John A. Kiely. (Type or Print Name) (Type or Print Name) Mary Kiely (Type or Print Name) City and State Attorney for Petitioner 8415 Bellona Lane (301) 821-1970 204 N. Liberty Street, Suite 400 Name, address and phone number of legal owner, contract purchaser or representative to be contacted Baltimore, MD 21201 Michael Gisriel, Esquire 204 N. Liberty St., Suite 400 (301)539-0513 Address Baltimore, MD 21201 ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ 18th\_\_\_\_ day of \_\_\_\_\_\_, June \_\_\_\_\_, 19\_85\_, 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 103, County Office Building in Towson, Baltimore County on the 23rd day of July 1985, at 2:30 o'clock MICROFILMED BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon

TO Zoning Commissioner

Date July 11, 1985

Norman E. Gerber, Director

SUBJECT Zoning Petition No. 36-35-X

FROM Office of Planning and Zoning

This office is not opposed to the granting of a special exception for a doctor's office at this location in conformance with the applicable regulations. If granted, it is requested that landscaping for screening of the parking area be required.

Norman E. Gerber, Director

NEG:JGH:s1m

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Company of the Compan

"ICROFILMED

FEE-SIMPLE DEED-CODE-City or County

This Deed, Made this Fifteenth day of January in the year one thousand nine hundred and eighty-five , by and between FRIEDA G. SCHAEFER

Baltimore County in the State of Maryland, of the first part, and
JOHN A. KIELY and MARY KIELY, his wire

Witnesseth, That in consideration of the sum of One Hundred Eighty Thousand Dollars (\$180,000.00), the receipt of which is hereby acknowledged, the said party of the first part

do es want and convey unto the said parties of the second part, as tenants by

### 13.00

the entireties, their assigns, the survivor of them, and the survivor of them.

heirs and assigns, in fee simple, all that lot or parcel of ground, situate, lying and being it Baltimore County, State of Maryland, aforesaid, and described as follows, that is to say:-

BEING KNOWN AND DESIGNATED as Lot No. 6, Block 4, as shown on Plat No. 1 of Dulaney Manor, recorded among the Plat Records of Baltimore County in Plat Book G.L.B. No. 17, folio 16. The improvements thereon being known as No. 1012 Dulaney Valley Road.

BEING THE same lot of ground which by Deed dated December 27, 1955 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2847 folio 337, was granted and conveyed by Beatrice E. Debring and Paul J. Debri. her husband, to Alfred A. Arnold and Phyllis L. Arnold, his wife. The said Phyllis L. Arnold departed this life on or about 31, Day October, 1964 thereby vesting title in the said Alfred A. Arnold absolutely.

BEING ALSO the same lot of ground which by Deed dated 3-31-65, recorded among the Land Records of Baltimore County in Liber RRG 4441 folio 191 was granted and conveyed by Alfred A. Arnold unto Albert P. Schafer and Frieda G. Schaefer, his wife. The said Albert P. Schaefer apparted this life on or about 199 21, 1977, thereby vesting title in the said Frieda G. Schaefer absolutely.

ASSESSED TO SELECTION

BALFOR PATE

CLERK DATE

of the second part.

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE DO DATE //16/64

#42273 COO2 ROZ 11315

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MICROFILMED

County Board of Appeals of Baltimore County
Room 200 Court House
Cateson, Maryland 21204
(301) 494-3180
March 12, 1986

Michael Gisriel, Esquire 204 N. Liberty Street Suite 400 Baltimore, MD 21201

> Re: Case No. 86-35-X Dr. John A. Kiely, et ux

Dear Mr. Gisriel:

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

Very truly yours,

Edith T. Eisenhart,
Adm. Secretary

Enclosure

cc: Dr. John A. Kiely, et ux
Mr. Norbert Falter
Mr. J. Marshall Jones, Jr.
Charles H. Strickroth, C.E.O.
Phyllis Cole Friedman
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer

MICROFILMED

Together with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns and the survivor of them, and the survivor's personal representatives,

heirs and assigns, in fee simple.

And the said part y of the first part hereby covenant that she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that she will warrant specially the property granted and the she will execute such further assurances of the same as may be requisite.

Witness the hand and seal of said grantor

FRIEDA G. SCHAEFER

(SE.

STATE OF MARYLAND. Baltimore City , to wit:

I HEREBY CERTIFY, That on this Fifteeneth day of January
in the year one thousand nine hundred and eighty-five ,before me, the subscriber,
a Notary Public of the State of Maryland, in and for Baltimore City aforesaid,
personally appeared FRIEDA G. SCHAEFER

As Witness my hand and Notarial Seek

My Commission expires 7-1-80.

Mail to Arm France A. Clerk

Receipt Re. 1300

M.DAUFILIES

IN THE MATTER

OF THE APPLICATION OF

DR. JOHN A. KIELY, ET UX

FOR SPECIAL EXCEPTION FOR AN

OFFICE OF A PHYSICIAN IN A

RESIDENCE LOCATED ON THE

SW CORNER DULANEY VALLEY RD.

AND SWARTHMORE ROAD

9th DISTRICT

: BEFORE

COUNTY BOALD OF APPEALS

FOR SPECIAL EXCEPTION FOR AN

OF

BALTIMORE COUNTY

NO. 86-35-X

OPINION

This case comes before the Board on appeal from a decision of the Deputy Zoning Commissioner denying the Petitioner a special exception to allow office use for part of the residence in which the physician resides.

The property is located on the southwest corner of Dulaney Valley Road and Swarthmore Road, in the Ninth Election District of Baltimore County. The case was heard de novo this day, February 26, 1986, in its entirety.

Dr. John A. Kiely, property owner and Petitioner, was the only witness to testify on behalf of the petition. He testified that he is an Ophthalmologist who practices at Mercy Hospital and Bon Secours Hospital, and that eye operations are a substantial part of his practice. He testified that it was his desire to use the garage and breezeway area of his house, containing some 470 square feet, for a satellite medical office, the main purpose of which would be to see one patient at a time, by appointment only, for normal checkups following eye surgery. Dr. Kiely testified that he would have no objection to restrictions placed upon this special exception requiring four (4) off-street parking spaces, screening for these spaces,

County Board of Appeals of Baltimore County

Room 200 Court House (Heoring Room #218)

Towson, Maryland 21204

(301) 494-3180

November 15, 1985

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. 86-35-X

DR. JOHN A. KIELY, ET UX

SW corner of Dulaney Valley and
Swarthmore Roads
(1012 Dulaney Valley Rd.)

9th District

SE-Office of physician in residence 8/28/85 - D.Z.C.'s Order-DENIED

1

ASSIGNED FOR:

WEDNESDAY, FEBRUARY 26, 1955, at 10 a.m.

cc: Michael Gisriel, Esq.

Counsel for Petitioner

Dr. John Kiely and
Mary Kiely

Michael Gisriel, Esq.

Counsel for Petitioner

Petitioners

People's Counsel

Mary Kiely Petitioner

Mr. Norbert Falter Protestant

Mr. J. Marshall Jones, Jr.
Charles H. Strickroth, C.E.O.

Gertrude R. Jones

Phyllis C. Friedman
Norman Gerber
James Hoswell

Arnold Jablon Jean Jung

James Dyer

STAPPONT

June Holmen, Secretary

DR. JOHN A. KIELY - #86-35-X

only his wife (a registered nurse) as his assistant, no scheduled office hours nor any sign indicating this use other than the sign permitted by Baltimore County regulations and that no other commercial use will be conducted from these premises. He also testified that his address is 1012 Dulaney Valley Road, that 1006 Dulaney Valley Road is used as a full time dental office and that 1018 Dulaney Valley Road is zoned R-O and is used in its entirety as a medical facility. He also submitted comments from various Baltimore County departments indicating no opposition to this request. Upon completion of his testimony, Petitioner rested his case.

Protestants presented three witnesses in opposition to the granting of this special exception. Mrs. Gertrude Jones, 1016 Dulaney Valley Road first testified. Mrs. Jones stated that her residence is next-door to 1018 Dulaney Valley Road, the building owned and operated full time as a medical facility. She stated that she had no objections to this use since ample off-street parking was provided but that she generally objected to any use that would increase the traffic problem already existing in this area.

Mrs. Josephine Falter, 1014 Dulaney Valley Road also was concerned about the traffic situation and particularly objected to any use that could possibly increase the parking problem on Swarthmore Road.

Michael Flanigan, Associate Traffic Engineer for Baltimore
County, testified that this site must provide off-street parking to gain his

DR. JOHN A. KIELY - #86-35-X

40

department's approval. He further noted that the proposed parking area must conform to all Baltimore County standards. This testimony completed the

After consideration of all the testimony and evidence presented. the Board is of the opinion that all the requirements of §502.1 of the Baltimore County Zoning Regulations have been met. Therefore, the special exception should be granted and will so order. The proposal meets all area requirements, is not out of character with other uses already existing in close proximity, will not drastically alter the outward appearance of the residence and with reasonable restrictions will create no detriment to the health, safety and welfare of the neighborhood.

For the reasons set forth in the aforegoing Opinion, it is this 12th day of March, 1986, by the County Board of Appeals, ORDERED that the special exception petitioned for, be and the same is hereby GRANTED, subject to the following restrictions:

> 1. That paved off-street parking for the required number of spaces be provided in compliance with all Baltimore County regulations, and that screening for this parking area be provided to shield neighboring residences from its view as deemed necessary by Baltimore County authorities.

DR. JOHN A. KIELY - #86-35-X

- That only one person other than the doctor be employed in this satellite office.
- That no sign be permitted advertising office hours or office days other than the one sign permitted as a right by Baltimore County regulations.
- That no use, other than a satellite office use by a resident Ophthalmologist be permitted by this special exception.

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

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

OFFICE OF PLANNING & ZONING TOWSON, MARYLAND 21204

ARNOLD JABLON ZONING COMMISSIONER

JEAN M. H. JUNG DEPUTY ZONING COMMISSIONER

August 27, 1985

Mr. Michael Gisriel, Esquire 204 N. Liberty Street, Suite 400 Baltimore, Maryland 21201

> RE: PETITION FOR SPECIAL EXCEPTION SW corner of Dulaney Valley and Swarthmore Roads (1012 Dulaney Valley Road) 9th Election District Dr. John A. Kiely, et ux, Petitioners Case No. 86-35-X

Dear Mr. Gisriel:

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

> Very truly yours, JEAN M. H. JUNG Deputy Zoning Commissioner

Attachments

LOCATION:

cc: People's Counsel

Mr. Norbert Falter 1014 Dulaney Valley Road Towson, Maryland 21204

Mr. J. Marshall Jones, Jr. 1016 Dulaney Valley Road Towson, Maryland 21204

The Petitioners herein request a special exception for an office of a physician (opthalmologist) in a residence.

\* \* \* \* \* \* \* \* \* \*

Petitioners \*

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 86-35-X

RE: PETITION FOR SPECIAL EXCEPTION

(1012 Dulaney Valley Road)

Dr. John A. Kiely, et ux,

and Swarthmore Roads

9th Election District

SW corner of Dulaney Valley

Testimony by and on behalf of the Petitioners indicated that the subject property, located on the west side of Dulaney Valley Road between the Beltway and Fairmount Avenue, is improved with a two story residence and is one of a number of large single family homes along that strip. The resident ophthalmologist proposes to utilize 486 square feet located in the existing breezeway and garage as a satellite office for an average of ten hours per week; never on a full time basis. The house contains 2,876 square feet excluding the basement. He would be the only practicing professional, generally using the services of his wife as the secretary/receptionist, but requesting permission to employ one non-resident, non-professional. A 456 square foot asphalt parking pad is available for family, employee and patient parking. The adjacent Swarthmore Road has been closed just west of the site. The Petitioner was aware that the site was an issue during the 1984 Comprehensive Rezoning process, that the Planning Board recommended denial of the request and that the former zoning was retained. He kne he zoning designation on the property prior to purchase and did not have a zon g contingency clause placed on the purchase contract. He spoke of an in-

creasing traffic flow on Dulaney Valley Road and increasing pressure to intensify thing within the strip of residences.

Two immediate neighbors testified in protest. One home, #1006, in the row of houses on the west side of Dulaney Valley Road from the Beltway to Fairmount,

has been a dentist office for over twenty-five years. The 1984 Comprehensive Zoning process granted R.O. zoning to #1018 for a Class A office building for a psychiatrist, however, a stop-work order was issued on July 19, 1985 for the project to be reviewed. The ten or so single family dwellings on this section of the west side of Dulaney Valley Road are in a unique area, utilized and maintained as fine quality single family dwellings although traffic is heavy on Dulaney Valley Road. Most of the residents have occupied their homes in this quiet neighborhood from eighteen to thirty years. Dulaney Towers was denied access to Swarthmore Road because of Dulaney Valley Road traffic.

All parties stipulated that the Deputy Zoning Commissioner could visit the site and the general neighborhood.

After due consideration of all the evidence and testimony presented, a visit to the area, and a careful perusal of the zoning map of the area and general planning documents, in the opinion of the Deputy Zoning Commissioner the residence in question is a part of a fine, long-standing residential community where there has been no indication that the Baltimore County Planning Department, Planning Board or County Council wish to convert the houses to offices by R.O. or other office zoning. The one existing dentist office at #1006 has been a part of the home at least twenty-five years; the house at #1018 is very close to the Beltway and receives a great deal of noise, fumes and dirt from the Beltway, factors that would be quite undesirable for a residence. The other houses been and continue to be viable as beautiful, pleasant family dwellings. The Eputy Zoning Commissioner, informed during the hearing of requested zoning chapes prior to the 1984 zoning map, is not so naive as to believe that pressure will not be exerted in the future to permit more offices among this of homes. In the opinion of the Deputy Zoning Commissioner, to grant a

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in this unique situation would be contrary to the character of the meighborhood, would be extremely detrimental to the general welfare of the immediate neighbors, the owners and residents of the entire row of homes and indeed to the ci-

tizens of Baltimore County, would be contrary to good planning principles for land use in that neighborhood in todays circumstances and would cause undue pressure for unwise zoning changes in the future. Pursuant to the advertisement, posting of property, and public hearing on

the petition, and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations not having been met, as well as the health, safety and general welfare of the community being adversely affected, the special exception should not be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 28 th day of August, 1985, that the Petition for Special Exception for an office of a physician (opthalmologist) in a residence is hereby DENIED.

> Deputy Zoning Commissioner of Baltimore County

PETITION FOR SPECIAL EXCEPTION

9th Election District

in residence at 1012 Dulaney Valley Road.

Southwest corner of Dulaney Valley Road and Swarthmore Road (1012 Dulaney Valley Road)

DATE AND TIME: Tuesday, July 23, 1985 at 2:30 p.m.

PUBLIC HEARING: Room 106, County Office Building, 111 West 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 Exception for office of physician (Ophthalmologist)

Being the property of <u>Dr. John A. Kiely, et ux</u> the plat 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 received in writing by the date of the hearing set above or made at the hearing.

> BY ORDER OF ARNOLD JABLON ZCNING COMMISSIONER OF BALTIMORE COUNTY

DATE

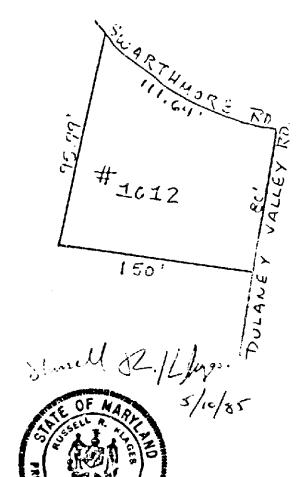
LEGAL DESCRIPTION

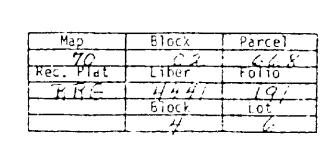
1012 DULANEY VALLEY ROAD

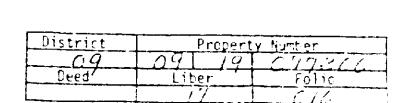
The subject property is, in fee simple, consisting of all that lot or parcel of ground, situate, lying and being in Ealtimore County, State of Maryland and described as follows:

BEGINNING for the same on the southwest corner formed by the intersection of Swarthmore Road and Dulaney Valley Road and Duing Known and designated as Lot No. 6, Block 4, as shown on Plat No. 1 of Dulaney Manor, recorded among the Plat Records of Baltimore County in Plat Book G.L.B. No. 17, folio 16. The improvements thereon being known as No. 1012 Dulaney Valley Road

BEING the same lot of ground which by Deed dated January 15, 1985 and recorded in the Land Records of Baltimore County in Liber E.H.K. Jr. No. 6851, folio 448, was granted and conveyed by Freda G. Schaufer to John A. Kiely and Mary Kiely, his







- 3 **-**

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER SW Corner of Dulaney Valley Rd. and Swarthmore Rd. (1012 Dulaney: OF BALTIMORE COUNTY

DR. JOHN A. KIELY, et ux, Petitioners

£ 18.

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Valley Rd.), 9th District

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ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

> Phyllis Cole Friedman People's Counsel for Baltimore County

Peter Max Zimmerman Deputy People's Counsel Rm. 223, Court House Towson, MD 21204 494-2188

I HEREBY CERTIFY that on this 9th day of July, 1985, a copy of the foregoing Entry of Appearance was mailed to Michael Gisriel, Esquire, 204 N. Liberty St., Suite 400, Baltimore, MD 21201, Attorney for Petitioners.

Keter Max Zumen

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

July 17, 1985

Michael Gisriel, Esquire 204 N. Liberty Street, Suite 400 Baltimore, Maryland 21201

RE: Petition for Special Exception SW corner of Dulaney Valley Rd. and Swarthmore Rd. (1012 Dulaney Valley Rd.) 9th Election District Dr. John A. Kiely, et ux, Petitioner

Dear Mr. Gisriel,

This fee must be paid and the zoning sign and post returned on the day of the hearing. Do not remove sign until day of the

Please make the check payable to Baltimore County, Maryland, BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

Case No. 86-35- X

This is to advise you that \$ 70.70 is due for advertising and posting of the above property. This fee must be paid before

- old Sellon

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

August 5, 1985

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Maryland 21204

> Re: Items #326-#330 & #332 #336 & #339 (1984-1985) Various Locations Zoning Advisory Committee Meeting of May 14, 1985

Dear Mr. Jablon:

HARRY J. PISTEL, P. E.

The following comments are furnished in regard to the plats submitted to this office for review by the Zoning Advisory Committee in connection iwth the subject items.

GENERAL COMMENTS:

Partinantan terpangan pangan terpangan terpangan pangan pa

Since no public facilities are involved with any of the above referenced petitions, this office has no comment at this time. However, at such time that the various applicants file for building permits, the Bureau of Public Services will comment on the existence and availability of public facilities to support any construction.

Very truly yours,

James A. Markle, P.E., Chief Bureau of Public Services

JAM:PMO:blp

cc: file

State Highway Administration

Maryland Department of Transportation

VALIDATION OR SIGNATURE OF CASHIER

William K. Hellmann Hal Kassoff Administrator

May 23, 1985

Mr. A. Jablon Zoning Commissioner County Office Bldg. Towson, Maryland 21204 Att: N. Commodari

Re: Property Owner: Dr. John A. Kiely, et ux Location: S/W corner Dulaney Valley Rd and Swarthmore Road Existing Zoning: D.R. 3.5 Proposed Zoning: Special Exception for a Dr's office while the legal owners also reside in another part of the property. Acres: 80/95.79 x 116. 64/150 DISTRICT: 9th Election

Dear Mr. Commodari:

On review of the submittal of 2/1/85, showning all access to the site by way of Swathmore Road, the State Highway Administration finds the plan generally acceptable.

> Very truly yours, Charles Lee, Chief Bureau of Engr. Access Permits

CL-GW:es

by: George Wittman

cc: J. Ogle

My telephone number is 301-659-1350Teletypewriter 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

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWNSON MARYLAND 21264 NORMAN E GERBER Director

VALIDATION OR SIGNATURE OF CASHIER

Mr. Arnold Jablan Zoning Commissioner County Office Building Towson, Maryland 21204

Dear Mr. Jublon:

JULY 3, 1985

Re: Zoning Advisory Meeting of MAY 14, 1985

Item + 336

Property Owner: DR JOHN A. KIELT, et UX

Location: SW/CORNER DULANEY VALLEY RO. + SWARTHMORE RO

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are

(X)There are no site planning factors requiring comment.

(A County Review Group Meeting is required.

(A County Review Group meeting was held and the minutes will be forward by the Bureau of Public Services.

(I) This site is part of a larger tract; therfore it is defined as a subdivision. The plan must show the entire tract.

(B) A record plat will be required and must be recorded prior to issuance of a building permit.

(C) The access is not satisfactory.

(C) The circulation on this site is not satisfactory. The circulation on this site is not satisfactory. ( )The circulation on this site is not satisfactory.
 ( )The parking arrangement is not satisfactory.
 ( )Parking calculations must be shown on the plan.
 ( )This property contains soils which are defined as wetlands, and development on these soils is prohibited.
 ( )Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-93 of the Development Regulations.

( )Development of this site may constitute a potential conflict with the Baltimore County Master Plan.

( )The amended Development Flan was approved by the Planning Board on Landscaping: Must comply with Baltimore County Landscape Manual. The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service The property is located in a traffic area controlled by a "D" level intersection as defined by Bill 178-79, and as conditions change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council. ( )Additional comments:

Eugene A. Bober Chief, Current Planning and Development

June 19, 1985

NOTICE OF HEARING RE: PETITION FOR SPECIAL EXCEPTION SW corner of Dulaney Valley Rd. and Swarthmore Rd. (1012 Dulaney Valley Rd.) 9th Election District Dr. John A. Kiely, et ux, Petitioners

2:30 p.m. Tuesday, July 23, 1985 PLACE: Room 106, County Office Building, 111 West Chesapeake

Case No. 86-35-X

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT 10-616 815. 200 AMOUNT \$/00.00

Avenue, Towson, Maryland

Michael Gisriel, Esquire

204 N. Liberty Street, Suite 400 Baltimore, Maryland 21201

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE July 15, 1985

COUNTY OFFICE BLDG. Michael Gisriel, Esquire 111 W. Chesapeake Ave. Towson, Maryland 21204 204 N. Liberty Street, Suite 400 Baltimore,, Maryland 21201

> RE: Item No. 336 - Case No. 86-35-X Petitioners - Dr. John A. Kiely, et ux Special Exception Petition

Bureau of Dear Mr. Gisriel: Engineering Department of Traffic Engineering State Roads Commission Bureau of Fire Prevention Health Department

Nicholas B. Commodarı

Chairman

MEMBERS

Project Planning

Building Department

Board of Education

Industrial

Zoning Administration

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 tearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of

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, Terbeles B. Connadari. NICHOLAS B. COMMODARI Chairman

Zoning Plans Advisory Committee Enclosures

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS DIRECTOR

Towson, Maryland 21204

May 20, 1985

Mr. Arnold Jablon Zoning Commissioner County Office Building

ZONING GUNG

111 ~~~

Item No. 336 ZAC-Meeting of May 14, 1985 Property Owner: Dr. John A. Kiely, et ux S/W Corner Dulaney Valley Road and Swarthmore Road Existing Zoning: D.R.3.5 Proposed Zoning: Special exception for a Doctor's office while the legal owners also reside in another part of the property.

80/95.79 X 116.64/150 Acres: District:

Dear Mr. Jablon:

The site should have on-site parking that meets County standards.

Traffic Engineering Assoc. I

MSF/ccm



PAUL H. REINCKE CHIEF

May 15, 1985

Mr. Arnold Jablon 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: Dr. John A. Kiely, et ux

Location: S/W Corner Dulaney Valley Road and Swarthmore Road

Item No.: 336

Gentlemen:

1.30 ··

Zoning Agenda: Meeting of 5/14/85

Pursuant to your request, the referenced property has been surveyed by this Direau 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 located at intervals or \_\_\_\_\_\_feet along an approved road in accordance with Baltimore County Standards as published by the feet along an approved road in 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.

(  $\mathbf{x}$  ) 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

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

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

REVIEWER: Cast John Kelly 5/16/85 Noted and Errol h Markowitz

Planning Group

Reviewer: Cast John Kelly 5/16/85 Approved: Fire Dankowitz Special Inspection Division

County Board of Appeals of Baltimore County

Room 200 Court House

Towson, Maryland 21204

(301) 494-3190

October 17, 1985

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES TOWSON, MARYLAND 21204

May 21, 1985

TED ZALESKI, JR.

Mr. Armold Jablon, Zoning Commissioner Office of Planning and Zoning

Comments on Item # 336 Zoning Advisory Committee Meeting are as follows:

Dr. John A. Kiely, et ux S/W Corner Dulaney Valley Road and Swarthmore Road

APPLICABLE ITEMS ARE CIRCLED:

All structure. shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Aged (A.N.S.I. #117-1 - 1980) and other applicable Codes and Standards. (B) A building and other miscellaneous permits shall be required before the start of any construction.

C. Residential: Two sets of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is/is not required on plans and technical data. D. Commercial: Three sets of construction drawings sealed and signed by a registered in Maryland Architect or Engineer shall be required to file with a permit application. Reproduced seals are not acceptable.

E. All Use Croups except R-4 Single Family Detached Dwellings require a minimum of 1 hour fire rating for exterior walls closer than 6'-0 to an interior lot line. R-4 Use Groups require a one hour wall if closer than 3'-0 to an interior lot line. Any wall built on an interior lot line shall require a fire or party wall. See Table 401, Section 1407, Section 1406.2 and Table 1402. No openings are permitted in an exterior wall within 3'-0 of an interior lot line.

F. The structure does not appear to comply with Table 505 for permissable height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 401 and 505 and have your Architect/Engineer contact this department.

G. The requested variance appears to conflict with Section(s) \_\_\_\_\_\_, of the Baltimore County Building Code. H. When filing for a required Change of Use/Occupancy Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of Use Groups are from Use to Use to Mixed Uses . See Section 312 of the Building Code.

The proposed project appears to be located in a Plood Plain, Tidal/Riverine. Please see the attached copy of Section 516.0 of the building Code as adopted by Bill #17-85. Site plans shall show the correct elevations above sea level for the lot and the finish floor levels including basement.

(3) Comments: See Section 1405.5.3 for Code requirements.

K. These abbreviated 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 the applicant may obtain additional information by visiting Room 122 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204. Marles E. Churchen.
BY: C. E. Burnham, Chief

dulantu toutur 911 LOCUSTVALE ROAD, TOWSON, MARYLAND 21204-2704 TELEPHONE (301) 296-7400

Re: Case No. 86-35-X Dr. John A. Keily

Dear Mr. Gisriel:

Michael Gisriel, Esquire

204 N. Liberty Street Paltimore, MD 21201-3999

American National Building

Suite 400

In answer to your letter of October 9, 1985, in which you request information on the standard of review of the above entitled case, please be advised that all cases before the Board of Appeals are de novo hearings and the Board makes its judgments on the merits of the case as presented to it. There is no need to evidence error in the Zoning Commissioner's ruling as the Board's decision will be based on the evidence pefore it.

As the Board's docket now stands, your case will probably be set for hearing sometime between the middle and the end of February.

Very truly yours,

WTH:e

cc: Dr. John A. and Mary Kiely Mr. Norbert Falter Mr. J. Marshall Jones, Jr. Charles H. Strickroth, C.E.O. Gertrude R. Jones Phyllis Cole Friedman

October 3, 1985

Room 200 Courthouse Towson, Md. 21204 Dear Sir or Madam: We would appreciate being advised of the:

County Board of Appeals

Zoning Appeal Public Hearing

Case # 86.35-x for Dr. & Mrs. John A. Kiely 1012 Dulaney Valley Road

Thank you. Charles H. Strickroth, C.E.O. cc: Mr. Allan L. Lippmann, President - D.T.M.C.

DULANEY TOWERS MAINTENANCE CORPORATION

Property owner, contract purchaser or legal representative <u>must</u> complete the following information\* as shown on tax bills: RECEIVED. \*Avail PTANAING TON ZONING Assessment Recordation Office

 $\mathbf{O}$ 

Office of Planning and Zoning

Baltimore County, Maryland

REQUEST FOR CHANGE

1984 COMPREHENSIVE ZONING MAP

(Please Print)

Please accept this form as a part of the material to be submitted

as a request for a change in zoning on the following property(ies).

Contract Purchaser or Legal Representative

ADDRESS 1012 Dularer Valley Road Towson Md. 2120

I am the: 🔀 Property Owner

PROPERTY LOCATION South of exit 27 of Batto Beltway

TO: Director of Planning and Zoning of Baltimore County

NAME Albert F. - Frieda G. Schaefer

ACREAGE OF LOT SIZE 80.09 X 111.69 150

PROPOSED USE Profescional Office - HO.

EXISTING USE bosidence

NOTE: I accept full responsibility

for all information I have supplied

with regard to this request.

Room 48 Court House

Towson, Md. 21204

(494-3691)

W THOMAS GISRIEL

MICHAEL GISRIEL

WM H ZIMMERMAN

THOMAS J GISRIEL

EXISTING ZONING DR 3.5

REQUESTED ZONING RO.

PHONE NO. 325-3344

ORGANIZATION (if any)

Property Number
09119077.300
Liber Folio

155UE"NO."4-73"

(Office Use Only)

AREA Control

PLANNER LWM

DATE 5/28/83

(1012 Dulaney Valley Road) 9th Election and (RECEIPT) 4th Councilmanic District Case No. 86-35-X Dr. John A. Kiely and Mary Kiely 1012 Dulaney Valley Road Towson, MD 21204 Petitioners \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* NOTICE OF APPEAL Please note an Appeal from your decision in the above-captioned matter, under date of August 27, 1985, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing. Michael Gisriel, Esquire 204 North Liberty Street, Suite 400 Baltimore, Maryland 21201-3999 301-539-0513 Attorney for the Petitioners Dr. John A. Kiely and Mary Kiely JUSTIFICATION FOR REQUEST (Please Summarize) became commercial. Within 1000 feet in a string buildings, and an 18 story retirement nursing complex I HEREBY CERTIFY that on this 25th day of September, 1985, a copy of the foregoing Notice of Appeal was mailed to Phyllis Cole Friedman, People's The leng erected. Directly behind exsists a 14 story aparlment Counsel, Room 223, Court House, Towson, MD 21204; Mr. Norbert Falter, Tom requesting usage for a resident prefessional office.
(If additional space is required, please attach separate sheet) 1 Mr. J. Marshall Jones, Jr., BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION No. 012511 MISCELLANEOUS CASH RECEIPT 0000 y for the Petitioners RECEIVED Michael Gisriel, Esquire Appeal for Case No. 85-65-7 \$ B033\*\*\*\*\*10870:4 0075F VALIDATION OR SIGNATURE OF CASHIER

RE: PETITION FOR SPECIAL EXCEPTION

and Swarthmore Road

SW corner of Dulaney Valley Road

BEFORE THE ZONING COMMISSIONER

OF BALTIMORE COUNTY

LAW OFFICES

GISRIEL & GISRIEL SUITE 400 AMERICAN NATIONAL BUILDING 204 N. LIBERTY STREET BALTIMORE, MARYLAND 21201-3999

October 9, 1985

Mr. Hackett, Chairman Board of Appeals Baltimore County, Maryland 01d Courthouse Second Floor Towson, MD 21204

RE: Appeal of Special Exception Case No.: 86-35-X 1012 Dulaney Valley Road

Dear Chairman Hackett:

I am writing as the attorney for the Kielys with regard to the above captioned Appeal (see attached Notice of Appeal), to request that this Appeal be set in for nearing by the Board of Appeals as soon as possible. I would appreciate your kind attention to this matter. Please have your office notify me of the date, time and place of said hearing.

Further, please let me know the standard of review in this hearing, i.e. whether the Kielys must prove that the decision of the Deputy Zoning Commissioner was "in error" or whether the Kielys will have a de novo hearing before the Board on the merits of their case.

Thank you for your prompt attention to this matter. If you have any questions, please don't hesitate to call me. I remain

Very truly yours, Michael Gisriel

MG/bls Enclosure cc: Dr. John and Mary Kiely

1016 DQ aney talley Real Towson, Maryland October 8, 1985

Baldemore County Donal Cosseque 70

Dear Sur, Inexpressor to our conversation

The fleence to our conversation of October 2, 1985, I herewith request that you send me a notice where the appeal for Dr. and Mrs. John Kylis will be scheduled its residence in question will be scheduled its residence in question to 13 Dulaney Valley toad.

Dr. Kylies can a number is #863 5-X. I am a near neighbor who is desplay interested in attending this appeal

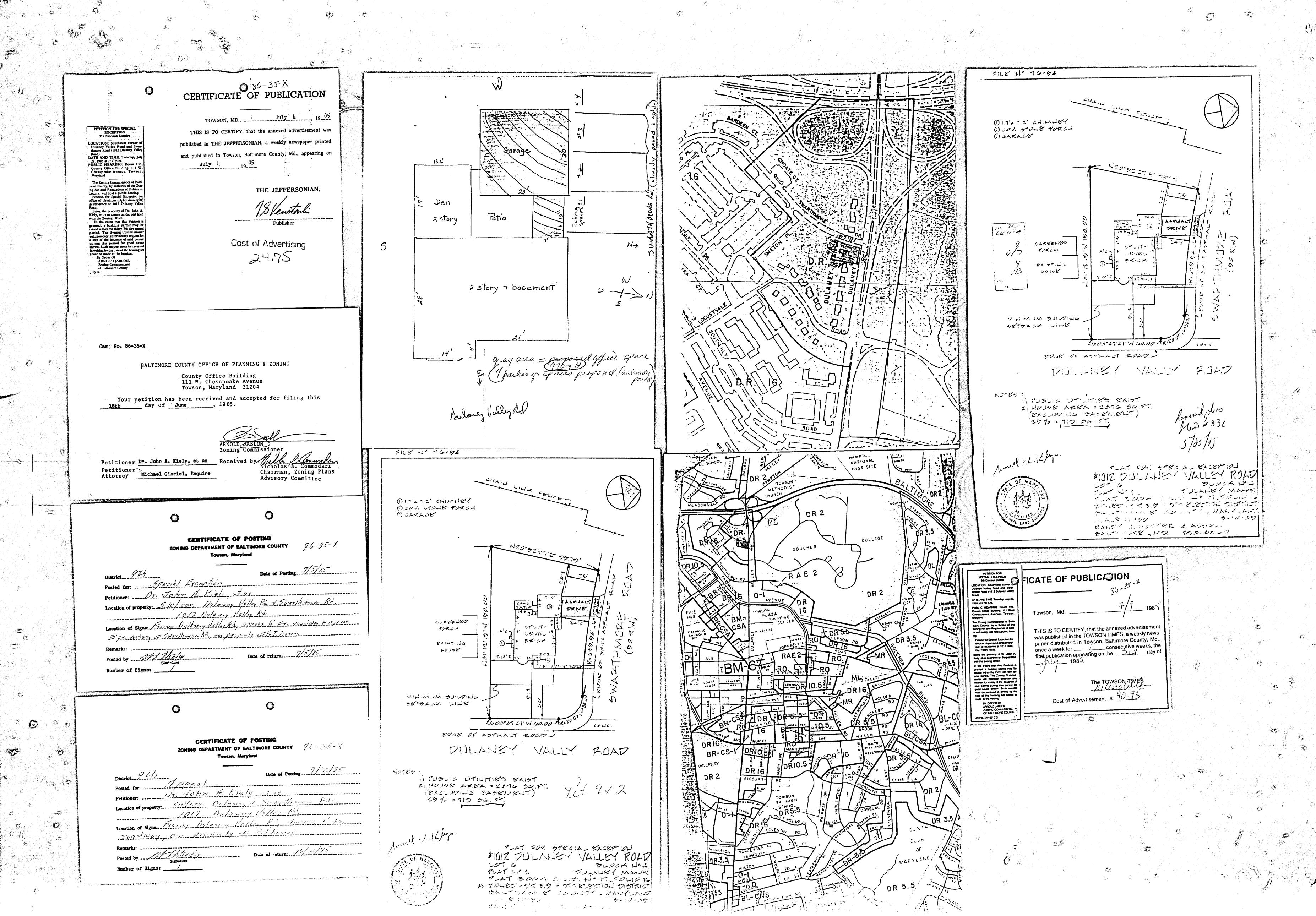
FECEIVES UP. Gertude Redden (mr. g. marshaff &

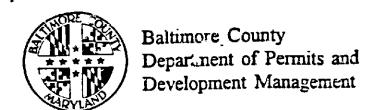
9th District

SW/cor. Dulaney Valley & Swarthmore Rds. (1012 Dulaney Valley Pd.) DR. JOHN A. KIELY, ET UX

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Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

September 15, 1997

Michal K. Spedak, M.D., P.A. 26 West Pennsylvania Avenue Towson, MD 21204

> RE: 1010 Dulaney Valley Road Zoning Case #86-35-X 9th Election District

Dear Dr. Spodak:

In response to your letter dated September 10, 1997, the following has been determined.

The current zoning of 1010 Dulaney Valley Road is R-O-A. Enclosed, for your reference, please find a copy of a portion of the current zoning map NE-11A.

The <u>Baltimore County Zoning Regulations</u> (BCZR), Section 202.3, allows the following uses in a R-O-A zone:

- "A. Uses permitted by right. The following uses, only, are permitted by right in any R-O-A zone:
  - 1. Use permitted by right and as limited in D.R. 3.5 zones.
  - Class A office buildings containing offices, and their accessory uses including surface parking, but not including parking as a principal use, except as provided under Section 409.7B.2.
  - 3. A single-family or two-family, detached dwelling in which a portion of the building is converted to offices and a portion is used for a dwelling, without any external enlargement, except as permitted and conditioned by Section 202.5, for the purpose of creating office space or otherwise accommodating the office use. Residential expansion is subject to the conditions of Section 202.3.B. and 202.5.
  - 4. The reconstruction of a Class A office building which is destroyed by fire or other casualty, subject to the conditions of Section 202.6.

Michal K. Spodak, M.D., P.A. September 15, 1997 Page 2

B. Uses permitted by special exception. Uses permitted by special exception and as limited in D.R. 3.5 zones, only, are permitted by special exception. Any dwelling which is under application for either a change in zoning classification to R-O-A or for a conversion from a residential use to an office use after obtaining the R-O-A zoning classification shall require a special exception if the dwelling has been enlarged in floor area by ten percent or more within a period of five years prior to the date of application for change or conversion."

This property was also subject in zoning case 86-35-X, which allowed for the conversion of a portion of the offices. This hearing is still valid as long as it was acted upon within 2 year of the granting of the case. Any change is use from what was granted would need to be reviewed by this office as a Class "A" conversion, use permit, or a change of occupancy.

The property was in the past zoned D.R.-3.5 and changed to R-O-A under the 1996 comprehensive map process. The effective date of the 1996 maps was December 2, 1996.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Very truly yours,

Catherine A. Milton

Planner II
Zoning Review

CAM:sci

**Enclosure** 

c: zoning case #86-35-X

PETITION FOR SPECIAL EXCEPTION 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 z part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Office of physician (Ophthalmologist) in residence at 1012 Dulaney Valley Road Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. 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: Legal Owner(s): Dr. John A. Kiely. (Type or Print Name) (Type or Print Name) Mary Kiely (Type or Print Name) City and State Attorney for Petitioner 8415 Bellona Lane (301) 821-1970 204 N. Liberty Street, Suite 400 Name, address and phone number of legal owner, contract purchaser or representative to be contacted Baltimore, MD 21201 Michael Gisriel, Esquire 204 N. Liberty St., Suite 400 (301)539-0513 Address Baltimore, MD 21201 ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ 18th\_\_\_\_ day of \_\_\_\_\_\_, June \_\_\_\_\_, 19\_85\_, 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 103, County Office Building in Towson, Baltimore County on the 23rd day of July 1985, at 2:30 o'clock MICROFILMED BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon

TO Zoning Commissioner

Date July 11, 1985

Norman E. Gerber, Director

SUBJECT Zoning Petition No. 36-35-X

FROM Office of Planning and Zoning

This office is not opposed to the granting of a special exception for a doctor's office at this location in conformance with the applicable regulations. If granted, it is requested that landscaping for screening of the parking area be required.

Norman E. Gerber, Director

NEG:JGH:s1m

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Company of the Compan

"ICROFILMED

FEE-SIMPLE DEED-CODE-City or County

This Deed, Made this Fifteenth day of January in the year one thousand nine hundred and eighty-five , by and between FRIEDA G. SCHAEFER

Baltimore County in the State of Maryland, of the first part, and
JOHN A. KIELY and MARY KIELY, his wire

Witnesseth, That in consideration of the sum of One Hundred Eighty Thousand Dollars (\$180,000.00), the receipt of which is hereby acknowledged, the said party of the first part

do es want and convey unto the said parties of the second part, as tenants by

### 13.00

the entireties, their assigns, the survivor of them, and the survivor of them.

heirs and assigns, in fee simple, all that lot or parcel of ground, situate, lying and being it Baltimore County, State of Maryland, aforesaid, and described as follows, that is to say:-

BEING KNOWN AND DESIGNATED as Lot No. 6, Block 4, as shown on Plat No. 1 of Dulaney Manor, recorded among the Plat Records of Baltimore County in Plat Book G.L.B. No. 17, folio 16. The improvements thereon being known as No. 1012 Dulaney Valley Road.

BEING THE same lot of ground which by Deed dated December 27, 1955 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2847 folio 337, was granted and conveyed by Beatrice E. Debring and Paul J. Debri. her husband, to Alfred A. Arnold and Phyllis L. Arnold, his wife. The said Phyllis L. Arnold departed this life on or about 31, Day October, 1964 thereby vesting title in the said Alfred A. Arnold absolutely.

BEING ALSO the same lot of ground which by Deed dated 3-31-65, recorded among the Land Records of Baltimore County in Liber RRG 4441 folio 191 was granted and conveyed by Alfred A. Arnold unto Albert P. Schafer and Frieda G. Schaefer, his wife. The said Albert P. Schaefer apparted this life on or about 199 21, 1977, thereby vesting title in the said Frieda G. Schaefer absolutely.

ASSESSED TO SELECTION

BALFOR PATE

CLERK DATE

of the second part.

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE DO DATE //16/64

#42273 COO2 ROZ 11315

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MICROFILMED

County Board of Appeals of Baltimore County
Room 200 Court House
Cateson, Maryland 21204
(301) 494-3180
March 12, 1986

Michael Gisriel, Esquire 204 N. Liberty Street Suite 400 Baltimore, MD 21201

> Re: Case No. 86-35-X Dr. John A. Kiely, et ux

Dear Mr. Gisriel:

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

Very truly yours,

Edith T. Eisenhart,
Adm. Secretary

Enclosure

cc: Dr. John A. Kiely, et ux
Mr. Norbert Falter
Mr. J. Marshall Jones, Jr.
Charles H. Strickroth, C.E.O.
Phyllis Cole Friedman
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer

MICROFILMED

Together with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns and the survivor of them, and the survivor's personal representatives,

heirs and assigns, in fee simple.

And the said part y of the first part hereby covenant that she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that she will warrant specially the property granted and the she will execute such further assurances of the same as may be requisite.

Witness the hand and seal of said grantor

FRIEDA G. SCHAEFER

(SE.

STATE OF MARYLAND. Baltimore City , to wit:

I HEREBY CERTIFY, That on this Fifteeneth day of January
in the year one thousand nine hundred and eighty-five ,before me, the subscriber,
a Notary Public of the State of Maryland, in and for Baltimore City aforesaid,
personally appeared FRIEDA G. SCHAEFER

As Witness my hand and Notarial Seek

My Commission expires 7-1-80.

Mail to Arm France A. Clerk

Receipt Re. 1300

M.DAUFILIES

IN THE MATTER

OF THE APPLICATION OF

DR. JOHN A. KIELY, ET UX

FOR SPECIAL EXCEPTION FOR AN

OFFICE OF A PHYSICIAN IN A

RESIDENCE LOCATED ON THE

SW CORNER DULANEY VALLEY RD.

AND SWARTHMORE ROAD

9th DISTRICT

: BEFORE

COUNTY BOALD OF APPEALS

FOR SPECIAL EXCEPTION FOR AN

OF

BALTIMORE COUNTY

NO. 86-35-X

OPINION

This case comes before the Board on appeal from a decision of the Deputy Zoning Commissioner denying the Petitioner a special exception to allow office use for part of the residence in which the physician resides.

The property is located on the southwest corner of Dulaney Valley Road and Swarthmore Road, in the Ninth Election District of Baltimore County. The case was heard de novo this day, February 26, 1986, in its entirety.

Dr. John A. Kiely, property owner and Petitioner, was the only witness to testify on behalf of the petition. He testified that he is an Ophthalmologist who practices at Mercy Hospital and Bon Secours Hospital, and that eye operations are a substantial part of his practice. He testified that it was his desire to use the garage and breezeway area of his house, containing some 470 square feet, for a satellite medical office, the main purpose of which would be to see one patient at a time, by appointment only, for normal checkups following eye surgery. Dr. Kiely testified that he would have no objection to restrictions placed upon this special exception requiring four (4) off-street parking spaces, screening for these spaces,

County Board of Appeals of Baltimore County

Room 200 Court House (Heoring Room #218)

Towson, Maryland 21204

(301) 494-3180

November 15, 1985

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. 86-35-X

DR. JOHN A. KIELY, ET UX

SW corner of Dulaney Valley and
Swarthmore Roads
(1012 Dulaney Valley Rd.)

9th District

SE-Office of physician in residence 8/28/85 - D.Z.C.'s Order-DENIED

1

ASSIGNED FOR:

WEDNESDAY, FEBRUARY 26, 1955, at 10 a.m.

cc: Michael Gisriel, Esq.

Counsel for Petitioner

Dr. John Kiely and
Mary Kiely

Michael Gisriel, Esq.

Counsel for Petitioner

Petitioners

People's Counsel

Mary Kiely Petitioner

Mr. Norbert Falter Protestant

Mr. J. Marshall Jones, Jr.
Charles H. Strickroth, C.E.O.

Gertrude R. Jones

Phyllis C. Friedman
Norman Gerber
James Hoswell

Arnold Jablon Jean Jung

James Dyer

STAPPONT

June Holmen, Secretary

DR. JOHN A. KIELY - #86-35-X

only his wife (a registered nurse) as his assistant, no scheduled office hours nor any sign indicating this use other than the sign permitted by Baltimore County regulations and that no other commercial use will be conducted from these premises. He also testified that his address is 1012 Dulaney Valley Road, that 1006 Dulaney Valley Road is used as a full time dental office and that 1018 Dulaney Valley Road is zoned R-O and is used in its entirety as a medical facility. He also submitted comments from various Baltimore County departments indicating no opposition to this request. Upon completion of his testimony, Petitioner rested his case.

Protestants presented three witnesses in opposition to the granting of this special exception. Mrs. Gertrude Jones, 1016 Dulaney Valley Road first testified. Mrs. Jones stated that her residence is next-door to 1018 Dulaney Valley Road, the building owned and operated full time as a medical facility. She stated that she had no objections to this use since ample off-street parking was provided but that she generally objected to any use that would increase the traffic problem already existing in this area.

Mrs. Josephine Falter, 1014 Dulaney Valley Road also was concerned about the traffic situation and particularly objected to any use that could possibly increase the parking problem on Swarthmore Road.

Michael Flanigan, Associate Traffic Engineer for Baltimore
County, testified that this site must provide off-street parking to gain his

DR. JOHN A. KIELY - #86-35-X

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department's approval. He further noted that the proposed parking area must conform to all Baltimore County standards. This testimony completed the

After consideration of all the testimony and evidence presented. the Board is of the opinion that all the requirements of §502.1 of the Baltimore County Zoning Regulations have been met. Therefore, the special exception should be granted and will so order. The proposal meets all area requirements, is not out of character with other uses already existing in close proximity, will not drastically alter the outward appearance of the residence and with reasonable restrictions will create no detriment to the health, safety and welfare of the neighborhood.

For the reasons set forth in the aforegoing Opinion, it is this 12th day of March, 1986, by the County Board of Appeals, ORDERED that the special exception petitioned for, be and the same is hereby GRANTED, subject to the following restrictions:

> 1. That paved off-street parking for the required number of spaces be provided in compliance with all Baltimore County regulations, and that screening for this parking area be provided to shield neighboring residences from its view as deemed necessary by Baltimore County authorities.

DR. JOHN A. KIELY - #86-35-X

- That only one person other than the doctor be employed in this satellite office.
- That no sign be permitted advertising office hours or office days other than the one sign permitted as a right by Baltimore County regulations.
- That no use, other than a satellite office use by a resident Ophthalmologist be permitted by this special exception.

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

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

OFFICE OF PLANNING & ZONING TOWSON, MARYLAND 21204

ARNOLD JABLON ZONING COMMISSIONER

JEAN M. H. JUNG DEPUTY ZONING COMMISSIONER

August 27, 1985

Mr. Michael Gisriel, Esquire 204 N. Liberty Street, Suite 400 Baltimore, Maryland 21201

> RE: PETITION FOR SPECIAL EXCEPTION SW corner of Dulaney Valley and Swarthmore Roads (1012 Dulaney Valley Road) 9th Election District Dr. John A. Kiely, et ux, Petitioners Case No. 86-35-X

Dear Mr. Gisriel:

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

> Very truly yours, JEAN M. H. JUNG Deputy Zoning Commissioner

Attachments

LOCATION:

cc: People's Counsel

Mr. Norbert Falter 1014 Dulaney Valley Road Towson, Maryland 21204

Mr. J. Marshall Jones, Jr. 1016 Dulaney Valley Road Towson, Maryland 21204

The Petitioners herein request a special exception for an office of a physician (opthalmologist) in a residence.

\* \* \* \* \* \* \* \* \* \*

Petitioners \*

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 86-35-X

RE: PETITION FOR SPECIAL EXCEPTION

(1012 Dulaney Valley Road)

Dr. John A. Kiely, et ux,

and Swarthmore Roads

9th Election District

SW corner of Dulaney Valley

Testimony by and on behalf of the Petitioners indicated that the subject property, located on the west side of Dulaney Valley Road between the Beltway and Fairmount Avenue, is improved with a two story residence and is one of a number of large single family homes along that strip. The resident ophthalmologist proposes to utilize 486 square feet located in the existing breezeway and garage as a satellite office for an average of ten hours per week; never on a full time basis. The house contains 2,876 square feet excluding the basement. He would be the only practicing professional, generally using the services of his wife as the secretary/receptionist, but requesting permission to employ one non-resident, non-professional. A 456 square foot asphalt parking pad is available for family, employee and patient parking. The adjacent Swarthmore Road has been closed just west of the site. The Petitioner was aware that the site was an issue during the 1984 Comprehensive Rezoning process, that the Planning Board recommended denial of the request and that the former zoning was retained. He kne he zoning designation on the property prior to purchase and did not have a zon g contingency clause placed on the purchase contract. He spoke of an in-

creasing traffic flow on Dulaney Valley Road and increasing pressure to intensify thing within the strip of residences.

Two immediate neighbors testified in protest. One home, #1006, in the row of houses on the west side of Dulaney Valley Road from the Beltway to Fairmount,

has been a dentist office for over twenty-five years. The 1984 Comprehensive Zoning process granted R.O. zoning to #1018 for a Class A office building for a psychiatrist, however, a stop-work order was issued on July 19, 1985 for the project to be reviewed. The ten or so single family dwellings on this section of the west side of Dulaney Valley Road are in a unique area, utilized and maintained as fine quality single family dwellings although traffic is heavy on Dulaney Valley Road. Most of the residents have occupied their homes in this quiet neighborhood from eighteen to thirty years. Dulaney Towers was denied access to Swarthmore Road because of Dulaney Valley Road traffic.

All parties stipulated that the Deputy Zoning Commissioner could visit the site and the general neighborhood.

After due consideration of all the evidence and testimony presented, a visit to the area, and a careful perusal of the zoning map of the area and general planning documents, in the opinion of the Deputy Zoning Commissioner the residence in question is a part of a fine, long-standing residential community where there has been no indication that the Baltimore County Planning Department, Planning Board or County Council wish to convert the houses to offices by R.O. or other office zoning. The one existing dentist office at #1006 has been a part of the home at least twenty-five years; the house at #1018 is very close to the Beltway and receives a great deal of noise, fumes and dirt from the Beltway, factors that would be quite undesirable for a residence. The other houses been and continue to be viable as beautiful, pleasant family dwellings. The Eputy Zoning Commissioner, informed during the hearing of requested zoning chapes prior to the 1984 zoning map, is not so naive as to believe that pressure will not be exerted in the future to permit more offices among this of homes. In the opinion of the Deputy Zoning Commissioner, to grant a

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in this unique situation would be contrary to the character of the meighborhood, would be extremely detrimental to the general welfare of the immediate neighbors, the owners and residents of the entire row of homes and indeed to the ci-

tizens of Baltimore County, would be contrary to good planning principles for land use in that neighborhood in todays circumstances and would cause undue pressure for unwise zoning changes in the future. Pursuant to the advertisement, posting of property, and public hearing on

the petition, and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations not having been met, as well as the health, safety and general welfare of the community being adversely affected, the special exception should not be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 28 th day of August, 1985, that the Petition for Special Exception for an office of a physician (opthalmologist) in a residence is hereby DENIED.

> Deputy Zoning Commissioner of Baltimore County

PETITION FOR SPECIAL EXCEPTION

9th Election District

in residence at 1012 Dulaney Valley Road.

Southwest corner of Dulaney Valley Road and Swarthmore Road (1012 Dulaney Valley Road)

DATE AND TIME: Tuesday, July 23, 1985 at 2:30 p.m.

PUBLIC HEARING: Room 106, County Office Building, 111 West 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 Exception for office of physician (Ophthalmologist)

Being the property of <u>Dr. John A. Kiely, et ux</u> the plat 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 received in writing by the date of the hearing set above or made at the hearing.

> BY ORDER OF ARNOLD JABLON ZCNING COMMISSIONER OF BALTIMORE COUNTY

DATE

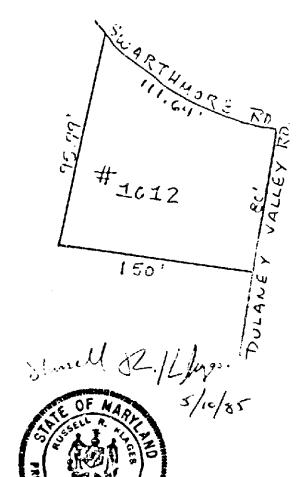
LEGAL DESCRIPTION

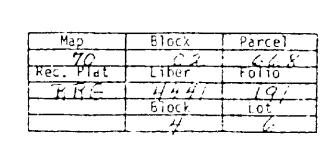
1012 DULANEY VALLEY ROAD

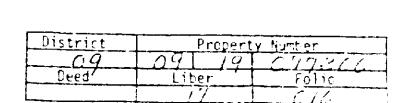
The subject property is, in fee simple, consisting of all that lot or parcel of ground, situate, lying and being in Ealtimore County, State of Maryland and described as follows:

BEGINNING for the same on the southwest corner formed by the intersection of Swarthmore Road and Dulaney Valley Road and Duing Known and designated as Lot No. 6, Block 4, as shown on Plat No. 1 of Dulaney Manor, recorded among the Plat Records of Baltimore County in Plat Book G.L.B. No. 17, folio 16. The improvements thereon being known as No. 1012 Dulaney Valley Road

BEING the same lot of ground which by Deed dated January 15, 1985 and recorded in the Land Records of Baltimore County in Liber E.H.K. Jr. No. 6851, folio 448, was granted and conveyed by Freda G. Schaufer to John A. Kiely and Mary Kiely, his







- 3 **-**

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER SW Corner of Dulaney Valley Rd. and Swarthmore Rd. (1012 Dulaney: OF BALTIMORE COUNTY

DR. JOHN A. KIELY, et ux, Petitioners

£ 18.

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Valley Rd.), 9th District

::::::

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

> Phyllis Cole Friedman People's Counsel for Baltimore County

Peter Max Zimmerman Deputy People's Counsel Rm. 223, Court House Towson, MD 21204 494-2188

I HEREBY CERTIFY that on this 9th day of July, 1985, a copy of the foregoing Entry of Appearance was mailed to Michael Gisriel, Esquire, 204 N. Liberty St., Suite 400, Baltimore, MD 21201, Attorney for Petitioners.

Keter Max Zumen

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

July 17, 1985

Michael Gisriel, Esquire 204 N. Liberty Street, Suite 400 Baltimore, Maryland 21201

RE: Petition for Special Exception SW corner of Dulaney Valley Rd. and Swarthmore Rd. (1012 Dulaney Valley Rd.) 9th Election District Dr. John A. Kiely, et ux, Petitioner

Dear Mr. Gisriel,

This fee must be paid and the zoning sign and post returned on the day of the hearing. Do not remove sign until day of the

Please make the check payable to Baltimore County, Maryland, BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

Case No. 86-35- X

This is to advise you that \$ 70.70 is due for advertising and posting of the above property. This fee must be paid before

- old Sellon

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

August 5, 1985

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Maryland 21204

> Re: Items #326-#330 & #332 #336 & #339 (1984-1985) Various Locations Zoning Advisory Committee Meeting of May 14, 1985

Dear Mr. Jablon:

HARRY J. PISTEL, P. E.

The following comments are furnished in regard to the plats submitted to this office for review by the Zoning Advisory Committee in connection iwth the subject items.

GENERAL COMMENTS:

Partinantan terpangan pangan terpangan terpangan pangan pa

Since no public facilities are involved with any of the above referenced petitions, this office has no comment at this time. However, at such time that the various applicants file for building permits, the Bureau of Public Services will comment on the existence and availability of public facilities to support any construction.

Very truly yours,

James A. Markle, P.E., Chief Bureau of Public Services

JAM:PMO:blp

cc: file

State Highway Administration

Maryland Department of Transportation

VALIDATION OR SIGNATURE OF CASHIER

William K. Hellmann Hal Kassoff Administrator

May 23, 1985

Mr. A. Jablon Zoning Commissioner County Office Bldg. Towson, Maryland 21204 Att: N. Commodari

Re: Property Owner: Dr. John A. Kiely, et ux Location: S/W corner Dulaney Valley Rd and Swarthmore Road Existing Zoning: D.R. 3.5 Proposed Zoning: Special Exception for a Dr's office while the legal owners also reside in another part of the property. Acres: 80/95.79 x 116. 64/150 DISTRICT: 9th Election

Dear Mr. Commodari:

On review of the submittal of 2/1/85, showning all access to the site by way of Swathmore Road, the State Highway Administration finds the plan generally acceptable.

> Very truly yours, Charles Lee, Chief Bureau of Engr. Access Permits

CL-GW:es

by: George Wittman

cc: J. Ogle

My telephone number is 301-659-1350Teletypewriter 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

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWNSON MARYLAND 21264 NORMAN E GERBER Director

VALIDATION OR SIGNATURE OF CASHIER

Mr. Arnold Jablan Zoning Commissioner County Office Building Towson, Maryland 21204

Dear Mr. Jublon:

JULY 3, 1985

Re: Zoning Advisory Meeting of MAY 14, 1985

Item + 336

Property Owner: DR JOHN A. KIELT, et UX

Location: SW/CORNER DULANEY VALLEY RO. + SWARTHMORE RO

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are

(X)There are no site planning factors requiring comment.

(A County Review Group Meeting is required.

(A County Review Group meeting was held and the minutes will be forward by the Bureau of Public Services.

(I) This site is part of a larger tract; therfore it is defined as a subdivision. The plan must show the entire tract.

(B) A record plat will be required and must be recorded prior to issuance of a building permit.

(C) The access is not satisfactory.

(C) The circulation on this site is not satisfactory. The circulation on this site is not satisfactory. ( )The circulation on this site is not satisfactory.
 ( )The parking arrangement is not satisfactory.
 ( )Parking calculations must be shown on the plan.
 ( )This property contains soils which are defined as wetlands, and development on these soils is prohibited.
 ( )Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-93 of the Development Regulations.

( )Development of this site may constitute a potential conflict with the Baltimore County Master Plan.

( )The amended Development Flan was approved by the Planning Board on Landscaping: Must comply with Baltimore County Landscape Manual. The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service The property is located in a traffic area controlled by a "D" level intersection as defined by Bill 178-79, and as conditions change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council. ( )Additional comments:

Eugene A. Bober Chief, Current Planning and Development

June 19, 1985

NOTICE OF HEARING RE: PETITION FOR SPECIAL EXCEPTION SW corner of Dulaney Valley Rd. and Swarthmore Rd. (1012 Dulaney Valley Rd.) 9th Election District Dr. John A. Kiely, et ux, Petitioners

2:30 p.m. Tuesday, July 23, 1985 PLACE: Room 106, County Office Building, 111 West Chesapeake

Case No. 86-35-X

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT 10-616 815. 200 AMOUNT \$/00.00

Avenue, Towson, Maryland

Michael Gisriel, Esquire

204 N. Liberty Street, Suite 400 Baltimore, Maryland 21201

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE July 15, 1985

COUNTY OFFICE BLDG. Michael Gisriel, Esquire 111 W. Chesapeake Ave. Towson, Maryland 21204 204 N. Liberty Street, Suite 400 Baltimore,, Maryland 21201

> RE: Item No. 336 - Case No. 86-35-X Petitioners - Dr. John A. Kiely, et ux Special Exception Petition

Bureau of Dear Mr. Gisriel: Engineering Department of Traffic Engineering State Roads Commission Bureau of Fire Prevention Health Department

Nicholas B. Commodarı

Chairman

MEMBERS

Project Planning

Building Department

Board of Education

Industrial

Zoning Administration

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 tearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of

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, Terbeles B. Connadari. NICHOLAS B. COMMODARI Chairman

Zoning Plans Advisory Committee Enclosures

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS DIRECTOR

Towson, Maryland 21204

May 20, 1985

Mr. Arnold Jablon Zoning Commissioner County Office Building

ZONING GUNG

111 ~~~

Item No. 336 ZAC-Meeting of May 14, 1985 Property Owner: Dr. John A. Kiely, et ux S/W Corner Dulaney Valley Road and Swarthmore Road Existing Zoning: D.R.3.5 Proposed Zoning: Special exception for a Doctor's office while the legal owners also reside in another part of the property.

80/95.79 X 116.64/150 Acres: District:

Dear Mr. Jablon:

The site should have on-site parking that meets County standards.

Traffic Engineering Assoc. I

MSF/ccm



PAUL H. REINCKE CHIEF

May 15, 1985

Mr. Arnold Jablon 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: Dr. John A. Kiely, et ux

Location: S/W Corner Dulaney Valley Road and Swarthmore Road

Item No.: 336

Gentlemen:

1.30 ··

Zoning Agenda: Meeting of 5/14/85

Pursuant to your request, the referenced property has been surveyed by this Direau 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 located at intervals or \_\_\_\_\_\_feet along an approved road in accordance with Baltimore County Standards as published by the feet along an approved road in 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.

(  $\mathbf{x}$  ) 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

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

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

REVIEWER: Cast John Kelly 5/16/85 Noted and Errol h Markowitz

Planning Group

Reviewer: Cast John Kelly 5/16/85 Approved: Fire Dankowitz Special Inspection Division

County Board of Appeals of Baltimore County

Room 200 Court House

Towson, Maryland 21204

(301) 494-3190

October 17, 1985

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES TOWSON, MARYLAND 21204

May 21, 1985

TED ZALESKI, JR.

Mr. Armold Jablon, Zoning Commissioner Office of Planning and Zoning

Comments on Item # 336 Zoning Advisory Committee Meeting are as follows:

Dr. John A. Kiely, et ux S/W Corner Dulaney Valley Road and Swarthmore Road

APPLICABLE ITEMS ARE CIRCLED:

All structure. shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Aged (A.N.S.I. #117-1 - 1980) and other applicable Codes and Standards. (B) A building and other miscellaneous permits shall be required before the start of any construction.

C. Residential: Two sets of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is/is not required on plans and technical data. D. Commercial: Three sets of construction drawings sealed and signed by a registered in Maryland Architect or Engineer shall be required to file with a permit application. Reproduced seals are not acceptable.

E. All Use Croups except R-4 Single Family Detached Dwellings require a minimum of 1 hour fire rating for exterior walls closer than 6'-0 to an interior lot line. R-4 Use Groups require a one hour wall if closer than 3'-0 to an interior lot line. Any wall built on an interior lot line shall require a fire or party wall. See Table 401, Section 1407, Section 1406.2 and Table 1402. No openings are permitted in an exterior wall within 3'-0 of an interior lot line.

F. The structure does not appear to comply with Table 505 for permissable height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 401 and 505 and have your Architect/Engineer contact this department.

G. The requested variance appears to conflict with Section(s) \_\_\_\_\_\_, of the Baltimore County Building Code. H. When filing for a required Change of Use/Occupancy Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of Use Groups are from Use to Use to Mixed Uses . See Section 312 of the Building Code.

The proposed project appears to be located in a Plood Plain, Tidal/Riverine. Please see the attached copy of Section 516.0 of the building Code as adopted by Bill #17-85. Site plans shall show the correct elevations above sea level for the lot and the finish floor levels including basement.

(3) Comments: See Section 1405.5.3 for Code requirements.

K. These abbreviated 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 the applicant may obtain additional information by visiting Room 122 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204. Marles E. Churchen.
BY: C. E. Burnham, Chief

dulantu toutur 911 LOCUSTVALE ROAD, TOWSON, MARYLAND 21204-2704 TELEPHONE (301) 296-7400

Re: Case No. 86-35-X Dr. John A. Keily

Dear Mr. Gisriel:

Michael Gisriel, Esquire

204 N. Liberty Street Paltimore, MD 21201-3999

American National Building

Suite 400

In answer to your letter of October 9, 1985, in which you request information on the standard of review of the above entitled case, please be advised that all cases before the Board of Appeals are de novo hearings and the Board makes its judgments on the merits of the case as presented to it. There is no need to evidence error in the Zoning Commissioner's ruling as the Board's decision will be based on the evidence pefore it.

As the Board's docket now stands, your case will probably be set for hearing sometime between the middle and the end of February.

Very truly yours,

WTH:e

cc: Dr. John A. and Mary Kiely Mr. Norbert Falter Mr. J. Marshall Jones, Jr. Charles H. Strickroth, C.E.O. Gertrude R. Jones Phyllis Cole Friedman

October 3, 1985

Room 200 Courthouse Towson, Md. 21204 Dear Sir or Madam: We would appreciate being advised of the:

County Board of Appeals

Zoning Appeal Public Hearing

Case # 86.35-x for Dr. & Mrs. John A. Kiely 1012 Dulaney Valley Road

Thank you. Charles H. Strickroth, C.E.O. cc: Mr. Allan L. Lippmann, President - D.T.M.C.

DULANEY TOWERS MAINTENANCE CORPORATION

Property owner, contract purchaser or legal representative <u>must</u> complete the following information\* as shown on tax bills: RECEIVED. \*Avail PTANAING TON ZONING Assessment Recordation Office

 $\mathbf{O}$ 

Office of Planning and Zoning

Baltimore County, Maryland

REQUEST FOR CHANGE

1984 COMPREHENSIVE ZONING MAP

(Please Print)

Please accept this form as a part of the material to be submitted

as a request for a change in zoning on the following property(ies).

Contract Purchaser or Legal Representative

ADDRESS 1012 Dularer Valley Road Towson Md. 2120

I am the: 🔀 Property Owner

PROPERTY LOCATION South of exit 27 of Batto Beltway

TO: Director of Planning and Zoning of Baltimore County

NAME Albert F. - Frieda G. Schaefer

ACREAGE OF LOT SIZE 80.09 X 111.69 150

PROPOSED USE Profescional Office - HO.

EXISTING USE bosidence

NOTE: I accept full responsibility

for all information I have supplied

with regard to this request.

Room 48 Court House

Towson, Md. 21204

(494-3691)

W THOMAS GISRIEL

MICHAEL GISRIEL

WM H ZIMMERMAN

THOMAS J GISRIEL

EXISTING ZONING DR 3.5

REQUESTED ZONING RO.

PHONE NO. 325-3344

ORGANIZATION (if any)

Property Number
09119077.300
Liber Folio

155UE"NO."4-73"

(Office Use Only)

AREA Control

PLANNER LWM

DATE 5/28/83

(1012 Dulaney Valley Road) 9th Election and (RECEIPT) 4th Councilmanic District Case No. 86-35-X Dr. John A. Kiely and Mary Kiely 1012 Dulaney Valley Road Towson, MD 21204 Petitioners \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* NOTICE OF APPEAL Please note an Appeal from your decision in the above-captioned matter, under date of August 27, 1985, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing. Michael Gisriel, Esquire 204 North Liberty Street, Suite 400 Baltimore, Maryland 21201-3999 301-539-0513 Attorney for the Petitioners Dr. John A. Kiely and Mary Kiely JUSTIFICATION FOR REQUEST (Please Summarize) became commercial. Within 1000 feet in a string buildings, and an 18 story retirement nursing complex I HEREBY CERTIFY that on this 25th day of September, 1985, a copy of the foregoing Notice of Appeal was mailed to Phyllis Cole Friedman, People's The leng erected. Directly behind exsists a 14 story aparlment Counsel, Room 223, Court House, Towson, MD 21204; Mr. Norbert Falter, Tom requesting usage for a resident prefessional office.
(If additional space is required, please attach separate sheet) 1 Mr. J. Marshall Jones, Jr., BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION No. 012511 MISCELLANEOUS CASH RECEIPT 0000 y for the Petitioners RECEIVED Michael Gisriel, Esquire Appeal for Case No. 85-65-7 \$ B033\*\*\*\*\*10870:4 0075F VALIDATION OR SIGNATURE OF CASHIER

RE: PETITION FOR SPECIAL EXCEPTION

and Swarthmore Road

SW corner of Dulaney Valley Road

BEFORE THE ZONING COMMISSIONER

OF BALTIMORE COUNTY

LAW OFFICES

GISRIEL & GISRIEL SUITE 400 AMERICAN NATIONAL BUILDING 204 N. LIBERTY STREET BALTIMORE, MARYLAND 21201-3999

October 9, 1985

Mr. Hackett, Chairman Board of Appeals Baltimore County, Maryland 01d Courthouse Second Floor Towson, MD 21204

RE: Appeal of Special Exception Case No.: 86-35-X 1012 Dulaney Valley Road

Dear Chairman Hackett:

I am writing as the attorney for the Kielys with regard to the above captioned Appeal (see attached Notice of Appeal), to request that this Appeal be set in for nearing by the Board of Appeals as soon as possible. I would appreciate your kind attention to this matter. Please have your office notify me of the date, time and place of said hearing.

Further, please let me know the standard of review in this hearing, i.e. whether the Kielys must prove that the decision of the Deputy Zoning Commissioner was "in error" or whether the Kielys will have a de novo hearing before the Board on the merits of their case.

Thank you for your prompt attention to this matter. If you have any questions, please don't hesitate to call me. I remain

Very truly yours, Michael Gisriel

MG/bls Enclosure cc: Dr. John and Mary Kiely

1016 DQ aney talley Real Towson, Maryland October 8, 1985

Baldemore County Donal Cosseque 70

Dear Sur, Inexpressor to our conversation

The fleence to our conversation of October 2, 1985, I herewith request that you send me a notice where the appeal for Dr. and Mrs. John Kylis will be scheduled its residence in question will be scheduled its residence in question to 13 Dulaney Valley toad.

Dr. Kylies can a number is #863 5-X. I am a near neighbor who is desplay interested in attending this appeal

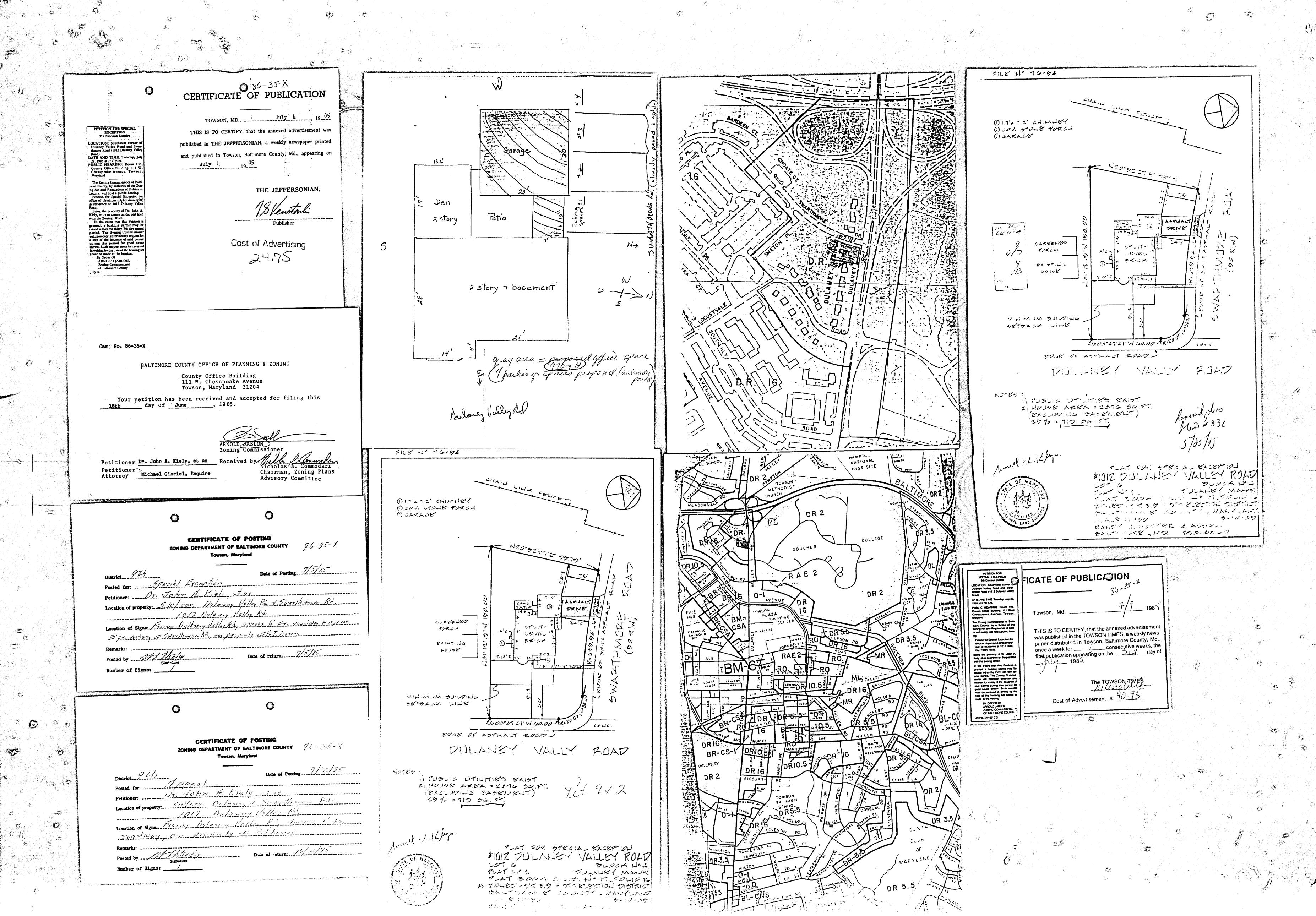
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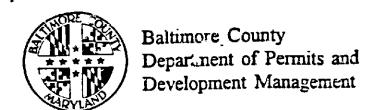
9th District

SW/cor. Dulaney Valley & Swarthmore Rds. (1012 Dulaney Valley Pd.) DR. JOHN A. KIELY, ET UX

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Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

September 15, 1997

Michal K. Spedak, M.D., P.A. 26 West Pennsylvania Avenue Towson, MD 21204

> RE: 1010 Dulaney Valley Road Zoning Case #86-35-X 9th Election District

Dear Dr. Spodak:

In response to your letter dated September 10, 1997, the following has been determined.

The current zoning of 1010 Dulaney Valley Road is R-O-A. Enclosed, for your reference, please find a copy of a portion of the current zoning map NE-11A.

The <u>Baltimore County Zoning Regulations</u> (BCZR), Section 202.3, allows the following uses in a R-O-A zone:

- "A. Uses permitted by right. The following uses, only, are permitted by right in any R-O-A zone:
  - 1. Use permitted by right and as limited in D.R. 3.5 zones.
  - Class A office buildings containing offices, and their accessory uses including surface parking, but not including parking as a principal use, except as provided under Section 409.7B.2.
  - 3. A single-family or two-family, detached dwelling in which a portion of the building is converted to offices and a portion is used for a dwelling, without any external enlargement, except as permitted and conditioned by Section 202.5, for the purpose of creating office space or otherwise accommodating the office use. Residential expansion is subject to the conditions of Section 202.3.B. and 202.5.
  - 4. The reconstruction of a Class A office building which is destroyed by fire or other casualty, subject to the conditions of Section 202.6.

Michal K. Spodak, M.D., P.A. September 15, 1997 Page 2

B. Uses permitted by special exception. Uses permitted by special exception and as limited in D.R. 3.5 zones, only, are permitted by special exception. Any dwelling which is under application for either a change in zoning classification to R-O-A or for a conversion from a residential use to an office use after obtaining the R-O-A zoning classification shall require a special exception if the dwelling has been enlarged in floor area by ten percent or more within a period of five years prior to the date of application for change or conversion."

This property was also subject in zoning case 86-35-X, which allowed for the conversion of a portion of the offices. This hearing is still valid as long as it was acted upon within 2 year of the granting of the case. Any change is use from what was granted would need to be reviewed by this office as a Class "A" conversion, use permit, or a change of occupancy.

The property was in the past zoned D.R.-3.5 and changed to R-O-A under the 1996 comprehensive map process. The effective date of the 1996 maps was December 2, 1996.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Very truly yours,

Catherine A. Milton

Planner II
Zoning Review

CAM:sci

**Enclosure** 

c: zoning case #86-35-X