DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., P. O. Box 102, Lutherville, Maryland, 21093, * IN THE

and * CIRCUIT COURT FOR

BARBARA PONIATOWSKI, 26 Greenridge Road, Timonium, Maryland, 21093, * BALTIMORE COUNTY

Plaintiffs, *

vs. *

NICHOLAS B. MANGIONE, 1205 York Road, Lutherville, Maryland, 21093, *

and *

LOUIS MANGIONE, 1205 York Road, Lutherville, Maryland, 21093, *

and *

ARNOLD JABLON, ESQ., Zoning Commissioner, County of Baltimore, 111 West Chesapeake Avenue, Towson, Maryland, 21204, *

and *

JEAN JUNG, Deputy Zoning Commissioner, County of Baltimore, 111 West Chesapeake Avenue, Towson, Maryland, 21204, * Case No. 28/342/87CSP 425

Defendants. *

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

COMPLAINT FOR AN INTERLOCUTORY INJUNCTION, PERMANENT INJUNCTION, SHORTENING TIME FOR DEFENDANTS' ANSWERS, SCHEDULING AN EMERGENCY HEARING AND ANCILLARY RELIEF

1

CV-1

87-1584 Case file
87-335-SPH

CIRCUIT COURT FOR BALTIMORE COUNTY

SUZANNE MENSH, CLERK
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21204-0754

RECEIVED
FEB 10 1987
ZONING OFFICE

WRIT OF SUMMONS — Case Number 28/342/87CSP-425

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: JEAN JUNG, Deputy Zoning Commissioner, County of Baltimore
Name
Address 111 West Chesapeake Avenue
County Towson, MD 21204

& ORDER OF COURT

You are hereby summoned to file a *written* response by pleading or motion in this Court to the attached Complaint filed by

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., AND BARBARA PONIATOWSKI
(Name & Address)
P.O. Box 102, Lutherville, MD 21093 — 26 Greenridge Rd. Timonium, MD 21093

within five days after service of this summons upon you.

WITNESS the Honorable Chief Judge of the Third Judicial Circuit of Maryland.

Date Issued February 11, 1987 CLERK Suzanne Mensh

TO THE PERSON SUMMONED:

1. PERSONAL ATTENDANCE IN COURT ON THE DAY NAMED IS NOT REQUIRED.
2. FAILURE TO FILE A RESPONSE WITHIN THE TIME ALLOWED MAY RESULT IN A JUDGMENT BY DEFAULT OR THE GRANTING OF THE RELIEF SOUGHT AGAINST YOU.

SHERIFF'S RETURN:

FEE $ SHERIFF

NOTE:
1. This summons is effective for service only if served within 60 days after the date it is issued.
2. Proof of service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this notice is served by private process, Process server shall file a separate affidavit as required by Rule 2-126(a).

MICROFILMED

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 62 PAGE 361 CASE NO 88 CG 4761 CATEGORY APPEAL

	ATTORNEYS
DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. BARBARA PONIATOWSKI Appellants	Michael P. TAnczyn Atty for the Appellant Suite 106, 606 Baltimore Ave. (04) 296-8823
v. NICHOLAS B. MANGIONE, LOUIS MANGIONE, CHARLES W. HELD, JR. HARRIETT W. HELD, his wife BOARD OF APPEALS Appellee	v. Richard J. DiPasquale 5718 Harford Rd (14) 426-4533 NICHLAS B. MANGIONE, LUIS MANGIONE CARLES W. HELD, JR. and HARRIETT W. HELD
IN THE MATTER OF THE APPLICATION OF NICHOLAS B. MANGIONE et al FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE S/W CORNER OF GREENRIDGE ORAD AND TENBURY ROAD, 9th ELECTION DISTRICT, 4th COUNCILMANIC DISTRICT.	TRANSCRIPT IN BASEMENT LOCATION: Box 10 Exhibits in Box 44 4-28-94 returned Returned 2-10-95 KP

	COSTS
	CV LEN 88761 W
	CV CLK 60.00
	S LRY 10.00
	POST 2.00
	CNSTBK TL 50.00
	MA 96 0001 R02 T15:22 12/02/88

(1) Dec 2,1988 - Appellants' Notice for Appeal from the Decision of the Baord of Appeals fd.

(2) Dec 2, 1988 - Certificate of Notice fd.

(3) Dec 12, 1988 - Appellant's Petition to Accompany Order for Appeal fd.

(4) Dec 21, 1988 - App of Richard J. DiPasquale for the Appelleas, NICHOLAS B. MANGIONE, LOUIS MANGIONE, CHARLES W. HELD, JR and HARRIETT W. HELD and Same Day Motion to Dismiss fd.

(5) Dec 23, 1988 - Pltffs' Motion to Extend Time to Transmit Record fd.

(6) Jan 4,1989 - Appellants' Answer to Motion to Dismiss with Request for Hearing fd.

(7) Jan 11, 1989 - Order of Court that the time within which the transcript shall be transmitted to this Court shall be extended to on or before March 3, 1989 as prayed. (CRL)

(8) FEb. 28, 1989 - Transcript of Record fd.

(9) FEb. 28, 1989 - Notice of Filing of Record fd.

(10) March 1,1989 - Transcript of Hearing of May 31,1988 fd.

(11) April 12, 1989 - Appellant's DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. Memorandum of Law

95 FEB 14 PM 1:20

62 361 88CG4761

CASE NO. 88cg4761

April 24,1989 Hon. J. William Hinkel. Hearing had in re Appellees' Motion to Dismiss (paper # 4) ; DEnied. Same date, Court orders Counsel to file a Line to Amend Headi of the case.

(12) April 26,1989 - Line Amending the Case Caption fd.

(13) May 11, 1989 - Appellees' Memorandum of Law fd.

June 29,1989 Hon. A. Owen Hennegan. Hearing had. Judgment to be filed.

(14) Oct. 31,1989 - Appellant;s CO. BOARD OF APPEALS OF BALTO. CO. Memorandum Opinion and order of Court that the Decision of the CO. BOARD OF APPEALS OF BALTO. CO be and is hereby Affirmed. fd. (AOH)

Form 3A4

Jobi Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Tina Campbell — 494-2662
Masters Assignment Clerk
Medical Records

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21285-6754

Kathy Rushton — 494-2660
Jury Assignments—Motions

Irene Summers - 494-2661
Assistant Civil Assignment Commissioner
Assignment—Non-Jury—Motions

MARCH 2, 1989

TO: MICHAEL P. TANCZYN, ESQ.
RICHARD J. DIPASQUALE, ESQ.
COUNTY BOARD OF APPEALS

COUNTY BOARD OF APPEALS RECEIVED
89 MAR -3 PM 4:03

RE: NON JURY - 88-CG-4761 - DULANEY VALLEY IMPROVEMENT ASSN. ET AL VS. NICHOLAS B. MANGIONE ET AL

HEARING DATE: THURSDAY, JUNE 29, 1989 @ 9:30 a.m.

ON THE FOLLOWING: APPEAL: 1/2 day

Please see the below notations.

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.

If the above Hearing 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 PRIOR TO 15 DAYS OF TRIAL should be directed to the attention of Jobi Adams. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Grimm - 494-3497.

SETTLEMENTS: If a settlement if 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 CA1

Jobi Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Harris — 494-2662
Masters Assignment Clerk
Medical Records

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
January 13, 1989

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

TO:
Michael P. Tanczyn, Esq.
Richard J. DiPasquale, Esq.
County Board of Appeals

NOTE: CORRECTED NOTICE.

RE: 88-CG-4761 Dulaney Valley Improvement Associations Inc. ET AL vs. Nicholas B. Mangione ET AL

COUNTY BOARD OF APPEALS RECEIVED
89 JAN 17 PM 3:22

HEARING DATE: Monday, April 24, 1989, @ 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 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.

4

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. and BARBARA PONIATOWSKI, * IN THE CIRCUIT COURT
88 NOV 12 PM 12:02
* FOR BALTIMORE COUNTY

Appellants, *

vs. *

BOARD OF APPEALS, *

Appellee. * Case No. 62/361/88CG-4761

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

ORDER

UPON CONSIDERATION of the Appellants' Motion for Extention of Time to Transmit Record and any response thereto, it is by the Circuit Court for Baltimore County this 10th day of January, 1989,

ORDERED, that the time within which the transcript shall be transmitted to this Court shall be extended to on or before March 3, 1989 as prayed.

JUDGE

True Copy Test
SUZANNE MENSH, Clerk
Per Deputy Clerk

FILED JAN11 1989

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

December 22, 1988

Baltimore County Circuit Court
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re Dulaney Valley Improvement
Association, Inc. et al
vs Board of Appeals
Case Number 62/361/88CG-4761

Gentlemen:

Enclosed herewith please find Motion to Extend Time to Transmit Record with proposed Order to be docketed and forwarded to a Judge for consideration.

Very truly yours,

Michael P. Tanczyn

MPT/ed

cc Richard J. DiPasquale, Esq.
Board of Appeals for Baltimore County
Phyllis Cole Friedman, Esq.
Dulaney Valley Improvement Association, Inc.
Ms. Barbara Poniatowski

COPY

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. and BARBARA PONIATOWSKI,	*	IN THE CIRCUIT COURT
Appellants,	*	FOR BALTIMORE COUNTY
vs.	*	
BOARD OF APPEALS,	*	
Appellee.	*	Case No. 62/361/88CG-4761

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

MOTION TO EXTEND TIME TO TRANSMIT RECORD

NOW COMES, Dulaney Valley Improvement Association, Inc. an Barbara Poniatowski, Appellants, by their attorney, Michael P. Tanczyn, Esq., who move this Honorable Court pursuant to Maryland Rule B7(b) to extend the time within which the Appeal is to be transmitted from the Board of Appeals to the Circuit Court for Baltimore County and for reasons say

1. That the Appeal was timely filed on December 2, 1988.

2. That the hearings preceding the decision of the Board of Appeals were conducted over an extended period of time involving three separate hearing dates in both 1987 and 1988. Additionally, more than one reporting service was involved in the taking of the testimony and both the Towson Reporting Company as well as Bernard Danker's reporting service have advised the Appellants that due to the length of the hearing the record cannot reasonably be transcribed and forwarded to the Court within the

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. and BARBARA PONIATOWSKI,	*	IN THE
Appellants	*	CIRCUIT COURT
vs.	*	FOR
BOARD OF APPEALS,	*	BALTIMORE COUNTY
Appellee	*	Case No. 88CG-4761 62/361
IN RE CASE NO. 87-335-SPH	*	

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

SHOW CAUSE ORDER

Upon consideration of the Motion heretofore filed on behalf of the Applicants/Appellees, Nicholas B. Mangione and Mary C. Mangione, it is

ORDERED, this _____ day of _____, 1988, by the Circuit Court for Baltimore County, that the Appellants, Dulaney Valley Improvement Association, Inc. and Barbara Poniatowski, show cause if any they may have, by the _____ day of _____, 198__, why the relief prayed in the aforegoing Motion to Dismiss should not be granted.

In the event that the Appellants shall make an Answer showing cause why the Motion should not be granted, this matter shall be heard before the Court on the _____ day of _____, 198__ at 9:30 a.m. in Courtroom #_____ in the Circuit Court for Baltimore County, County Courts Building, 401 Bosley Avenue, Towson, Maryland 21204, at which time and date the parties hereto shall be heard and present their arguments thereon.

_____
JUDGE

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. and BARBARA PONIATOWSKI,	*	IN THE
Appellants	*	CIRCUIT COURT
vs.	*	FOR
BOARD OF APPEALS,	*	BALTIMORE COUNTY
Appellee	*	Case No. 88CG-4761 62/361
IN RE CASE NO. 87-335-SPH	*	

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

MOTION TO DISMISS

Comes now Nicholas B. Mangione, Louis Mangione, Charles W. Held, Jr. and Harriett W. Held, his wife, Appellees, by their attorney, Richard J. DiPasquale, herein moves to dismiss the Appeal heretofore filed on behalf of Dulaney Valley Improvement Association, Inc. and Barbara Poniatowski, Appellants, which Appeal was filed the 2nd day of December, 1988, and sets forth the following:

1. That Maryland Rule B-2 sets forth how an appeal is to be taken from an administrative agency. Rule B-2(a) specifically requires that an Order for Appeal "shall be sufficient if the Order is titled and captioned therein in the same manner as before the administrative agency from whose Order the appeal is taken" (attached please find Certificate of Notice from the County Board of Appeals of Baltimore County setting forth the proper title and caption of the case at bar.

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

89 JAN -4 AM 11:46

January 2, 1989

Baltimore County Circuit Court
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re Dulaney Valley Improvement Association
et al vs Board of Appeals
Case Number 62/361/88-CG-4761

Gentlemen

Enclosed please find Answer to Motion to Dismiss with Points and Authorities and **Request for Hearing** in the above captioned matter.

Very truly yours,

Michael P. Tanczyn

MPT/ed
Enclosure

cc Richard J. DiPasquale, Esq.
Baltimore County People's Counsel
Baltimore County Board of Appeals
Dulaney Valley Improvement Association
Ms. Barbara Poniatowski

COPY

IN THE MATTER OF THE APPLICATION OF NICHOLAS B. MANGIONE et al FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE S/W CORNER OF GREENRIDGE ROAD AND TENBURY ROAD, 9th ELECTION DISTRICT, 4th Councilmanic District.	*	
DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. and BARBARA PONIATOWSKI,	*	IN THE CIRCUIT COURT
Appellants,	*	FOR BALTIMORE COUNTY
vs.	*	
BOARD OF APPEALS,	*	
Appellee.	*	
IN RE CASE NO. 87-335-SPH	*	Case No. 62/361/88CG-4761

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

ANSWER TO MOTION TO DISMISS

NOW COMES Dulaney Valley Improvement Association, Inc. and Barbara Poniatowski, Appellants, by their attorney, Michael P. Tanczyn, Esq., and for Answer to the Motion to Dismiss set forth as follows

1. While the allegations as made by the Appellees through counsel are technically correct, copy of the Order for Appeal was mailed to Mr. DiPasquale for Mr. Mangione as well as to the Appeals Council and Board of Appeals for Baltimore County, albeit not in the heading suggested by counsel for the Appellees and form 22-A of the Maryland Rules.

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., P. O. Box 102, Lutherville, Maryland, 21093,	*	IN THE
and	*	CIRCUIT COURT FOR
BARBARA PONIATOWSKI, 26 Greenridge Road, Timonium, Maryland, 21093,	*	BALTIMORE COUNTY
Plaintiffs,	*	
vs.	*	
NICHOLAS B. MANGIONE, 1205 York Road, Lutherville, Maryland, 21093,	*	
and	*	
LOUIS MANGIONE, 1205 York Road, Lutherville, Maryland, 21093,	*	
and	*	
ARNOLD JABLON, ESQ., Zoning Commissioner, County of Baltimore, 111 West Chesapeake Avenue, Towson, Maryland, 21204,	*	
and	*	
JEAN JUNG, Deputy Zoning Commissioner, County of Baltimore, 111 West Chesapeake Avenue, Towson, Maryland, 21204,	*	Case No.
Defendants.	*	

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

ORDER

UPON CONSIDERATION of the Complaint for an Interlocutory

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., P. O. Box 102, Lutherville, Maryland, 21093,	*	IN THE
and	*	CIRCUIT COURT FOR
BARBARA PONIATOWSKI, 26 Greenridge Road, Timonium, Maryland, 21093,	*	BALTIMORE COUNTY
Plaintiffs,	*	
vs.	*	
NICHOLAS B. MANGIONE, 1205 York Road, Lutherville, Maryland, 21093,	*	
and	*	
LOUIS MANGIONE, 1205 York Road, Lutherville, Maryland, 21093,	*	
and	*	
ARNOLD JABLON, ESQ., Zoning Commissioner, County of Baltimore, 111 West Chesapeake Avenue, Towson, Maryland, 21204,	*	
and	*	
JEAN JUNG, Deputy Zoning Commissioner, County of Baltimore, 111 West Chesapeake Avenue, Towson, Maryland, 21204,	*	Case No.
Defendants.	*	

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

ORDER FOR INTERLOCUTORY INJUNCTION

UPON CONSIDERATION of the Complaint for an Interlocutory

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

September 22, 1987

William T. Hackett, Chairman
Baltimore County Board of Appeals
Room 200, Court House
Towson, MD 21204

Re: Case No. 87-335-SPH
Nicholas B. Mangione et al

Dear Mr. Hacketts:

Thank you for your letter notifying us that the hearing would continue on as originally scheduled on November 25, 1987 at 10:00 A.M. I am writing, not to question your decision, but to ask that you consider when this matter might be continued to since it required two fully hearing days before the Zoning Commissioner, which was due to stipulations agreed to by the Petitioner as to all of the signatories to the various leases in 1205 York Road.

If Petitioner's counsel will be out of state from December 1, 1987 to some time in April of 1988, you would end up with a case half heard continued at a distant time, which might prove difficult in terms of recalling testimony from the first hearing date at either the second hearing date or the time when the decision was to be made.

If the matter cannot be continued and concluded before Petitioner's counsel goes on sabbatical to Florida on December 1, 1987, we would respectfully request that consideration be made to having a continuance late prior to December 1, 1987 or counsel's leaving the state so that the matter can be concluded in that period.

I look forward to hearing back from you.

Very truly yours,

Michael P. Tanczyn

MPT/ed

cc: Mrs. Barbara Poniatowski
Baltimore County People's Counsel
Richard J. DiPasquale, Esq.

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

September 28, 1987

William T. Hackett, Chairman
Baltimore County Board of Appeals
Court House, Room 200
Towson, MD 21204

Re: Nicholas B. Mangione, et al
Petition for Special Hearing
Case Number 87-335-SPH and
Case Number 87-504-XA

COPY

Dear Mr. Hackett:

As counsel to Dulaney Valley Improvement Association, Inc. and being cognizant of the Board's postponement notice, I would respectfully request that both of these cases be set in for hearing after April 15, 1988. It is my estimate that two (2) days were required for each case and I would ask that they be set in sequence for the first full week open following April 15, 1988, and in the order in which they were presented to the Board of Appeals; namely, 87-335-SPH to be scheduled first.

Very truly yours,

Michael P. Tanczyn

MPT/ed

cc: Baltimore County People's Counsel
Richard J. DiPasquale, Esq.
Dulaney Valley Improvement Association, Inc.

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

June 8, 1987

Ms. Jean M. H. Jung
Deputy Zoning Commissioner
111 West Chesapeake Avenue
Towson, MD 21204

Re: Petition for Nicholas B.
Mangione for Special Hearing
Case No. 87-335-SPH

Dear Ms. Jung:

Please enter the Appeal by Barbara Poniatowski, 26 Greenridge Road, Timonium, Maryland; Harry B. Burkholder, 217 Felton Road, Lutherville, Maryland; George L. McNew, 9 Green Ridge Road, Lutherville, Maryland; James H. Barnes, Jr., 1203 Oak Croft Drive, Lutherville, Maryland; Lawrence M. Rackson, 17 Alston Road, Lutherville, Maryland; and Dulaney Valley Improvement Association, Inc., P. O. Box 102, Lutherville, Maryland, from the Decision dated June 8, 1987.

Please acknowledge that you will stay any request for permits since this Decision countermands the Zoning Commissioner's earlier Order.

Very truly yours,

Michael P. Tanczyn

MPT/ed
cc: Richard J. DiPasquale, Esq.
Baltimore County People's Counsel
Ms. Barbara Poniatowski
Mr. Harry B. Burkholder
Mr. George L. McNew
Mr. James H. Barnes, Jr.
Mr. Lawrence M. Rackson
Dulaney Valley Improvement Association, Inc.

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. P. O. BOX 102, Lutherville, Maryland, 21093, and BARBARA PONIATOWSKI, 26 Greenridge Road, Timonium, Maryland, 21093, Appellants, vs. BOARD OF APPEALS, Baltimore County, Maryland, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, 21204, Appellee. IN RE CASE NO. 87-335-SPH	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No.

RECEIVED
12/4/88
10:30 AM
11:57 PM
C.B.of A.

ORDER FOR APPEAL

NOW COMES, Dulaney Valley Improvement Association, Inc. and Barbara Poniatowski, Appellants, by their counsel, Michael P. Tanczyn, Esq., and respectfully requests the Court enter the appearance of their counsel in this matter and enter an Appeal from the decision of the Board of Appeals of Baltimore County dated November 2, 1988 to the Circuit Court for Baltimore County.

MICHAEL P. TANCZYN, ESQ.
Attorney for the Appellant
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
Telephone (301) 296-8823

1

IN THE MATTER OF THE APPLICATION OF NICHOLAS B. MANGIONE, ET AL FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE SOUTHWEST CORNER OF GREENRIDGE RD. AND TENBURY RD. 9th ELECTION DISTRICT 4th COUNCILMANIC DISTRICT DULANEY VALLEY IMPROVEMENT ASSOC., INC., and BARBARA PONIATOWSKI, ET AL, PROTESTANTS-PLAINTIFFS CASE NO. 87-335-SPH	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW CG Doc. No. 62 Folio No. 361 File No. 88-CG-4761

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Harry E. Buchheister, Jr. and Thomas J. Bollinger, 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, Mr. Nicholas B. Mangione, et al, Petitioners, 1205 York Rd., Lutherville, Md. 21093; Richard J. DiPasquale, Esq., 5718 Harford Rd., Baltimore, Md. 21214, Counsel for Petitioners; Mr. Louis Mangione, 1205 York Rd., Lutherville, Md. 21093, Contract Purchaser; Michael P. Tanczyn, Esq., 606 Baltimore Ave., Suite 106, Towson, MD. 21204, Counsel for Protestants-Plaintiffs; and Phyllis C. Friedman, Esq., County Office Bldg., 111 W. Chesapeake Ave., Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

Jane Holmen
County Board of Appeals of Baltimore County, Rm. 315, County Office Bldg., 111 W. Chesapeake Ave.
Towson, MD. 21204
887-3180

Nicholas B. Mangione, et al
Case No. 87-335-SPH

2.

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Nicholas B. Mangione, et al, 1205 York Rd., Lutherville, Md. 21093, Petitioners; Richard J. DiPasquale, Esq., 5718 Harford Rd., Baltimore, Md. 21214, Counsel for Petitioners; Louis Mangione, 1205 York Rd., Lutherville, Md. 21093, Contract Purchaser; Michael P. Tanczyn, Esq., 606 Baltimore Ave., Suite 106, Towson, MD. 21204, Counsel for Protestants-Plaintiffs; and Phyllis C. Friedman, Esq., County Office Bldg., 111 W. Chesapeake Ave., Towson, Md. 21204, People's Counsel for Baltimore County, on this 2nd day of December, 1988.

Jane Holmen
County Board of Appeals of Baltimore County

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

December 12, 1988

Baltimore County Circuit Court
County Courts Building
401 Bosley Avenue
Towson, MD 21204

COPY

Re Dulaney Valley Improvement Association and
Barbara Poniatowski vs Board of Appeals
Case Number 62/361/88-CG-4761

Gentlemen

Enclosed herewith please find Petition to Accompany Order for Appeal in the above captioned matter.

Very truly yours,

MPT
Michael P. Tanczyn

MPT/ed
Enclosure

cc Richard J. DiPasquale, Esq.
Baltimore County Board of Appeals
Baltimore County People's Counsel
Dulaney Valley Improvement Association
Ms. Barbara Poniatowski

RECEIVED
12/14/88
9:17 a.m.
C.B.A.

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC. and BARBARA PONIATOWSKI, Appellants, vs. BOARD OF APPEALS, Appellee. IN RE CASE NO. 87-335-SPH	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 62/361/88CG-4761

PETITION TO ACCOMPANY ORDER FOR APPEAL

NOW COMES, Dulaney Valley Improvement Association, Inc. and Barbara Poniatowski, Appellants, by their counsel, Michael P. Tanczyn, Esq., having heretofore filed an Order for Appeal on December 2, 1988 in compliance with Maryland Rule B-2(e), who respectfully allege

1. That the Board of Appeals acted in an illegal or in an arbitrary and capricious manner in granting this approval in that

A. Baltimore County Zoning Regulations Section 502.2 was ignored which requires that where restrictions are entered into and recorded among the Land Records of Baltimore County they "shall govern the exercise of the Special Exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer (B.C.Z.R., 1955)." The restrictions signed by Mr. Mangione in April of 1973

County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3180

December 2, 1968

Richard J. DiPasquale, Esq.
5718 Harford Rd.
Baltimore, Md. 21214

Re: Case No. 87-335-SPH
Nicholas B. Mangione, et al

Dear Mr. DiPasquale:

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

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen

June Holmen, Secretary

Enc.
cc: Nicholas B. Mangione, et al
Louis Mangione
Phyllis C. Friedman
Director of Planning
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Docket Clerk

The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

J. WILLIAM HINKEL
JUDGE

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
(301) 887-3380

April 7, 1989

Michael P. Tanczyn, Esquire
606 Baltimore Ave., Suite 106
Towson, Maryland 21204

Richard J. DiPasquale, Esquire
5718 Harford Road
Baltimore, Maryland 21214

County Board of Appeals of Baltimore Co.
Room 315, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: DULANEY VALLEY IMPROVEMENT ASSOC., INC., ET AL.
V. MANGIONE, ET AL.
CASE NO. 88-CG-4761

89 APR 10 PM 2:20

Gentlemen:

You have been advised by our Assignment Office that a Motion(s) hearing in the captioned case is set for Monday, April 24, 1989.

In an effort to reduce waiting time for attorneys, I set my hearings for every 15 minutes starting at 9 a.m. Therefore, the Motion(s) in this case will be heard on Monday, April 24, 1989, at 9:45 a.m., in my Chambers.

Please advise me if you wish a Court Reporter present at this hearing.

Sincerely,

J. William Hinkel,
Judge.

JWH/lg

FEB 10 1987

Henry 14

FEB 10 1987

ZONING OFFICE

NICHOLAS B. MANGIONE PETITION 1205 York Road 9th District	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 87-335-SPH

* *

SUBPOENA DUCES TECUM

SECRETARY, please issue a Subpoena for the following person to appear and testify before the Zoning Commissioner of Baltimore County on Tuesday, February 17, 1987, at 11:45 a.m. to testify for the Protestant before the Zoning Commissioner, Room 6, 111 West Chesapeake Avenue, Towson, Maryland, 21204:

Louis Mangione
1205 York Road
Lutherville, Maryland 21093

and to bring with him all executed complete leases for 1205 York Road, including all appendixes and rules and regulations applicable to said leases for any leases entered into since the construction of 1205 York Road to the present for rental of the offices.

RECEIVED
FEB 10 1987

MICHAEL P. TANCZYN, ESQ.
Attorney for the Protestants
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
Telephone: (301) 296-8823

Mr. Sheriff:

Please issue Subpoena Duces Tecum in accordance with the above.

2/4/87

Zoning Commissioner of
Baltimore County

RE: PETITION FOR SPECIAL HEARING SW/Corner Greenridge & Tenbury Rds., 9th District NICHOLAS B. MANCIONE, et al., Petitioners	: BEFORE THE ZONING COMMISSIONER : : OF BALTIMORE COUNTY : : Case No. 87-335-SPH :

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
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 21st day of January, 1987, a copy of the foregoing Entry of Appearance was mailed to Richard J. DiPasquale, Esquire, 5718 Harford Rd., Baltimore, MD 21214, Attorney for Petitioners; and Louis Mangione, 1205 York Rd., Lutherville, MD 21093, Contract Purchaser.

Peter Max Zimmerman
Peter Max Zimmerman

RE: PETITION FOR SPECIAL HEARING SW/Corner Greenridge & Tenbury Rds., 9th District NICHOLAS B. MANGIONE, Petitioner:	: BEFORE THE ZONING COMMISSIONER : : OF BALTIMORE COUNTY : : Case No. 87-335-SPH

NOTICE OF APPEAL

Please note an appeal from the decision of the Deputy Zoning Commissioner under date of June 8, 1987, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

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

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 11th day of June, 1987, a copy of the foregoing Notice of Appeal was mailed to Richard J. DiPasquale, Esquire, 5718 Harford Road, Baltimore, MD 21214; and Michael P. Tanczyn, P.A., Suite 106, 606 Baltimore Ave., Towson, MD 21204.

RECEIVED
JUN 11 1987
ZONING OFFICE

Phyllis Cole Friedman
Phyllis Cole Friedman

IN THE MATTER OF THE APPLICATION OF NICHOLAS B. MANGIONE, ET AL FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE SOUTH- WEST CORNER OF GREENRIDGE RD. AND TENBURY RD. 9th ELECTION DISTRICT 4th COUNCILMANIC DISTRICT	: : : : : : :	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., and BARBARA FONIATOWSKI, ET AL, PROTESTANTS-PLAINTIFFS	: : : : :	CG Doc. No. 62 Folio No. 361 File No. 88-CG-4761
CASE NO. 87-335-SPH	:	

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

PROCEEDINGS BEFORE THE ZONING

COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Harry E. Buchheister, Jr. and Thomas J. Bollinger, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

No. 87-335-SPH

January 2, 1987	Petition of Nicholas B. Mangione, et al, for special hearing on above property.
" " "	Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for Feb. 17, 1987, at 11:45 a.m.
January 28	Certificate of Publication in newspaper - filed
February 1	Certificate of Posting of Property - filed
January 30	Comments of Baltimore County Zoning Plans Advisory Committee - filed
February 6	Comments of Baltimore County Director of Planning - filed

February 17, 1987	At 11:45 a.m. hearing held on petition by Deputy Zoning Commissioner.
June 8	Order of the Deputy Zoning Commissioner that the Petition for Special Hearing is GRANTED, subject to restrictions.
June 10	Order for Appeal to the C.B. of A. from Michael P. Tanczyn, Esq., on behalf of Protestants.
June 11	Order for Appeal to the C.B. of A. from Phyllis C. Friedman, Esq., People's Counsel for Baltimore County.
April 19, 1988	Hearing on appeal before County Board of Appeals
May 31	Continued hearing before the Board
August 23	Continued hearing before the Board
August 24	Continued hearing before the Board
November 2	Order of the Board that the Petition to permit the off-street parking as indicated on Petitioner's Exhibit No. 7 be GRANTED, subj. to restrictions.
December 2	Order for Appeal filed in the Circuit Ct. for Baltimore County by Michael P. Tanczyn, Esq., on behalf of Protestants.
December 2	Certificate of Notice sent to interested parties
December 12	Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County.
February 28	Transcript of testimony filed
	Petitioner's Exhibit No. 1 - Blue Plat showing 298 parking spaces
	" " " 2 - Plat shows 317 pk.spaces
	" " " 3 - Folder of case file and prior records of the case with micro-filmed letters and the original plat attached.
	" " " 4 - A & B, Lease agreements between Mr. Mangione & Mr. & Mrs. Held.
	" " " 4 - C, Plat of Held Property
	" " " 5 - Permit for stairs to Tenbury Road
	" " " 6 A&B - Photos of Parcel "C" and fence.

Petitioner's Exhibit No. 7 - Amended plat to Pet. Exhibit No. 2

" " " 8 - Letter (8/22/88) of tenant mix from Mangione to Bd. of Appeals.

" " " 9 - Letter (7/11/88) from James Dyer to Mangione re permit.

Protestants' Exhibit No. 1 - Tenants of Office building.

" " " 2 - Agreement between Mangione and Dulaney

" " " 3 - Newspaper - Daily Regarding Mr. Mangione.

" " " 4 - Agreement between Mangione and DVIA as recorded in Land Records of County.

" " " 5A-5D - Photos of parking on Tenbury Rd. adjacent to Petitioner's property.

" " " 6A-6I - Photos

" " " 7 - Photo taken in March

" " " 8 - Photo taken in March

" " " 9 - Photo taken in March

" " " 10 - A-K - Photos taken in April.

People's Counsel's Exhibit No. 1 - Photos of parking area.

February 28 Record of proceedings filed in the Circuit Court for Baltimore County.

Record of proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Linda M. Kuszmaul
Linda M. Kuszmaul
County Board of Appeals

cc: Mr. Nicholas B. Mangione
Richard J. DiPasquale, Esquire
Mr. Louis Mangione
Michael P. Tanczyn, Esquire
Phyllis C. Friedman, Esquire

IN THE MATTER OF : BEFORE
THE APPLICATION OF
NICHOLAS B. MANGIONE, ET AL : COUNTY BOARD OF APPEALS
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE SOUTHWEST CORNER OF : OF
GREENRIDGE ROAD AND TENBURY ROAD
9th ELECTION DISTRICT : BALTIMORE COUNTY
4th COUNCILMANIC DISTRICT
: CASE NO. 87-335-SPH
:

: :

OPINION

This case comes before this Board on appeal from a decision of the Deputy Zoning Commissioner granting the requested parking in a residential zone with noted restrictions. This case consumed three full days of hearing and include numerous exhibits. The Board will not attempt to detail all the testimony and evidence received but will let the record speak for itself.

A brief history of this case beginning in the early 1970's would seem in order. Petitioner originally proposed an office building on the site and submitted plans showing not only the office building but the proposed parking. There was neighborhood opposition to this petition. In April of 1973, an agreement was reached between the Petitioner and the Protestants, signed by the Petitioner, and entered among the Land Records of Baltimore County to the effect that what was shown on the plat is what would be adhered to.

In the interim between 1973 and 1988, several things have evolved. The office mix from general offices to medical offices has greatly increased and the parking requirements as required in 1973 versus 1988 have been substantially altered, especially by Council Bill No. 26-88. As a result of the steady increase of parking problems associated with this project, Petitioner acquired additional land designated on Petitioner's Exhibit No. 7 as Parcels B, C and D abutting original Parcel A, all said parcels being residentially zoned D.R. 5.5. Petitioner now requests that he be allowed to use these areas for additional

parking to comply with Bill No. 26-88. The case before the Board addresses only this request to permit the parking in these D.R. 5.5 areas.

Protestants are understandably upset with this request to increase the parking from 161 spaces to 311 spaces in light of the covenant agreed to in 1973. The Board, however, does not have the authority to rule on the enforceability of this covenant, but must merely address whether the present proposal complies with all Baltimore County regulations.

The present mix in Petitioner's office building totals 54,100 square feet of medical offices and 17,900 square feet of general office use. Applying Bill No. 26-88 to these figures, 303 parking spaces would be required. Petitioner's Exhibit No. 7 as amended in accordance with Bill No. 26-88 proposes 311 parking spaces, 121 of which would be for compact vehicles. Petitioner's Exhibit No. 7 indicates compliance with all residential transition area requirements and the availability of area to totally screen the parking lot from the nearby residential area. Protestants testified as to the many problems created by the lack of parking for this facility since patrons and employees of the facility park on both sides of Tenbury Road, which lies east of the site and abuts it, and reduce the use of Tenbury Road to one lane. They further testified that this overflow parking has caused the neighborhood to implement paid reserved parking for the residents therein. Protestants further testified as to their fears of the careless manner in which the medical waste was disposed of and their fear of further erosion in the storm drain reservation abutting the site to the south which eventually flows into Loch Raven. It was evident from the testimony presented by the Protestants that their bitterness was generated by Mr. Mangione's agreement in 1973 and then his steady regression to increased medical use of the building which precipitates most of the overflow parking

problems and also his petition to increase parking through the use of the D.R. 5.5 property owned by him.

After careful consideration of all the testimony and evidence received, the Board is of the opinion that to deny the requested parking would do nothing to alleviate the problems now associated with the overflow parking. The parcels of D.R. 5.5 land are not parcels that are very apt to be residentially developed. The Board can find no benefit by the denial of this Petition to the community or to the County given the office use as now exists.

ORDER

It is therefore this 2nd day of November, 1988 by the County Board of Appeals of Baltimore County ORDERED that the Petition to permit the off-street parking as indicated on Petitioner's Exhibit No. 7 be and the same is GRANTED subject to the following restrictions:

1. All parking spaces and their access aisles are subject to compliance with RTA requirements.
2. Areas to be utilized for parking spaces and access aisles shall not be expanded beyond the areas shown on Petitioner's Exhibit No. 7.
3. The RTA buffers on the south and east sides of Parcel C shall be a minimum of 75 feet wide from the property line to the parking lot. The guard rail on the west side of Tenbury Road shall be replaced and the steps from Parcel C to Tenbury Road removed.
4. A 10-foot buffer on the entire east side of Parcel D shall be heavily landscaped.

5. An 8-foot buffer on the entire north side of Parcels B and D in the D.R. 5.5 zoning shall be heavily landscaped.
6. The internal traffic patterns for parking on Parcels B, C and D shall be approved by the Bureau of Traffic Engineering and such written approval indicated on the approved plan.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

Harry E. Buchheister, Jr.

Thomas J. Bollinger

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3180

November 2, 1988

Michael P. Tanczyn, Esquire
Suite 106, 606 Baltimore Avenue
Towson, MD 21204

RE: Case No. 87-335-SPH
Nicholas B. Mangione, et al

Dear Mr. Tanczyn:

Enclosed is a copy of the final Opinion and Order issued this date by the County Board of Appeals in the subject case.

Sincerely,

Kathleen C. Weidenhammer
Administrative Secretary

Encl.

cc: Richard J. DiPasquale, Esquire
Mr. Nicholas B. Mangione
Mr. Louis Mangione
Phyllis Cole Friedman, Esquire
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning
Arnold Jablon, County Attorney

IN RE: PETITION FOR * BEFORE THE
SPECIAL HEARING *
* COUNTY BOARD
SOUTHWEST CORNER OF *
GREENRIDGE AND TENBURY * OF APPEALS
ROAD *
* OF
9TH ELECTION DISTRICT *
* BALTIMORE COUNTY
4TH COUNCILMANIC DISTRICT *
*
NICHOLAS B. MANGIONE, et al., * Case No. 87-335-SPH
*
Petitioners
* * * * * * * * * * * *

SUBMISSION OF PETITIONER

HISTORY

Petitioners herein are the fee owners of the parcels of land as set forth on Petitioners' Exhibits Nos. 1, 2 and 7, more particularly set forth on said Exhibits as Parcels "A", "B", "C" and "D". The Petitioners herein requested a special hearing before the Zoning Commissioner of Baltimore County to approve a use permit for off-street parking in a DR 5.5 Residential Zone, as more particularly set forth on the Exhibits aforesaid. Said Exhibits were prepared by George William Stevens, Jr. and Associates, Inc., through John Strong Smith, a registered civil engineer, and were further utilized by Paul Lee, another registered civil engineer. The Exhibits were filed before the Zoning Commissioner to amend the site plan originally filed in Case No. 73-146-XSPH to obtain a use permit to utilize Parcels "B", "C" and "D" in addition to Parcel "A" for parking in the Residential Zone.

The plan originally submitted in Case No. 73-146-XSPH specified 161 spaces previously approved by Baltimore County.

Subsequent to the construction of the office building, the tenant mix has generated a high proportion of medical offices, which requires more than 161 spaces. The requirement under Council Bill 26-88 enacted March 7, 1988 requires the total number of parking spaces to be 298. The Petitioners have, on Exhibit No. 7 and on Exhibit No. 1, requested 311 parking spaces and 316 parking spaces, respectively.

On the 8th day of June, 1987, the Deputy Zoning Commissioner, after a full hearing, arrived at her decision to grant a use permit for off-street parking in Parcels "B", "C" and "D", as set forth on Petitioners' Exhibit No. 2, thereby amending the site plan filed in Case No. 73-146-XSPH. The Deputy Zoning Commissioner further determined that the R.T.A. requirements and the R.T.A. buffers were in compliance with the BCZR Mandates, but subjected the granting to the following conditions:

1) All parking spaces and their access aisles are subject to compliance with R.T.A. requirements. The ownership, description, and use of the properties identified as those of George Seed, Jr. and Charles W. Held on Petitioner's Exhibit 2, shall be particularly scrutinized.
2) The percentage of the building utilized by medical offices shall not exceed that which can be supported by the parking provided on the plan to be approved by Baltimore County in accordance with the final order in the instant case. The

identification of all occupants, the space they occupy, and the nature of their business shall be available to the Enforcement Division of the Baltimore County Office of Zoning upon request.

3) Areas to be utilized for parking spaces and access aisles shall not be expanded beyond the areas shown on Petitioner's Exhibit 2.
4) The R.T.A. buffers on the south and east sides of Parcel "C" and the east side of Parcel "D" shall be a minimum of 75 feet wide from the property line to the edge of parking lot. The guardrail on the west side of Tenbury Road shall be repaired and the steps from Parcel "C" to Tenbury Road removed.
5) A 10 foot buffer on the entire east side of Parcel "D" shall be heavily landscaped.
6) An 8 foot buffer on the entire north side of Parcels "B" and "D" in the DR 5.5 zone shall be heavily landscaped.
7) The spirit as well as the specific requirements of Section IX.B.1.b of the Baltimore County Landscaping Manual shall be met.
8) The internal traffic patterns for parking on Parcels "B", "C" and "D" shall be approved by the Department of Traffic Engineering and such written approval must be indicated on the approved plan.

From that granting of the special permit, the Protestants appealed to the Board of Appeals for Baltimore County.

PETITIONERS' PRESENTATION

The testimony of John Strong Smith set forth his association with George William Stevens, Jr. and Associates, Inc., civil engineers and land surveyors, and further that he prepared the plats submitted as Exhibit Nos. 1 and 2. The testimony of Paul Lee set forth his qualifications as a registered professional engineer who was also familiar with the plats prepared by John Strong Smith and the proposal of the Petitioners. The testimony of both engineers indicated that the subject property was zoned DR 5.5 and is located west of Tenbury Road between Greenridge and Ridgefield Roads, and further that the plats indicate that the Petitioners propose 311 parking spaces, as set forth on Exhibit No. 7, which amends Exhibit No. 2, and 316 parking spaces on Exhibit No. 1. The engineers both testified that the parcel is bordered on the south by a residential neighborhood, and therefore, would be subject to the Residential Transition Area Regulations requiring a 75 foot buffer from the houses located on the south side of the parcels involved, and from the southwest side of the parcels involved. It might be well to note that Petitioners' Exhibit No. 1 differs from Petitioners' Exhibit No. 2 and No. 7, as amended, in that the Petitioners request a larger number of spaces for Parcel "C",

and the Petitioners base that request on the existence of an existing 12 foot easement for force main and an existing 30 foot storm drain reservation along the south property line. Neither the easement nor the storm drain reservation are located within the residential lot lines of the adjoining neighbors, and it is the Petitioners' contention that parking spaces on Parcel "C" could include the storm drain reservation and easement inside the buffer zone. It was noted that as set forth on Petitioners' Exhibit No. 1, the parking would be approximately 115 feet from the closest residence, therefore all parking spaces on Parcel "C" would be buffered with a 75 foot buffer strip from the nearest residential lot line, would not be visible from neighboring residences and would be a minimum of 120 feet from any residence. Parking spaces on Parcels "B" and "C" would not require a buffer except for a portion of the southeast corner of Parcel "D", which has been provided.

Under the "natural expansion doctrine", the tenancy of the building has evolved to become 54,100 square feet of medical offices and 17,900 square feet of general offices. Three suites of offices have been sold to medical occupants, and many offices have reserved parking spaces, which reservation neither increases nor decreases the amount of parking available.

Any and all access to the parking sites will be from York Road at the entrance to 1205 where the existing office building and Parcel "A" is located. Both engineers testified that the parcels create no other Residential Transition Area

requirements since the Held parcels have been combined into one parcel containing more than two acres of land. In addition, Parcel "E" was combined with the property west of Tenbury Road making it a part of a five plus acre parcel, thereby eliminating any Residential Transition Area requirements from the north of the subject property or west of the subject property. During the course of the hearing, it was noted that the Baltimore County Zoning Regulations were changed and that Bill No. 26-88 would be applicable to the case at bar. Upon the suggestion of the Board of Appeals, the Petitioners, through Paul Lee Engineering, Inc., prepared Petitioners' Exhibit No. 7, which Exhibit set forth the parking requirements under Council Bill No. 26-88, which requirement is 303 parking spaces utilizing the present tenant mix, and Mr. Paul Lee, in "red" set forth 311 parking spaces to comply with the new Baltimore County Zoning Regulation, as set forth in Baltimore County Council Bill No. 26-88. At this time it might be well to note that both Exhibit No. 1 and/or Exhibit No. 7 show sufficient parking spaces to comply with Council Bill No. 26-88. The sum and substance of the testimony of the expert engineers was that the Exhibits complied in their entirety to the Baltimore County Zoning Regulations, and that the granting of the parking permit would have no adverse impact on the surrounding community and that all the conditions as delineated in Section 502.1 a, b, c, d, e, f, g, and h of the Baltimore County Zoning Regulations will not be violated.

Mr. Mangione, one of the Petitioners, testified that he is the owner of Parcel "A", as shown on the plats, and is the contract purchaser of the property belonging to Charles W. and Harriett Held, who are joint Petitioners with Mr. Mangione in this case. Mr. Mangione submitted as evidence a Deed made the 3rd day of October, 1987 by and between Charles W. Held, Jr. and Harriett Held, his wife, combining all of the parcels owned by the Helds into one parcel comprising 2.2 acres of land, more or less. Mr. Mangione further presented in evidence a Deed dated the 15th day of November, 1987 by and between Nicholas B. Mangione and Mary C. Mangione, his wife, whereinwhich they combined Parcel "E" with the property to the west of Tenbury Road, making it one parcel totaling six plus acres. The effect of the consolidation of these lots into one parcel eliminates the need for Residential Transition Area requirements, as set forth in Section 1.B.01.1 B 2.b 3(b).

Mr. Mangione testified that he became aware originally of the parking problems and executed a lease with Sebco on the corner of Greenridge Road and York Road for parking spaces to accommodate his tenants and their business invitees. Thereafter, when more spaces were required, a Petition was filed with the Baltimore County Zoning Commissioner requesting parking on Parcel "B". Although additional parking was secured, it became evident that more parking was required, and Mr. Mangione purchased the Held property to provide ample parking to comply with Baltimore County Zoning Regulations and has agreed to provide ample parking

to alleviate any overflow parking into the community. This, as indicated by Mr. Mangione, was all done at his cost and expense, and hoped that the granting of the use permit would satisfy the community to eliminate parking which may affect the free flow of traffic therein. He further testified that he had constructed an additional right turn lane on York Road to accommodate the flow of traffic entering and exiting from 1205 York Road, which is the access to the site in question. Mr. Mangione testified that no one would benefit by requiring the doctors or medical office occupants be removed from the premises, but that the neighborhood and the community and Baltimore County will be best served by the granting of a use permit to allow the additional parking as Petitioned on Parcels "A", "B", "C" and "D".

Mr. Mangione further testified that he has attempted to include the community in the proposed parking Petition, but as a result of their animosity toward him, he was unable to obtain any input from the community to alleviate their fears and avoid any adverse impact on the surrounding community, if any were to be existing. Mr. Mangione further testified that as a result of being in the community for fifteen years, it is his opinion, based on his knowledge of the community, that the additional parking would have no adverse impact on the surrounding community and that all the conditions as delineated in Section 502.1 a, b, c, d, e, f, g, and h of the Baltimore County Zoning Regulations will not be violated.

The testimony of all of the witnesses for the Petitioners clearly shows that the proposed additional parking is in compliance with the Baltimore County Zoning Regulations as they relate to Residential Transition Area requirements, that the granting of the additional parking would not impact adversely on the community, and that the subject site is appropriate for the use proposed.

John Strong Smith and Paul Lee, the expert engineers, and Nicholas B. Mangione all testified that landscaping would be in accordance with the Baltimore County Landscaping Manual, and that the granting of the special exception or use permit is appropriate.

PROTESTANTS' PRESENTATION

Lonnie McNew, testifying on behalf of the Protestants, indicated that he lived at 9 Greenridge Road in one of the homes in the community east of the proposed project. He complained that he feels the employees of the occupants of 1205 York Road used to park in the neighborhood on Ridgefield Road, and as a result, the residents there now have to pay a parking fee to eliminate said parking. He testified he now alleges that the employees who used to park on Ridgefield Road now park on Tenbury Road, and that further, that parking on both sides of Tenbury Road does not permit two cars to pass if travelling in opposite directions. Although he cannot see this property from his house or from Greenridge Road, his normal method of travel, he feels

that it should be landscaped as required. He expressed that he cannot trust Mr. Mangione because Mr. Mangione did not live up to an agreement made with Dulaney Valley Improvement Association to landscape Parcel "A", as per the agreement. It might be well to note that introduced into evidence was a Complaint filed by Dulaney Valley Improvement Association regarding the screening, and the Baltimore County Zoning Authorities investigated and found Mr. Mangione to be in compliance.

Mr. McNew failed to indicate that Section 502.1 of the Baltimore County Zoning Regulations would be violated if the use permit would be granted to the Petitioners.

Lawrence Rackson, who lives at 17 Alston Road and has so resided for ten years, indicated he was a director of Dulaney Valley Improvement Association, who complained that parking on both sides of Tenbury Road narrows the space for cars to pass should they be going in opposite directions. Of course, should the use permit be granted, there would no longer be parking on Tenbury Road as the tenants and their business invitees would have ample parking on site.

Mr. Rackson was further concerned about the commercial vehicles that park in front of 1205 York Road to deliver packages or other items to occupants of 1205 York Road, and feels this is an impediment to traffic traveling in the right turn lane northbound on York Road. He did indicate, however, that if parking were provided on site for these vehicles, this problem would be eliminated.

Mr. Rackson's primary concern was the impact of the use permit on the storm drain reservation in that water would run off of the parking pads into the storm drain reservation, and was concerned about the possibility of erosion to the storm drain reservation. Obviously, Baltimore County, prior to any permit being issued, would require that there be no increase in storm water run-off resulting from the installation of parking as Petitioned. Another concern of Mr. Rackson's was that should the parking permit be approved, it should be screened in compliance with the Landscape Manual.

The third and last witness who testified on behalf of the Protestants was Barbara Poniatowski, who resides at 26 Greenridge Road, and indicated that she is on the Board of Directors of Dulaney Valley Improvement Association. Her concerns were cumulative as they relate to the screening, the overflow parking in the neighborhood, the permit parking and the problems on Tenbury Road, and the erosion of the storm drain reservation. She did, however, express some concern about waste on the site, although it is obvious that the Petitioners maintain a large dumpster on the site which is emptied on a daily basis.

Even Mrs. Poniatowski testified that the granting of the use permit, if in compliance with all of the requirements, would have no adverse impact on the surrounding community and that all the conditions as delineated in Section 502.1 a, b, c, d, e, f, g, and h of the Baltimore County Zoning Regulations would not be violated. There appeared to be much concern about

Mr. Mangione being in violation of Baltimore County Zoning Regulations by constructing parking on Parcel "B", failure to provide and maintain a landscaping, covering a portion of Parcel "C" with crusher run and using it for parking, and increasing the tenant mix to a higher proportion of medical offices. In an attempt to harass the Petitioners, the Protestants have, through the Baltimore County Zoning Commissioner's Office, charged Mr. Mangione criminally in the District Court, appealed their decision to the Circuit Court, both of which decisions were favorable to the Petitioner. The Protestants further filed a suit in the Circuit Court for Baltimore County under Case No. 28/342/87CSP-425 against Nicholas B. Mangione and Louis Mangione, to enforce the terms of the "agreement" as set forth in Defendants' Exhibit No. 4. This matter is still pending and is intended to resolve whether the "agreement" is enforceable, and if so, whether it has been breached.

It might be well to note that the Protestants provided no expert testimony, and their concerns are those which would be resolved by all disciplines of Baltimore County prior to the installation of any parking pursuant to a grant of a use permit. All of their concerns in effect amounted to no evidence at all.

ARGUMENT OF COUNSEL

The Petitioners', pursuant to Baltimore County Zoning Regulations, filed a Petition with the Baltimore County Zoning Office for a special exception/use permit for off-street parking

in a Residential Zone. Along with the Petition, three plats were prepared by the engineers setting forth the proposed use of the premises, with the knowledge that the zoning of the premises was DR 5.5. Baltimore County Zoning Regulations, in Section 1.B.01.14 f provide that parking is permitted in DR Zones subject to use restrictions based on existing subdivision and development characteristics. Parking space falls under that category, requiring the Petition for Special Exception/Use Permit. Since the site is in a DR Zone, it is subject under the supplemental use restrictions based on existing subdivision and development characteristics. As a result, it becomes a Residential Transition Area and is subject to the Residential Transition Area restrictions. The site is within 300 feet of dwellings in the existing subdivision south of the site, and therefore becomes subject to the restrictions as to buffer area requirements. In addition, parking spaces are permitted under Section 409 of the Baltimore County Zoning Regulations.

In the testimony of the experts on behalf of the Petitioners, the requested off-street parking permit complies with each and every Baltimore County Zoning Regulation, which testimony was uncontradicted throughout the proceeding. In fact, no experts were produced by the Protestants or People's Counsel to contradict the testimony of both registered professional engineers and the Petitioner, Mr. Nicholas B. Mangione. This hearing is an appeal from the Zoning Commissioner de novo, at which time both the Petitioners and Protestants were represented

by counsel, produced witnesses and submitted voluminous oral and written evidence. It goes without saying that most of the evidence was not relevant, but at administrative hearings, this Board wisely admitted all evidence offered by all parties. Throughout the hearing, the Petitioner displayed to the Board all facets of the proposal to satisfy the Board as to compliance with the Baltimore County Zoning Regulations, specifically, the requirements of Section 1.B.01.B.1 and Council Bill 26-88, where applicable, with the ultimate goal of convincing the Board of Appeals that the use for which the parking permit is requested will not contravene the principles and conditions set forth in Section 502.1 a, b, c, d, e, f, g, and h of the Baltimore County Zoning Regulations.

It is the position of the Petitioners "the function of this Board is to exercise the discretion of experts, determine the proper allegation and interpretation of the Baltimore County Zoning Regulations, the most appropriate use of the land, facilities for sewers, water, trash disposal and the ability of the County to supply such services, the ability of fire fighting equipment, and the effect of such use upon the peaceful enjoyment of people in their homes, traffic conditions, including facilities for pedestrians such as sidewalks, parking facilities available, and the access of cars to the roadway, the conservation of property values, the contribution, if any, such proposed use would make toward the deterioration of growth of the neighborhood and community.

Your Petitioners agree with the Court in the case of Rockville Fuel vs. Board of Appeals, 257 Md. p. 183, et seq., wherein they stated, at page 187, that:

> "It has been recognized that zoning regulations reasonable in substance and reasonably applied do, or are presumed to, promote the public safety, health, morals, welfare and prosperity and aid in community development. These recognitions take the form of a strong presumption of the validity and correctness of comprehensive zoning or rezoning. There cannot be validity and correctness in a comprehensive zoning plan unless it does promote the general welfare. It follows logically, as the decisions have held, that an attacker bears the heavy burden of overcoming the presumption that the legislative action was not in the interests of health, safety, morals or the general welfare. The conditional use or special exception, as it generally is called, is a part of comprehensive planning and shares the presumption that such a plan is in the interests of the general welfare and valid."

At page 188:

> "We went to some pains to stress that the special exception is a valid zoning mechanism that delegates to an administrative board a limited authority to permit enumerated uses which the legislative body has determined can, prima facie, properly be allowed in a specified use district, absent any fact or circumstance in a particular case which would change the presumptive finding. We said: 'The duties given the Board are to judge whether the neighboring properties and the general neighborhood would be adversely affected, and whether the use, in the particular case, is in harmony with the general purpose and intent of the zoning plan'."

At page 189:

> "A special exception is a use that would not be appropriate generally or without restriction throughout the zone, but which,

if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zone as special exceptions, if specific provision for such special exceptions is made in this zoning ordinance."

The conclusion of the Court of Appeals of Maryland was set forth on page 193, at which point it stated:

> "To deny the prima facie right of the property owner to enjoy the special exception, the Board would have had to have had before it evidence that the proposed use would 'unduly disturb or harmfully influence other uses in the area adjoining' or evidence that the proposed use would not be 'in harmony with the purpose and intent of this ordinance'. There simply was no evidence of any of these things and abundant probative evidence to the contrary."

The case of Hofmeister v. Frank Realty Co., 35 Md. App 691, is a case for the Board to consider as the issues set forth in that case are similar to those at bar. In the Hofmeister case, an application for a special use permit was applied for and issued pursuant to Section 409.4 of the Baltimore County Zoning Regulations. The Zoning Commissioner of Baltimore County granted the Petition of Frank Realty Company for a special use permit for off-street parking in a residential zone adjacent to the rear of its place of business. On appeal, the County Board of Appeals affirmed the Zoning Commissioner's ruling, and appeal to the Circuit Court for Baltimore County was taken, and the County Board of Appeals was affirmed and from that order, Hofmeister and

other protestants appealed. Here the judgment was affirmed at the Court of Special Appeals level. In the Hofmeister case, the main thrust was determining whether a special exception and a use permit were different and distinct. In that case, the protestants realized that the granting of the special use permit was proper and the evidence on the merits was sufficient in that the petitioner satisfied the pertinent requirements of the Baltimore County Zoning Regulations. In the Hofmeister case, the Court sets forth a broad principle of zoning law and eventually defines "special exception". On page 698 they recognize that:

> "The words 'special exception' are well known in zoning law. They refer to a grant by the zoning administrative body pursuant to the existing provisions of the zoning law and subject to certain guides and standards, of a special use permitted under the provisions of the existing zoning law."

And on page 699, the court referred to cases which explained:

> "The term ['special exception'] might well be said to be a misnomer. 'Special uses' or 'special use permits' would be more accurate. The theory is that certain uses, considered by the local legislative body to be essential or desirable for the welfare of the community and its citizenry or substantial segments of it, are entirely appropriate and not essentially incompatible with the basic uses in any zone . . . but not at every or any location therein or without restrictions or conditions being imposed . . . . If the board finds compliance with the standard or requisites set forth in the ordinance, the right to the exception exists, subject to such specific safeguarding conditions as the agency may impose . . . ."

On page 705, the Court stated:

> "Quite clearly, the Court of Appeals did not mean to exempt the granting of Use Permits for off-street parking from the delegated powers of the Zoning Commissioner and County Board of Appeal, for in the Jacobs case itself, the Court affirmed the actions of the Zoning Commissioner and the County Board of Appeals in granting just such a use Permit for off-street parking. That was four years after the Baltimore County Council had reerticulated the delegation of power, granting only, for presently pertinent purposes, the power to make 'Special Exceptions'. In Bloede v. MacNabb, 231 Md. 452, 190 A. 2d 780, the Court of Appeals had also dealt with the granting of a 'Use Permit' for off-street parking in a residential area by the Baltimore County Board of Appeals. It there said explicitly, at 231 Md. 454:
>
> "'Section 402.4 a of the Baltimore County zoning regulations authorizes the zoning commissioner to issue a permit for the use of land in a residential zone for a parking area . . . .'"

Throughout the proceedings, the Protestants attempted to transform the Board of Appeals hearing into a violation and enforcement process. Although the Board indicated it would not consider the hearing a violation and enforcement process, it is the Petitioners' desire to cite to the Board the case of Klein v. Colonial Pipeline Co., 55 Md. App. 324, and specifically, page 338 where the Court states:

> "It is an improper exercise of the Board's and the Hearing Examiner's function to transform zoning application proceedings into a violation and enforcement process:
>
> "Absent a specific standard authorizing a board to consider such matters, it is beyond the

> authority of a board of adjustment to decline to issue a special permit because of prior violations by the applicant. . . nor may a special permit be refused because the applicant committed isolated and minor violations of the conditions of a previous permit."

The Klein case is analogous to the one at bar in that in the Klein case, the Board denied the appellant's application for a conditional use permit because the petitioner failed to comply with the requirement of screening the premises from view, which was included in the original grant of a conditional use in that case. When the original conditional use was granted, certain conditions were imposed, one of which was the planting of evergreen trees and the maintenance, such as is in existence in this case. In the Klein case, the Court held on page 338 that isolated violations of prior conditions are not a reason to decline to issue a special permit. Therefore, the allegations of the Protestants regarding the complaints should not be considered in denying or granting the special use permit to the Petitioner.

In Schultz v. Pritts, case, 291 Md., which is a funeral home case, and therein the Court addressed the standard to determine whether a requested special exception use should be granted. On page 11, the Court expressed:

> "This Court has frequently expressed the applicable standards for judicial review of the grant or denial of a special exception use. The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to

an administrative Board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

"Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious and illegal."

Analogous to the present case, the Court of Appeals on pages 14 and 15 of Schultz v. Pritts, restated that by defining off-street parking as an appropriate use by way of special exception, the legislature of Baltimore County has in essence declared that such uses, if they satisfy the other specific requirements of the ordinance, do promote the health, safety and general welfare of the community. As part of the comprehensive zoning plan, this legislative declaration shares in a presumption

of validity and correctness which the courts will honor. The presumption that the general welfare is promoted by allowing off-street parking in a residential use district cannot be overcome unless there are strong and substantial existing facts or circumstances showing that the particularized proposed use has detrimental effects above and beyond the inherent ones ordinarily associated with such uses. Consequently, the bald allegations that off-street parking is inherently psychologically depressing and adversely effects on adjoining property values as well as other evidence which confirms that, this testimony is insufficient to overcome the presumption that such a use promotes the general welfare of a local community.

On page 17 of the Schultz v. Pritts case, the Court of Appeals appropriately concluded:

"We think it fully appropriate that [the trial court] found the proper test to be a comparison between the traffic problems that might arise under the proposed use and traffic problems that could arise from the usage of the premises now permitted by law. We recognize that traffic impact is a sufficient basis to deny a zoning application, including an application for a special exception. But traffic impact on an application for a special exception ought to be measured against that which could arising under permissible use, and not merely on existing traffic loads around the undeveloped premises. Where, as here, the potential volume of traffic under the requested use would appear to be no greater than that which would arise from permitted uses, we believe it arbitrary, capricious and illegal to deny the application for special exception on vehicular traffic grounds."

The purpose of the Baltimore County Zoning Regulations are to provide a tool by which to establish general areas of districts devoted to selected uses. Generally, when a use district is established, the Zoning Regulations prescribe that certain uses are permitted as of right (permitted use), while other uses are permitted only under certain conditions (special exception). Here off-street parking is a permitted use under certain conditions (special exception). The Court in Schultz v. Pritts, at page 22 concluded:

"We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone."

Given this "legislative predetermination" that a special exception/use permit is "conditionally compatible", it is the duty of the Board to determine whether the special exception requested does meet the specified statutory requirements, and that the use contemplated does not adversely affect the neighboring properties and general neighborhood scheme and that the special exception be in harmony with the general purpose and intent of the Zoning Regulations.

One final argument on behalf of Petitioners has reference to Exhibit No. 1 whereinwnich the Petitioners specifically, in Parcel "C", request a total of 44 parking

spaces. In computing and laying out of the 44 parking spaces, the Petitioners have set forth therein a 75 foot buffer strip from Parcel "C" southward to the residential property line of the residences on Ridgefield Road. It must be noted that the 75 foot buffer strip includes an existing 12 foot easement for force main and a 30 foot existing storm drain reservation. Your Petitioners feel they have rightly included those areas in the 75 foot buffer and points to Section 1.B.01.1 B.1b 3(c), along with all of the other regulations pertaining to the buffer area. In (c) it sets forth that the requirements of the restrictions and buffer area are not affected by the existence of a public or private lot, right-of-way or easement or a proposed right-of-way or easement between or intersecting the new use and the residential lot line or the off-site dwelling or lot.

This issue was addressed in Miller v. Forty West Builders, 62 Md. App. 320, 489 Atlantic Reporter 2d 76, where on page 79 it quotes the Baltimore County Zoning Regulations, specifically 1.B.01.1 B.1b 3(b):

"A buffer area shall be provided between any new use and any abutting residential lot line that is in a residential transition area and that exists at the time the proposed use is to be established. The buffer area may not be less than 50 feet in width if the front or side of any building faces the lot line, or 75 feet in width if the rear of any building faces the lot line or the new use is a parking lot.

"In addition, B.C.Z.R. Section 1B01-B.1.b.5 (1981) provided that

"(a) The purpose of the buffer area requirement is to provide a method of

screening a proposed residential transition use from any existing dwelling or lot in a residential transition area. In order to accomplish that purpose, the buffer area shall consist of vegetation or woodland, at least 70% of which shall be evergreen trees of a minimum height of 6 feet, and 10% of which shall be shrubs of a minimum spread of 15 inches. The buffer area shall contain one tree or shrub for each 3 feet of the boundary of the buffer area."

The new Baltimore County Zoning Regulations under 1.B.01.B.1b 5(a) and (b) states:

"The purpose of the buffer area requirement is to provide a method of screening a proposed residential transition use from any existing dwelling or lot in a residential transition area. In order to accomplish that purpose, the buffer area shall be screened in accordance with the requirements of the Landscape Manual adopted pursuant to Section 22-105 of Title 22 of the Baltimore County Code.

"No other uses are permitted within the buffer area, except walkways, site landscaping, storm drain easements, and public utility uses other than a public utility service center or a storage yard or a road or a right-of-way."

It is obvious by the wording of the statute that storm drain easements are permitted within the buffer area, and the buffer area must be used to screen the proposed Residential Transition Area from any existing dwelling or lot in a Residential Transition Area. Here the existing dwellings are on Ridgefield Road with their lot line being that of the storm drain easement. Accordingly, the Petitioners are in full compliance with the Baltimore County Zoning Regulations in their request for the parking, as set forth in Exhibit No. 1, totalling 316 parking

spaces. In the case of Miller v. Forty West, "the cardinal rule of statutory interpretation is to determine the intent of the legislature and to do this a court looks first to the language of the statute. If that language is ambiguous or unclear, a court must use other tools to discover the legislative intent or purpose." In this Petition, the Petitioners find that the language of the statute is not ambiguous or unclear, and specifically permits storm drain easements to be included in the buffer area, such as that set forth on Petitioners' Exhibit No. 1.

The Petitioners feel that they have met their burden of producing probative and credible evidence on all of the issues to be proven, utilizing unopposed experts, and that the evidence of the Protestants was so vague and indefinite as to fail to raise fair dispute in a reasoning mind. A review of the holdings in the following cases would conclude that refusing to grant the use permit requested in this proceeding would be arbitrary, capricious and illegal:

Rockville Fuel and Feed Company, Inc. v. Board of Appeals, 257 Md. 183;

Anderson v. Sawyer, 23 Md. App. 612;

Turner v. Hammond, 270 Md. 41;

Schultz v. Pritts, 291 Md. 1;

Horbal v. City of Ham Lake, 393 N.W. 2d 5 (Minn. App. 1986);

Zengerle v. Board of County Commissioners, 262 Md. 1;

Prince George's County v. E. L. Gardner, Inc., 47 Md. App. 471;

City of Baltimore v. Cohn, 204 Md. 523;

Skipjack Cove Marina v. Board of County Commissioners, 264 Md. 381;

Spaid v. Board of County Commissioners, 250 Md. 369;

Klein v. Colonial Pipeline Co., 55 Md. App. 324;

Miller v. Forty West Builders, Inc., 62 Md. App. 320;

Hofmeister v. The Frank Realty Company, 35 Md. App. 691; and

Montgomery Co. v. Merlands Club, 202 Md. 279;

Respectfully submitted,

Richard J. DiPasquale
6718 Harford Road
Baltimore, Maryland 21214
426-4538
Attorney for Petitioners

CERTIFICATION OF SERVICE

I HEREBY CERTIFY, that on this 23rd day of September, 1988, a copy of the aforegoing Submission of Petitioners was mailed, postage prepaid, to:

Michael P. Tanczyn, Esquire
Suite 106
606 Baltimore Avenue
Towson, Maryland 21204

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Room 223, Court House
Towson, Maryland 21204

Richard J. DiPasquale

IN RE: PETITION FOR SPECIAL HEARING
SW/cor. Greenridge Road
and Tenbury Road
9th Election District
4th Councilmanic District

Nicholas B. Mangione, et al
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 87-335-SPH

* * * * * * * * * * *

The Petitioners herein request a special hearing to approve a use permit for off-street parking in a residential zone, as more particularly described on the plans submitted, prepared by George William Stephens, Jr. & Associates, Inc., dated December 5, 1986 and identified as Petitioner's Exhibits 1 and 2, to amend the site plan filed in previous Case #73-146-XSPH accordingly, and to render a determination as to the applicable RTA and buffer requirements affecting the overall property.

Testimony by the surveyor and information proferred by Counsel on behalf of the Petitioners, indicated that the plan previously approved in Case #73-146-XSPH (identified as Petitioner's Exhibit 3a) specified 161 parking spaces for the building proposed. Over the years, the tenancy of the building has evolved to become approximately 2/3 medical offices and 1/3 general offices, with the result being that either more parking must be provided or some of the medical tenants must be removed. Petitioner's Exhibit 1 differs from Petitioner's Exhibit 2 in that it requests a larger number of spaces (44) for Parcel "C", and bases that request on the existence of a storm drain reservation and easement along the south property line, although both the reservation and easement are located on adjacent property. Parcel "C" was severed by the construction of Tenbury Road and is at an elevation 6 to 8 feet below that road. Any parking spaces permitted on Parcel "C" would have to be buffered outside the storm drain area wherever those spaces would be visible from neighboring residences. In recent years, the Petitioner has purchased, or has the option to purchase, the

ORDER RECEIVED FOR FILING
Date 6/16/87
By Kathi Schuckmann

Held property and Parcels D, C, D and E. Therefore, parking spaces on Parcels "B" and "D" would not require a buffer except for a portion of the southeast corner of Parcel "D". Currently, 70 to 80 spaces are reserved as a part of the leased office space or separate rental by the tenants. Three suites of office space, along with one reserved parking space per each 1,000 sq.ft. of office space, have been sold to medical occupants. Reserved spaces neither increase nor decrease the amount of parking available. All access to the site will be from York Road.

Testimony by Protestants and information proferred by their Counsel indicated that following the decision reached in Case #73-146-XSPH, the Petitioner signed an agreement, including, but not limited to, provisions for screening, in exchange for the Protestants dropping the appeal they had filed. However, the Petitioner never installed the screening to the east and south of Parcel "A" as agreed. The Protestants noted that if 6' evergreens had been planted 15 years ago and maintained to the present, substantial screening would exist today. In subsequent Case #81-122-SPH, the Petitioner was denied a use permit for parking spaces and/or access aisles in the DR 5.5 portion of Parcel "B". However, the Petitioner proceeded to construct all 24 spaces that had been proposed in that case. In addition, the Petitioner covered a portion of Parcel "C" with crusher run, without benefit of a permit, and used it for parking. Furthermore, the guardrail, installed by Baltimore County along Tenbury Road, was cut and steps installed to provide access from Parcel "C" to the road's shoulder. The Protestants expressed strong feelings that the agreement, into which they entered in good faith, was not lived up to by the Petitioners. While they would prefer the plan originally submitted in Case #73-146-XSPH, which specified 129 spaces based on general offices, the Protestants are willing to accept the 161 spaces previously approved by Baltimore County. It is their opinion that the Petition-

ORDER RECEIVED FOR FILING
Date 6/16/87
By Kathi Schuckmann

-2-

ers have illegally obtained and retained a tenant mix (high proportion of medical offices), for which the parking area was not designed and have illegally constructed parking lots, which they are now attempting to legalize. The Protestants believe that the tenant mix should be changed so that the 161 spaces are legally and practically sufficient. Furthermore, utilization of the number of parking spaces shown on Petitioner's Exhibit 2 would create considerable congestion at the York Road access. It is also their opinion that the "agreement" with the Petitioners, as well as compliance with the Baltimore County Zoning Regulations (BCZR) should be enforced.

After due consideration of the testimony and evidence presented herein, and following a thorough review of the case files relative to the subject property, it is the opinion of the Deputy Zoning Commissioner that the Petitioners have not acted in good faith in their relationship with the neighboring community and have flagrantly and consistently violated the BCZR in that a higher percentage of office space was rented or sold to medical tenants without providing the required number of parking spaces. In addition, the Petitioners have developed and utilized areas, for which they had no legal permission or permits, for parking. The fact remains, however, that an office building exists and the Petitioners have purchased or have the option to purchase the property to the north and east of the original site. The Deputy Zoning Commissioner is of the opinion that no one, neither the neighborhood nor the Petitioners, would benefit by requiring that a sufficient number of the medical office occupants be removed to conform with the originally required parking layout as shown on Petitioner's Exhibit 3a. In addition, it is her belief that both the neighborhood and the Petitioners, and indeed Baltimore County, will be best served by granting a use permit to allow, with appropriate restrictions, some additional parking on Parcels "B", "C" and "D". Furthermore, the Deputy Zoning Commissioner believes that it is not too much to expect the Petitioners henceforth to promptly and

ORDER RECEIVED FOR FILING
Date 6/16/87
By Kathi Schuckmann

-3-

fully comply with the spirit and details of the plan ultimately approved by Baltimore County in accordance with the final order in the instant case. In addition, buffers in accordance with RTA requirements must be provided entirely within the property lines of the subject site.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 8th day of June, 1987 that a use permit for off-street parking in a residential zone on three parcels, identified as Parcels "B", "C" and "D" on Petitioner's Exhibit 2, and accordingly, an amendment to the site plan filed in Case #73-146-XSPHA, be approved, and further, it is determined that the RTA requirements of the BCZR mandate that any and all RTA buffers must be provided entirely within the property lines of the subject site, and as such, the Petition for Special Hearing is hereby GRANTED, subject, however, to the following restrictions:

1) All parking spaces and their access aisles are subject to compliance with RTA requirements. The ownership, description, and use of the properties identified as those of George Seed, Jr. and Charles W. Held on Petitioner's Exhibit 2, shall be particularly scrutinized.

2) The percentage of the building utilized by medical offices shall not exceed that which can be supported by the parking provided on the plan to be approved by Baltimore County in accordance with the final order in the instant case. The identification of all occupants, the space they occupy, and the nature of their business shall be available to the Enforcement Division of the Baltimore County Office of Zoning upon request.

3) Areas to be utilized for parking spaces and access aisles shall not be expanded beyond the areas shown on Petitioner's Exhibit 2.

4) The RTA buffers on the south and east sides of Parcel "C" and the east side of Parcel "D" shall be a minimum of 75 feet wide from the property line to the edge of parking lot. The guardrail on the west side of Tenbury Road shall be repaired and the steps from Parcel "C" to Tenbury Road, removed.

5) A 10-foot buffer on the entire east side of Parcel "D" shall be heavily landscaped.

ORDER RECEIVED FOR FILING
Date 6/16/87
By Kathi Schuckmann

-4-

6) An 8-foot buffer on the entire north side of Parcels "B" and "D" in the DR 5.5 zone shall be heavily landscaped.

7) The spirit as well as the specific requirements of Section IX.B.1.b of the Baltimore County Landscaping Manual shall be met.

8) The internal traffic patterns for parking on Parcels "B", "C" and "D" shall be approved by the Department of Traffic Engineering and such written approval must be indicated on the approved plan.

Deputy Zoning Commissioner
of Baltimore County

ORDER RECEIVED FOR FILING
Date 6/16/87
By Kathi Schuckmann

-5-

266

PETITION FOR SPECIAL HEARING

87-335-SPH

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a use permit for off-street parking in a residential zone on three parcels (parcel B - .15 acres; parcel C - .74 acres; parcel D - .70acres) as shown on the attached plat and to amend the site plan filed in Case #73-146-XSPH and a determination of the applicable RTA requirements and buffer requirements affecting the overall property.

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:	Legal Owner(s):
Louis Mangione (Type or Print Name)	Nicholas B. Mangione (Type or Print Name)
Signature	Signature
1205 York Road Address	Charles W. Held, Jr. (Type or Print Name)
Lutherville, MD 21093 City and State	Signature
Attorney for Petitioner:	
Richard J. DiPasquale (Type or Print Name)	1205 York Road 825-8400 Address Phone No.
Signature	Lutherville, MD 21093 City and State
5718 Harford Road Address	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Baltimore, MD 21214 City and State	Louis Mangione Name
Attorney's Telephone No.: 426-4538	1205 York Road 825-8400 Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 2nd day of January, 19 87, 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 17th day of February, 19 87, at 11:45 o'clock A.M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1

(over)

ORDER RECEIVED FOR FILING
Date 6/16/87
By Kathi Schuckmann

MICROFILMED

266

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVENUE, TOWSON, MARYLAND 21204

December 5, 1986

Description to Accompany a Petition
For a Special Hearing to Permit
Offstreet Parking in a Residential Zone.

Beginning at a point on the west side of Tenbury Road being (North 24° West 171'±) from the point of intersection of the centerlines of Ridgefield Road and Tenbury Road thence in a clockwise direction:

1) *South 75° 31' West 175.41 feet ±*
2) *North 15° 04' West 180.33 feet ±*
3) *South 74° 56' West 157.00 feet ±*
4) *North 15° 04' West 170.00 feet ±*
5) *North 74° 56' East 190.00 feet ±*
6) *North 15° 04' West 161.00 feet ±*
7) *North 74° 56' East 149.00 feet ±*
8) *South 59° 59' 55" East 28.18 feet ±*
9) *South 15° 04' East 151.00 feet ±*
10) *Radius = 929.93 feet ±, length = 157.34 feet ±, chord = South 10° 13' 06' East 157.15 feet ±*
11) *Radius = 979.93 feet±, length = 153.80 feet ±, chord = South 9° 52' 05" East 153.64 feet ± and*
12) *South 14° 21' 54" East 31.54 feet ± to the place of beginning.*

Containing 2.36 acres of land more or less.

(THIS DESCRIPTION IS FOR ZONING PURPOSES ONLY)

STATE OF MARYLAND
JOHN STRONG LEWIS
No. 3079
REGISTERED
PROFESSIONAL ENGINEER

CERTIFICATE OF POSTING

87-335-SPH

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9th Date of Posting 2/1/87
Posted for: Special Hearing
Petitioner: Nicholas B. Mangione, et al
Location of property: S/W/cor. Greenridge Rd. & Tenbury Rd.
Location of Signs: Facing Tenbury Rd. approx. 200 ft. N/E of Greenridge Rd.
Remarks:
Posted by [signature] Date of return: 2/6/87
Signature
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 29, 19 87

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on January 29, 19 87

THE JEFFERSONIAN,

Publisher

Cost of Advertising
27.50

PETITION FOR SPECIAL HEARING
9th Election District
Case No. 87-335-SPH

LOCATION: Southwest Corner Greenridge Road and Tenbury Road
DATE AND TIME: Tuesday, February 17, 1987 at 11:45 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 to approve a use permit for off-street parking in a residential zone on 3 parcels, to amend the site plan filed in Case No. 73-146-XSPH and a determination of the applicable R.T.A. requirements and buffer requirements affecting the overall property.

Being the property of Nicholas B. Mangione, et al as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) 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

1/29 Jan. 29.

CASE NO. 88-CG-4761

Dulaney Valley Imp. Assoc., Inc. v. Nicholas B. Mangione, et al

RECEIVED FROM THE COUNTY BOARD OF APPEALS ~~exhibits~~, ~~BOARD'S ANSWER~~ & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE & EXHIBITS.

*Portion of transcript day no. 2 - 5/31/88

Clerk's Office

Date: 3/1/89

CASE NO. 88-CG-4761 AT LAW

Dulaney Valley Improvement Association, Inc. VS. Nicholas B. Mangione, et al

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S ANSWER & TRANSCRIPT FILED IN THE ABOVE ENTITLED CASE. ALSO FILED IS THE ZONING COMMISSIONER'S FILE AND EXHIBITS.

Clerk's Office

Date: 2/28/89

Mr. Dyer * 409.4 Notes

I suggest that this should be adm. of

being the only one in opposition. We hoped protestants !!

Call if you have any question

* Held N/S - Dunbeath Rd 5/3 - 42' of R/W Not owned

Thank

NICK

November 5, 1985

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

Re: E/S of York Road, 103' N of Ridgefield Road (1205 York Road) - 9th Election District
Precision Quality Homes, Inc., Petitioner
Case Nos. 73-146-SPH and C-85-1205
And Item No. 163

Dear Mr. Commissioner:

Please be advised that pursuant to your Order dated the 16th day of September, 1985, the Respondent, Nicholas B. Mangione, has complied with each and every requirement therein, and is prepared to proceed on a hearing on his Petition for Special Hearing identified as Item No. 163 on the Baltimore County Zoning Hearing Docket.

It would be appreciated if this matter could be set in for a hearing expeditiously to satisfy the Zoning Commissioner and the residents of the immediate neighborhood of the Respondent.

Many thanks for your compliance with this request, notifying all parties of your selected hearing date.

Very truly yours,

Richard J. DiPasquale

cc: Mr. Louis Mangione

eeh

February 14, 1986

Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Before the Zoning Commissioner of Baltimore County
Case No. 86-283-SPH
Petition Special Hearing
E/S of York Road, 103' N of Ridgefield Road (1205 York Road) - 9th Election District
Nicholas B. Mangione, Petitioner

Dear Sir:

Please note our Appeal of the February 10, 1986 decision of the Zoning Commissioner of Baltimore County with reference to the above captioned case. Enclosed please find our check for $100.00 to cover the cost of this Appeal. I believe that we have already paid the cost of posting, but should this not be so, please advise the undersigned.

Very truly yours,

Richard J. DiPasquale

cc: People's Counsel

eeh

July 22, 1987

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

Re: Case No. 87-335-SPH
Nicholas B. Mangione, et al.
SW/cor. Greenridge Rd. and Tenbury Rd.
9th Election District
4th Councilmanic
SPH-Off-Street Parking; amend site plan in Case No. 73-146-XSPH
6/8/87 - DZC Granted the Petition for Special Hearing subj. to restrictions
Assigned For: Tuesday, November 3, 1987 @ 10 a.m.

Gentlemen:

This office is in receipt of your July 14th notice that the above captioned matter is scheduled for a hearing on Tuesday, November 3, 1987 at 10:00 a.m.

A review of my schedule revels that I am already scheduled for a jury trial beginning on Tuesday, November 3, 1987 in the matter of Testi vs. Henry J. Knott, Inc., et al., Jury No. 84CG-1496, as per copy of Assignment Notice attached hereto.

Accordingly, it would be greatly appreciated if this matter could be continued to anytime prior to December 1, 1987, or anytime after April 1, 1988 as counsel for the Petitioner will be out of the state during that period.

Many thanks for your compliance with this request, notifying all parties of your newly selected hearing date.

Very truly yours,

Richard J. DiPasquale

cc: Michael P. Tanczyn, Esquire
Phyllis C. Friedman, Esquire

Enclosure

eeh

September 22, 1987

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

Re: Nicholas B. Mangione, et al
Petition for Special Exception
Case No. 87-504-XA

Dear Mr. Hackett:

This office is in receipt of a copy of correspondence from Michael P. Tanczyn, Esquire to the Baltimore County Board of Appeals requesting that the above captioned matter be set in for a hearing after April 15, 1988, to immediately follow another appeal in Case No. 87-335-SPH.

Unfortunately, I am not as young and spunky as Mr. Tanczyn, and do not relish the idea of having two appeals cases tried in rapid succession, and it would be the position of the Petitioner to comply with Mr. Tanczyn's request that Case No. 87-335-SPH be scheduled first, but there should be at least a 2-4 week interval between the cases when scheduled.

Therefore, it would be appreciated if Case No. 87-504-XA can be scheduled 30 days after 87-335-SPH.

Many thanks for your anticipated compliance with this request.

Very truly yours,

Richard J. DiPasquale

cc: Michael P. Tanczyn, Esquire
Baltimore County People's Counsel
Mr. Nicholas B. Mangione

eeh

September 23, 1987

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

RE: Case No. 87-355-SPH
Nicholas B. Mangione, et al

Dear Mr. Hackett:

This office is in receipt of letters from all counsel in the above-captioned matter, who have requested the hearing be postponed from its presently scheduled hearing date of November 25, 1987 at 10:00 a.m. As I indicated previously, I had no objections to a postponement of this matter, but now I too am requesting a continuance, since I have just learned that Mr. Nicholas B. Mangione is required to be present at an injunction hearing in the Circuit Court for Howard County on November 25, 1987 at 10:00 a.m.

It is obvious that all parties would be happy with a continuance to some date in April, 1988, so that proper preparations can be made and all parties can be present at said hearing.

Accordingly, it would greatly appreciated if you would arrange to continue this matter until such time in April, 1988 to accomodate all parties and counsel as requested.

Many thanks for your anticipated consideration and cooperation.

Very truly yours,

Richard J. DiPasquale

RJD/c

cc: Mrs. Barbara Poniatowski
Baltimore County People's Counsel
Michael P. Tanczyn, Esquire

RICHARD J. DIPASQUALE
ATTORNEY AT LAW
8318 HANFORD ROAD
BALTIMORE, MARYLAND 21214

Area Code 301
TELEPHONE 426-4538

August 31, 1987

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

RE: Case No. 87-355-SPH
Nicholas B. Mangione, et al
S/W Corner Greenridge Road and Tenbury Road
9th Election District
4th Councilmanic District
SPH-Off-Street Parking; amend site plan in Case No. 73-146-XSPH
June 8, 1987 - DZC Granted the Petition for Special Hearing subject to restrictions
Assigned For: November 25, 1987

Gentlemen:

This office is in receipt of a letter dated August 7, 1987, from Ms. Phyllis Cole Friedman, People's Counsel for Baltimore County, requesting that this matter be rescheduled after April 1, 1988. Since that communication, I have received no reassignment from the County Board of Appeals, indicating whether they would honor Ms. Friedman's request.

I personally do not object to her request and am asking your office to advise whether the November 25, 1987 date still holds, or will this matter be rescheduled.

Very truly yours,

Richard J. DiPasquale

RJD/c

cc: Michael P. Tanczyn, Esquire
Phyllis C. Friedman, Esquire

August 5, 1987

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

RE: Case No. 87-335-SPH
and Case No. 87-504-XA

Gentlemen:

This office is in receipt of a letter, dated August 3, 1987 from Michael P. Tanczyn, attorney for the Dulaney Valley Improvement Association, Inc. He requests that it would be in the interest of both parties to schedule the above captioned matters for trial at the same time.

The purpose of this letter is that I obviously disagree with Mr. Tanczyn, in that I am not a super lawyer, capable of handling two appeals for trial at the same time. My witnesses in these cases are not the same, and my preparation for each case will not be the same.

I, therefore, suggest that Case No. 87-335-SPH be tried on the presently scheduled hearing date of Wednesday, November 25, 1987, at 10:00 a.m.

As you know, I will be absent from the state from December 1, 1987, continuing through March 30, 1988, and respectfully request that this information be taken into consideration when scheduling Case No. 87-504-XA.

Should there be any questions that any party wishes to convey to the writer, they may do so at any time.

Very truly yours,

Richard J. DiPasquale

cc: Michael P. Tanczyn, Esquire
Mr. Nicholas B. Mangione

PETITION FOR
SPECIAL HEARING
9th Election District
Case No. 87-335-SPH

LOCATION: Southwest Corner Greenridge Road and Tenbury Road
DATE AND TIME: Tuesday, February 17, 1987, at 11:45 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 to approve a use permit for off-street parking in a residential zone on 3 parcels, to amend the site plan filed in Case No. 73-146-XSPH and a determination of the applicable R.T.A. requirements and buffer requirements affecting the overall property

Being the property of Nicholas B. Mangione, et al, as shown on plat plan filed with the Zoning Office.

In the event that the Petition(s) 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

84975-L/36260 Jan. 28

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 28, 1987

THIS IS TO CERTIFY, that the annexed advertisement was published in the TOWSON TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on January 29, 1987.

TOWSON TIMES,

Publisher

42.50

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

No. 33009

DATE _____ ACCOUNT _____

AMOUNT $ _____

RECEIVED 3/9/87
FROM _____

FOR _____

VALIDATION OR SIGNATURE OF CASHIER

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

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

February 10, 1987

Richard J. DiPasquale, Esquire
5718 Harford Road
Baltimore, Maryland 21214

RE: PETITION FOR SPECIAL HEARING
SW/cor. Greenridge Rd. and Tenbury Rd.
9th Election District
Nicholas B. Mangione, et al - Petitioners
Case No. 87-335-SPH

Dear Mr. DiPasquale:

This is to advise you that $85.00 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Do not remove sign from property from the time it is placed by this office until the day of the hearing itself.

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

Sincerely,

Arnold Jablon
Zoning Commissioner

AJ:med

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

No. 33138

DATE _____ ACCOUNT _____

AMOUNT $ _____

RECEIVED _____
FROM _____

FOR _____

VALIDATION OR SIGNATURE OF CASHIER

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

No. 30404

DATE 1-30-87 ACCOUNT 01-615-000

AMOUNT $ 100.00

RECEIVED _____
FROM _____

FOR Spl # 706

VALIDATION OR SIGNATURE OF CASHIER

87-335-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this 2nd day of January, 1987.

ARNOLD JABLON
Zoning Commissioner

Petitioner ~~Nicholas B. Mangione, et al~~
Petitioner's Attorney ~~Richard J. DiPasquale, Esquire~~

Received by: James E. Dyer
Chairman, Zoning Plans Advisory Committee

RECOMMENDED

Richard J. DiPasquale, Esquire
5718 Harford Road
Baltimore, Maryland 21214

January 9, 1987

NOTICE OF HEARING

RE: PETITION FOR SPECIAL HEARING
SW/cor. Greenridge Rd. and Tenbury Rd.
9th Election District
Nicholas B. Mangione, et al - Petitioners
Case No. 87-335-SPH

TIME: 11:45 a.m.

DATE: Tuesday, February 17, 1987

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

Zoning Commissioner
of Baltimore County

AJ:med

cc: Mr. Nicholas B. Mangione
Mr. Charles W. Held, Jr.
Mr. Louis Mangione
1205 York Road
Lutherville, Maryland 21093

P.S. TO MR. DiPASQUALE:

It is requested that you come in to the Zoning Office and sign the Petition for Special Hearing in triplicate which you filed on behalf of your clients. Thank you. Zoning Office

PETITION FOR SPECIAL HEARING

9th Election District

Case No. 87-335-SPH

LOCATION: Southwest Corner Greenridge Road and Tenbury Road

DATE AND TIME: Tuesday, February 17, 1987, at 11:45 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:

Pecition for Special Hearing to approve a use permit for off-street parking in a residential zone on 3 parcels, to amend the site plan filed in Case No. 73-146-XSPH and a determination of the applicable R.T.A. requirements and buffer requirements affecting the overall property

Being the property of Nicholas B. Mangione, et al, as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) 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

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301)-494-3180
July 14, 1987

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. 87-335-SPH — NICHOLAS B. MANGIONE, ET AL

SW/cor. Greenridge Rd. and Tenbury Rd.

9th Election District
4th Councilmanic

SPH-Off-street parking; amend site plan in Case No. 73-146-XSPH

6/8/87 - DZC Granted the Petition for Special Hearing subj. to restrictions.

ASSIGNED FOR: TUESDAY, NOVEMBER 3, 1987, at 10 a.m.

cc: Nicholas B. Mangione, et al — Petitioners
Richard J. DiPasquale, Esq. — Counsel for Petitioners
Louis Mangione — Contract Purchaser
Michael P. Tanczyn, Esq. — Counsel for Protestants
Phyllis C. Friedman — People's Counsel for Balto. Cty.

Norman E. Gerber
James Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer
Margaret E. duBois

June Holmen, Secretary

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301)-494-3180
September 24, 1987

NOTICE OF POSTPONEMENT

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. 87-335-SPH — NICHOLAS B. MANGIONE, ET AL

Also 87-509-XA
(See attached Letters)

SW/cor. Greenridge Rd. and Tenbury Rd.

9th Elec. Dist. - 4th Council. Dist.

SPH-Off-street pky; amend site plan in Case No. 73-146-XSPH

6/8/87 -DZC GRANTED Petition for Special Hearing subj. to restrictions

which has been set for hearing on Wednesday, Nov. 25, 1987, has been POSTPONED at the request of People's Counsel and with agreement of all involved Counsel; to be reset at a later date for hearing after April 15, 1988, per correspondence from Counsel for Petitioner.

cc: Nicholas B. Mangione, et al — Petitioners
Richard J. DiPasquale, Esq. — Counsel for Petitioners
Louis Mangione — Contract Purchaser
Michael P. Tanczyn, Esq. — Counsel for Protestants
Phyllis C. Friedman, Esq. — People's Counsel

Norman E. Gerber
Frank Fisher
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Margaret E. duBois

June Holmen, Secretary

11/8

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301)-494-3180
January 20, 1988

HEARING ROOM #218

RECEIVED
JAN 25 1988
ZONING OFFICE

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). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 87-335-SPH — NICHOLAS B. MANGIONE, ET AL

SW/cor. Greenridge Rd. and Tenbury Rd.

9th E. Dist.; 4th C. Dist.

SPH-Off-street pkg. in a residential zone

June 8, 1987 - D.Z.C.'s Order-Granted subj. to restrictions

ASSIGNED FOR: TUESDAY, APRIL 19, 1988, at 10 a.m.

cc: Nicholas B. Mangione, et al — Petitioners
Richard J. DiPasquale, Esq. — Counsel for Petitioners
Louis Mangione — Contract Purchaser
Michael P. Tanczyn, Esq. — Counsel for Protestants
Phyllis C. Friedman, Esq. — People's Counsel
David Fields — Planning Office
James Hoswell — " "
J. Robert Haines — Office of Zoning
Ann Nastarowicz — " " "
James Dyer — " " "
Docket Clerk — " " "

June Holmen, Secy.

11/87

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

HEARING ROOM #218

April 20, 1988

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). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 87-335-SPH — NICHOLAS B. MANGIONE, ET AL
Hearing Day #2 — SW/cor Greenridge Road and Tenbury Road
9th Election District
(Continued from 4/19/88) — 4th Councilmanic District
SPH -Off-street parking in residential zone
June 8, 1987 -D.Z.C.'s Order -GRANTED subject to restrictions

ASSIGNED FOR: TUESDAY, MAY 31, 1988 at 10:00 a.m.

cc: Nicholas B. Mangione, et al — Petitioners
Richard J. DiPasquale, Esquire — Counsel for Petitioners
Louis Mangione — Contract Purchaser
Michael P. Tanczyn, Esquire — Counsel for Protestants
Phyllis C. Friedman, Esquire — People's Counsel
P. David Fields
James G. Hoswell
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk
Arnold Jablon, County Attorney

Kathleen C. Weidenhammer
Administrative Secretary

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

HEARING ROOM #218

May 31, 1988

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). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

(CONTINUED FROM MAY 31, 1988)

CASE NO. 87-335-SPH — NICHOLAS B. MANGIONE, ET AL
(Hearing Day #3) — SW/cor Greenridge Road and Tenbury Road
9th Election District
(cont'd fr 5/31/88) — 4th Councilmanic District
SPH -Off-street parking in residential zone
6/08/87 -D.Z.C.'s Order -GRANTED subject to restrictions

ASSIGNED FOR: TUESDAY, AUGUST 23, 1988 at 10:00 a.m. and WEDNESDAY, AUGUST 24, 1988 at 10:00 a.m.

cc: Nicholas B. Mangione, et al — Petitioners
Richard J. DiPasquale, Esquire — Counsel for Petitioners
Louis Mangione — Contract Purchaser
Michael P. Tanczyn, Esquire — Counsel for Protestants
Phyllis C. Friedman, Esquire
P. David Fields
James G. Hoswell
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning
Arnold Jablon, County Attorney

Kathleen C. Weidenhammer
Administrative Secretary

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 30, 1987

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

ebb

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

Richard J. DiPasquale, Esquire
5719 Harford Road
Baltimore, Maryland 21214

RE: Item No. 266 - Case No. 87-335-SPH
Petitioner: Nicholas B. Mangione, et al
Petition for Special Hearing

Dear Mr. DiPasquale:

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.

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,

James E. Dyer/mb

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:kkb

Enclosures

cc: George W. Stephens & Associates
303 Allegheny Avenue
Towson, Maryland 21204

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

January 29, 1987

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

RE: Property Owner: Nicholas B. Mangione, et al
Location: SW/C Greenridge Rd. and Tenbury Rd.
Item No.: 266 Zoning Agenda: Meeting of 12/30/86

Gentlemen:

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

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

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

( ) 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

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

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

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

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

REVIEWER: Capt. Joseph Kelly 1/29/87 — Noted and Approved: John J. O'Neill
Planning Group — Fire Prevention Bureau
Special Inspection Division

/mb

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

NORMAN E. GERBER
DIRECTOR

January 27, 1987

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

Re: Zoning Advisory Meeting of December 30, 1986
Item # 266
Property Owner: Nicholas B. Mangione et al
Location: SW/C Greenridge Rd. & Tenbury Rd.

Dear Mr. Jablon:

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

( ) 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.
( ) This site is part of a larger tract; therfore it is defined as a subdivision. The plan must show the entire tract.
( ) A record plat will be required and must be recorded prior to issuance of a building permit.
( ) The access 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 22-98 of the Development Regulations.
( ) Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
( ) The amended Development Plan was approved by the Planning Board on _____.
(X) 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 is _____.
( ) 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:

David Fields, Acting Chief
Current Planning and Development

cc: James Hoswell

Maryland Department of Transportation
State Highway Administration

JAN 29 1987

William K. Hellmann
Secretary
Hal Kassoff
Administrator

January 8, 1987

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

Att: James Dyer

Re: Baltimore County
Item #266
Property Owner: Nicholas B. Mangione, et al
Location: SW/C Greenridge Road and Tenbury Road and York Road Maryland Route 45
Existing Zoning: U-1, R-O and D.R. 5.5
Proposed Zoning: Special Hearing to approve a use permit for off-street parking in a residential zone on three parcels as shown on the attached plat and to amend the site plan filed in Case #73-146XSPH and a determ. of the applicable RTA requirements and buffer requirements affecting the overall property
Area: 2.36 acres
District: 9th

Dear Mr. Jablon:

On review of the submittal of 12/5/86, showing all access to the site by way of York Road, Maryland Route 45, the State Highway Administration finds the plan generally acceptable.

Very truly yours,

Charles Lee, Chief
Bureau of Engr. Access Permits

by: George Wittman

CL-GW:es

cc: J. Ogie

My telephone number is 333-1350
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

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204

TED ZALESKI, JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 266 Zoning Advisory Committee Meeting are as follows:

Property Owner: Nicholas B. Mangione, et al
Location: SW/C Greenridge Road and Tenbury Road
District: O-1, R-O and D.R. 5.5

APPLICABLE ITEMS ARE CIRCLED:

A. All structures 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 Groups except R-1 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-1 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. Before 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 uses. Maryland architectural or Engineer seals are usually required. The change of Use Groups are from Use _____ to Use _____, or if Mixed Uses _____, _____, _____. See Section 312 of the Building Code.

I. The proposed project appears to be located in a Flood 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.

J. Comments:

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.

Wm. E. Hammond
BY: C. E. Burnham, Chief
Building Plans Review

1/22/87

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Zoning Commissioner — Date: February 6, 1987

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

SUBJECT: Zoning Petition No. 87-335-SPH

In view of the subject of this petition, this office offers no comment.

Norman E. Gerber/James G. Hoswell
Norman E. Gerber, AICP
Director

NEG:JGH:slb

RECEIVED
FEB 9 1987
ZONING OFFICE

MICROFILMED

CPS-60a

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. J. Robert Haines Date November 23, 1987
Zoning Commissioner

FROM C. Richard Moore
Bureau Chief

SUBJECT Petition for Special Hearing
S/W Corner Greenridge & Tenbury Roads
Case No. 87-335-SPH
Nicholas B. Mangione-Petitioner

At the request of the Current Planning Office, we are submitting to you an approved plan for the above case. This plan has been approved by our office with sole respect to the internal traffic patterns for parking on Parcels "B", "C", & "D", and without any regards to any other factors. This approval was apparently required by Jean Jung's order of June 8, 1987.

Should you have any questions, please give myself or Jimmy Ogle a call.

C. Richard Moore, Bureau Chief
Bureau of Traffic Engineering

CRM:SEW:sb

Attachment

cc. Mr. Jimmy Ogle
Mr. Michael Flanigan

RECEIVED
NOV 30 1987
ZONING OFFICE

CPS-008

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

STEPHEN E. COLLINS
DIRECTOR

February 11, 1987

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

Item No. 266 -ZAC-
Property Owner:
Location: York Rd. S. of Greenridge Rd.
Existing Zoning:
Proposed Zoning:

Acres:
District:

Dear Mr. Jablon:

The parking space closest to York Road needs to be eliminated, and the York Road access needs to be widened to 35 ft. with the same curb return radii as exist now.

Very truly yours,

Gregory M. Jones
Traffic Engineer III

GMJ:lt

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

Arnold Jablon
Zoning Commissioner

June 8, 1987

Dennis F. Rasmussen
County Executive

Richard J. DiPasquale, Esquire
5718 Harford Road
Baltimore, Maryland 21214

RE: Petition for Special Hearing
SW/cor. Greenridge and Tenbury Roads
9th Election District
Case No. 87-335-SPH
Nicholas B. Mangione - Petitioner

Dear Mr. DiPasquale:

Pursuant to the hearing held in the above-referenced case, enclosed please find a copy of the decision rendered. Your Petition for Special Hearing has been Granted, subject to the restrictions noted in the attached Order.

If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

JEAN M. H. JUNG
Deputy Zoning Commissioner

JMHJ:bjs

Enclosures

cc: Michael Tansing, Esquire - Attorney for Protestants
606 Baltimore Avenue, Suite 106
Towson, Md. 21204

People's Counsel

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

Arnold Jablon
Zoning Commissioner

June 10, 1987

Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
Old Courthouse, Room #205
Towson, Maryland 21204

RE: Petition for Special Hearing
SW/cor. Greenridge Road and Tenbury Road
Nicholas B. Mangione, et al - Petitioners
Case No. 87-335-SPH

Dear Board:

Please be advised that on June 10, 1987 an appeal of the decision rendered in the above-referenced case was filed by Michael P. Tanczyn, Esquire, attorney for Protestants.

Please notify all parties to the case of the appeal hearing date and time when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

ARNOLD JABLON
Zoning Commissioner

AJ:bjs

cc: Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106, Towson, Md. 21204

Richard J. DiPasquale, Esquire, Attorney for Petitioners
5718 Harford Road, Baltimore, Md. 21214

Mr. Louis Mangione
1205 York Road, Timonium, Md. 21093

Phyllis Cole Friedman, Esquire
People's Counsel for Baltimore County
Old Courthouse, Rm. 223, Towson, Maryland 21204

File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

Arnold Jablon
Zoning Commissioner

June 11, 1987

Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
Old Courthouse, Room #205
Towson, Maryland 21204

RE: Petition for Special Hearing
SW/cor. Greenridge Road and Tenbury Road
Nicholas B. Mangione, et al - Petitioners
Case No. 87-335-SPH

Dear Board:

Please be advised that on June 11, 1987, an appeal of the decision rendered in the above-referenced case was filed by People's Counsel. All materials relative to the case have been forwarded to your office in response to an appeal previously filed on June 10, 1987.

If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

ARNOLD JABLON
Zoning Commissioner

AJ:bjs

cc: Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106, Towson, Md. 21204

Richard J. DiPasquale, Esquire
5718 Harford Road, Baltimore, Md. 21212

Mr. Louis Mangione
1205 York Road, Towson, Md. 21204

Phyllis Cole Friedman, Esquire
People's Counsel for Baltimore County
Old Courthouse, Rm. 223, Towson, Maryland 21204

File

APPEAL

Petition for Special Hearing
SW/Corner Greenridge Road and Tenbury Road
9th Election District - 4th Councilmanic District
Nicholas B. Mangione, et al - Petitioners
Case No. 87-335-SPH

Petition for Special Hearing

Description of Property

Certificates of Posting

Certificates of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1 - Plat of Property dated 12/5/86

2 - Changed Plat of Property dated 12/5/86

3a - Architectural Drawing dated 11/5/73

3b - Sheet of Xeroxed Copies of Prior Petitions dated 7/3/73

4 - Listing of Square Footage used by each Tenant dated 8/15/86

Joint Exhibits: 1 - Tenants of 1205 York Road

2 - Owners of 1205 York Road

3 - Tenants of 1205 York Road (Not From Lease)

Protestant's Exhibits: Missing from the File

Deputy Zoning Commissioner's Order dated June 8, 1987

Letter of Appeal received June 10, 1987 from Michael P. Tanczyn, Esquire, Attorney for Protestants

Mr. Nicholas B. Mangione, et al, Petitioners
1205 York Road, Lutherville, Md. 21093

Richard J. DiPasquale, Esquire, Attorney for Petitioners
5718 Harford Road, Baltimore, Maryland 21214

Mr. Louis Mangione, Contract Purchaser
1205 York Road, Lutherville, Md. 21093

Michael P. Tanczyn, Esquire, Attorney for Protestants
606 Baltimore Avenue, Suite 106, Towson, Md. 21204

Phyllis Cole Friedman, Esquire
People's Counsel of Baltimore County
Rm. 223, Old Courthouse, Towson, Maryland 21204

Request Notification: Norman E. Gerber, Director of Planning
James Hoswell, Office of Planning & Zoning
Arnold Jablon, Zoning Commissioner
Jean M. H. Jung, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Margaret E. duBois, Docket Clerk

September 1, 1987

Baltimore County Board of Appeals
Old Courthouse, Room #205
Towson, Maryland 21204

Attention: Kathi Weidenhammer

RE: Petition for Special Hearing
SW/cor. Greenridge Road and Tenbury Road
9th Election District, 4th Councilmanic District
Nicholas B. Mangione, et al - Petitioners
Case No. 87-335-SPH

Dear Kathi:

Pursuant to our telephone conversation of yesterday on the above-referenced matter, enclosed please find the Protestant's Exhibits, which were missing from the file when the case was first appealed, and a revised cover sheet.

If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

BETTE J. SCHUEMANN
Zoning Office

bjs

cc: File

Revised 9/1/87

APPEAL

Petition for Special Hearing
SW/corner Greenridge Road and Tenbury Road
9th Election District - 4th Councilmanic District
Nicholas B. Mangione, et al - Petitioners
Case No. 87-335-SPH

Petition for Special Hearing

Description of Property

Certificates of Posting

Certificates of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1) Plat of Property dated 12/5/86

2) Changed Plat of Property dated 12/5/86

3a) Architectural Drawing dated 11/5/73

3b) Sheet of Xeroxed Copies of Prior Petitions dated dated 7/3/73

4) Listing of Square Footage used by each Tenant dated 8/15/86

Joint Exhibits: 1) Tenants of 1205 York Road

2) Owners of 1205 York Road

3) Tenants of 1205 York Road (Not From Lease)

Protestant's Exhibits: 1a) Copies of Previous Case No. 73-146-XSPH dated 7/3/73

1b) Copy of Site Plan "A", Exhibit #4 from prior case

2) Copy of York Place Lease dated 9/11/84 with attached Renewal and Rent Adjustment Addendum, Rules and Regulations, and Parking Agreement

3) List of Tenants of 1205 York Road

4) Yellow-lined signed sheet of Protestants

5) Copy of Addendum to Lease dated 3/6/86

6) Letter dated 2/17/87 from Dulaney Valley Improvement Association

7) Copy of Site Plan of Property revised 12/11/72

Deputy Zoning Commissioner's Order dated June 8, 1987

Letter of Appeal received June 10, 1987 from Michael P. Tanczyn, Esquire, attorney for the Protestants

Mr. Nicholas B. Mangione, et al, Petitioners
1205 York Road, Lutherville, Maryland 21093

Richard J. DiPasquale, Esquire, Attorney for Petitioners
5718 Harford Road, Baltimore, Maryland 21214

Mr. Louis Mangione, Contract Purchaser
1205 York Road, Lutherville, Maryland 21093

Mr. Michael P. Tanczyn, Esquire, Attorney for Protestants
606 Baltimore Avenue, Suite 106, Towson, Maryland 21204

Phyllis Cole Friedman, Esquire,
People's Counsel of Baltimore County
Rm. 223, Old Courthouse, Towson, Maryland 21204

Request Notification: Norman E. Gerber, Director of Planning
James Hoswell, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Margaret E. duBois, Docket Clerk

NICHOLAS B. MANGIONE, et al — 87-335-SPH

SW/corner Greenridge Road and Tenbury Road — 9th E; 4th C

SPH -to approve use permit for off-street parking in residential zone on 3 parcels and determination of the applicable RTA requirements and buffer requirements affecting the overall property.

January 2, 1987	Petition for Special Hearing of Nicholas B. Mangione, et al to approve use permit for off-street parking and determination of applicable RTA and buffer requirements affecting property.
June 8	Order of D.Z.C. that Petition for Special Hearing is GRANTED, with restrictions.
June 10	Order for Appeal to C.B. of A. from Michael P. Tanczyn, Esq., on behalf of Protestants.
April 19	Hearing before Board.
May 31	Continued hearing before Board.
August 23	Continued hearing before Board.
August 24	Continued hearing before Board.
November 2	Order of Board that Petition to permit off-street parking be GRANTED, subject to restrictions.
December 2	Order for Appeal filed in CCt, BCo by Tanczyn.
December 2	Certificate of Notice sent.
December 12	Petition to accompany appeal filed.
February 28, 1988	Transcript of testimony filed; record of proceedings filed.

7/14/87 - Following were notified of hearing set for Tues. Nov. 3, 1987, at 10 a.m.:

Nicholas Mangione, et al
Richard DiPasquale, Esq.
Louis Mangione
Michael Tanczyn, Esq.
Phyllis Friedman
N. Gerber, J. Hoswell
A. Jaolon, J. Jung, J. Dyer, M. duBois

7/27/87 -Postponement request received from Richard J. DiPasquale, Esq., Counsel for Petitioner -- schedule conflict -jury trial

7/30/87 -above notified of hearing postponed and REASSIGNED to Wednesday, November 25, 1987 at 10:00 a.m.

9/15/87 -Denied postponement requested by P. Friedman. Hearing to be had on scheduled date of 11/25/87 at 10:00 a.m.

9/24/87 - Postponement granted. No new date yet until after 1st of the year.

1/20/88 - Above notified of hearing set for Tues. Apr. 19, 1988, at 10 a.m.

4/20/88 -Above notified of hearing continued to Tuesday, May 31, 1988 at 10:00 a.m.

5/31/88 -Continued with agreement of Counsel to August 23 and August 24 to allow Petitioner to draw new plans consistent with current law. Above notified of hearing on 8/23 and 8/24.

8/24/88 -Hearing completed. Post-hearing memos to be filed within 30 days (9/23/88)

Baltimore County, Maryland
PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204
494-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

August 7, 1987

The Honorable
William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

RE: Nicholas B. Mangione, et al., Petitioners,
Zoning Case No. 87-335-SPH

Dear Chairman Hackett:

I have just received notice that the above-referenced case has been rescheduled for Wednesday, November 25, 1987, at 10:00 a.m.

While I hate to inconvenience the parties, I am scheduled to leave town at 4:05 p.m. that day and return Sunday, November 29th. Since this is a case that I am anxious to participate in personally, I would appreciate it if this matter could be rescheduled, in accordance with Petitioner's attorney's request, after April 1, 1988.

Thank you for your cooperation.

Sincerely yours,

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

cc: Richard J. DiPasquale, Esquire
Michael P. Tanczyn, Esquire

PCF:sh

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

August 5, 1987

Michael P. Tanczyn, Esquire
Suite 106, 606 Baltimore Avenue
Towson, MD 21204

RE: Case No. 87-335-SPH
and Case No. 87-504-XA

Dear Mr. Tanczyn:

In regard to your request that Case No. 87-335-SPH and Case No. 87-504-XA be scheduled together, the Board does not look favorably upon this request. Case No. 87-335-SPH is a special hearing regarding a parking problem while Case No. 87-504-XA is a request for a special exception for a nursing home on a separate site.

Although both cases involve the same parties, the sites and requested relief are different and distinct, and, absent agreement of all counsel, the Board will not consolidate these cases but will schedule each independently as the docket permits.

Very truly yours,

William T. Hackett

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

WTH:kcw

cc: Dulaney Valley Improvement Association
Richard J. DiPasquale, Esquire

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

September 15, 1987

Phyllis Cole Friedman
People's Counsel for Baltimore County
Room 223, Courthouse
Towson, MD 21204

RE: Case No. 87-335-SPH
Nicholas B. Mangione, et al

Dear Ms. Friedman:

The Board is in receipt of your request for postponement of the subject case which is scheduled for hearing on Wednesday, November 25, 1987 at 10:00 a.m.

Since it is probable that a postponement of this case at this time would result in a postponement until some time in the Spring of 1988, the Board will deny your request and the case will be heard on the assigned date.

Sincerely yours,

William T. Hackett

William T. Hackett, Chairman
County Board of Appeals

WTH:kcw

cc: Richard J. DiPasquale, Esquire
Michael P. Tanczyn, Esquire

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3180

December 2, 1988

Michael P. Tanczyn, Esq.
606 Baltimore Ave., St. 106
Towson, Md. 21204

Re: Case No. 87-335-SPH
Nicholas B. Mangione, et al

Dear Mr. Tanczyn:

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,

June Holmen

June Holmen, Secretary

Enc.

2/17/87 7 fld 87-335-SPH

DULANEY VALLEY IMPROVEMENT ASSOCIATION INC. and BARBARA PONIATOWSKI, * IN THE

Plaintiffs, * CIRCUIT COURT FOR

vs. * BALTIMORE COUNTY

NICHOLAS B. MANGIONE, LOUIS MANGIONE, ARNOLD JABLON, ESQ. and JEAN JUNG, * Case No. 26/342/87CSP-425

Defendants. *

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

I HEREBY CERTIFY that, on this 13th day of February, 1987, a copy of the Affidavits of Service on Arnold Jablon, Esq., Jean Jung and Louis Mangione were mailed, postage paid, to: Arnold Jablon, Baltimore County Zoning Commissioner, 111 West Chesapeake Avenue, Towson, Maryland, 21204; Jean Jung, Deputy Zoning Commissioner, 111 West Chesapeake Avenue, Towson, Maryland, 21204; and Louis Mangione, The Penthouse, 1205 York Road, Lutherville, Maryland, 21093.

MICHAEL P. TANCZYN, ESQ.

FILMED

DULANEY VALLEY IMPROVEMENT ASSOCIATION INC. and BARBARA PONIATOWSKI, * IN THE

Plaintiffs, * CIRCUIT COURT FOR

vs. * BALTIMORE COUNTY

NICHOLAS B. MANGIONE, LOUIS MANGIONE, ARNOLD JABLON, ESQ. and JEAN JUNG, * Case No. 28/342/87CSP-425

Defendants. *

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

I HEREBY CERTIFY that, on this 11 day of February, 1987, a copy of the Affidavit of Service on Nicholas B. Mangione was mailed, postage paid, to: Arnold Jablon, Baltimore County Zoning Commissioner, 111 West Chesapeake Avenue, Towson, Maryland, 21204; Jean Jung, Deputy Zoning Commissioner, 111 West Chesapeake Avenue, Towson, Maryland, 21204; Nicholas B. Mangione, The Penthouse, 1205 York Road, Lutherville, Maryland, 21093; and Louis Mangione, The Penthouse, 1205 York Road, Lutherville, Maryland, 21093.

MICHAEL P. TANCZYN, ESQ.

FILMED

DULANEY VALLEY IMPROVEMENT ASSOCIATION INC. and BARBARA PONIATOWSKI, * IN THE

Plaintiffs, * CIRCUIT COURT FOR

vs. * BALTIMORE COUNTY

NICHOLAS B. MANGIONE, LOUIS MANGIONE, ARNOLD JABLON, ESQ. and JEAN JUNG, * Case No. 28/342/87CSP-425

Defendants. *

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

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that he executed service of process pursuant to the authority granted by the Court upon LOUIS MANGIONE, Defendant, the above-named Defendant, at 2:00 p.m. on Thursday, February 12, 1987, at 1205 York Road, The Penthouse, Lutherville, Maryland, 21093, by delivering and leaving with LOUIS MANGIONE a copy of the Summons and Complaint which were previously filed with this Court. The undersigned further certifies that he is over eighteen years of age and is not a party to this action.

MICHAEL P. TANCZYN

STATE OF MARYLAND, COUNTY OF BALTIMORE; to wit:

I HEREBY CERTIFY that on this 13th day of February, 1987, before me, the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared MICHAEL P. TANCZYN, and he made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his knowledge, information and belief.

NOTARY PUBLIC
Commission Expires 7-1-90

EVA M. S. DREHMER NOTARY PUBLIC BALTO. CO.

FEB 17 1987

DULANEY VALLEY IMPROVEMENT ASSOCIATION INC. and BARBARA PONIATOWSKI, * IN THE

Plaintiffs, * CIRCUIT COURT FOR

vs. * BALTIMORE COUNTY

NICHOLAS B. MANGIONE, LOUIS MANGIONE, ARNOLD JABLON, ESQ. and JEAN JUNG, * Case No. 28/342/87CSP-425

Defendants. *

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

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that she executed service of process pursuant to the authority granted by the Court upon ARNOLD JABLON, ESQ., Defendant, who was satisfactorily identified to her as the above-named Defendant, at 4:00 p.m. on Wednesday, February 11, 1987, at 111 West Chesapeake Avenue, Towson, Maryland, 21204, by delivering and leaving with ARNOLD JABLON, ESQ. a copy of the Summons and Complaint which were previously filed with this Court. The undersigned further certifies that she is over eighteen years of age and is not a party to this action.

EVA M. S. DREHMER

STATE OF MARYLAND, COUNTY OF BALTIMORE; to wit:

I HEREBY CERTIFY that on this 13 day of February, 1987, before me, the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared EVA M. S. DREHMER, and she made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of her knowledge, information and belief.

NOTARY PUBLIC
Commission Expires 7-1-92

DULANEY VALLEY IMPROVEMENT ASSOCIATION INC. and BARBARA PONIATOWSKI, * IN THE

Plaintiffs, * CIRCUIT COURT FOR

vs. * BALTIMORE COUNTY

NICHOLAS P. MANGIONE, LOUIS MANGIONE, ARNOLD JABLON, ESQ. and JEAN JUNG, * Case No. 28/342/87CSP-425

Defendants. *

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

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that she executed service of process pursuant to the authority granted by the Court upon JEAN JUNG, Defendant, the above-named Defendant, at 4:00 p.m. on Wednesday, February 11, 1987, at 111 West Chesapeake Avenue, Towson, Maryland, 21204, by delivering and leaving with STELLA LOWERY, a person of suitable age and discretion authorized to accept service of process on behalf of the Defendant, a copy of the Summons and Complaint which were previously filed with this Court. The undersigned further certifies that she is over eighteen years of age and is not a party to this action.

EVA M. S. DREHMER

STATE OF MARYLAND, COUNTY OF BALTIMORE; to wit:

I HEREBY CERTIFY that on this 13 day of February, 1987, before me, the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared EVA M. S. DREHMER, and she made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of her knowledge, information and belief.

NOTARY PUBLIC
Commission Expires 7/1/90

MICROFILMED

2/19/87 7 fld Case #87-335-SPH

DULANEY VALLEY IMPROVEMENT ASSOCIATION INC. and BARBARA PONIATOWSKI, * IN THE

Plaintiffs, * CIRCUIT COURT FOR

vs. * BALTIMORE COUNTY

NICHOLAS B. MANGIONE, LOUIS MANGIONE, ARNOLD JABLON, ESQ. and JEAN JUNG, * Case No. 28/342/87CSP-425

Defendants. *

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

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that he executed service of process pursuant to the authority granted by the Court upon NICHOLAS B. MANGIONE, Defendant, the above-named Defendant, at 11:47 a.m. on Tuesday, February 17, 1987, at Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, 21204, by delivering and leaving with NICHOLAS B. MANGIONE a copy of the Summons and Complaint which were previously filed with this Court. The undersigned further certifies that he is over eighteen years of age and is not a party to this action.

MICHAEL P. TANCZYN

STATE OF MARYLAND, COUNTY OF BALTIMORE; to wit:

I HEREBY CERTIFY that on this 17th day of February, 1987, before me, the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared MICHAEL P. TANCZYN, and he made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his knowledge, information and belief.

NOTARY PUBLIC
Commission Expires 7-1-90

EVA M. S. DREHMER NOTARY PUBLIC BALTO. CO.

FEB 19 1987

DULANEY VALLEY IMPROVEMENT ASSOCIATION INC. and BARBARA PONIATOWSKI, * IN THE

Plaintiffs, * CIRCUIT COURT FOR

vs. * BALTIMORE COUNTY

NICHOLAS B. MANGIONE, LOUIS MANGIONE, ARNOLD JABLON, ESQ. and JEAN JUNG, * Case No. 28/342/87CSP-425

Defendants. *

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

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that he executed service of process pursuant to the authority granted by the Court upon NICHOLAS B. MANGIONE, Defendant, the above-named Defendant, at 11:47 a.m. on Tuesday, February 17, 1987, at Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, 21204, by delivering and leaving with NICHOLAS B. MANGIONE a copy of the Summons and Complaint which were previously filed with this Court. The undersigned further certifies that he is over eighteen years of age and is not a party to this action.

MICHAEL P. TANCZYN

STATE OF MARYLAND, COUNTY OF BALTIMORE; to wit:

I HEREBY CERTIFY that on this 17th day of February, 1987, before me, the subscriber, a Notary Public in and for the County and State aforesaid, personally appeared MICHAEL P. TANCZYN, and he made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his knowledge, information and belief.

NOTARY PUBLIC
Commission Expires 7-1-90

FILMED

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

August 3, 1987

COPY

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

Re: Case No. 87-335-SPH
and Case No. 87-504-XA

Gentlemen:

We note that you have rescheduled at Mr. DiPasquale's request the hearing on the Appeal of Dulaney Valley Improvement Association, Inc. in Case No. 87-335-SPH for Wednesday, November 25, 1987, the day before Thanksgiving. We also note that Mr. Mangione, through counsel, has filed an appeal in Case No. 87-504-XA.

Since it would appear to be in the interests of both parties and in conservation of the Board's time that these cases be scheduled for trial at the same time, with the appeal in 87-335-SPH being heard first due to the order in which the appeals were filed, I would respectfully suggest that these matters be consolidated for hearing per the order of the Board and be scheduled for hearing sometime after the Wednesday before Thanksgiving.

It is my belief that these cases will take two days individually, or approximately three days if tried together to complete if the witnesses are the same as those presented at the Zoning Commissioner level.

I await your response.

Very truly yours,

Michael P. Tanczyn

MPT/ed
cc: Dulaney Valley Improvement Association
Richard J. DiPasquale, Esq.

2/10/94 D 2/15
To Ed
see me
8

MEMORANDUM

TO: Arnold Jablon via Fax: 887-5708

FROM: Ed Haile

DATE: February 10, 1994

RE: Meeting at 4 p.m.

Louis Mangione and I want to discuss the possibility of adding a rear entrance to the property at 1205 York Road which is located just north of the Beltway Ramp.

The latest order on the property is 87-335-SPH a copy of which is attached.

Mtg with Ed Haile 2/16/94
Arnold J. Determined SPH required it amend + should meet with Community First.

2/15
John L.
See me about this
Case Card

DAFT-McCUNE-WALKER, INC.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

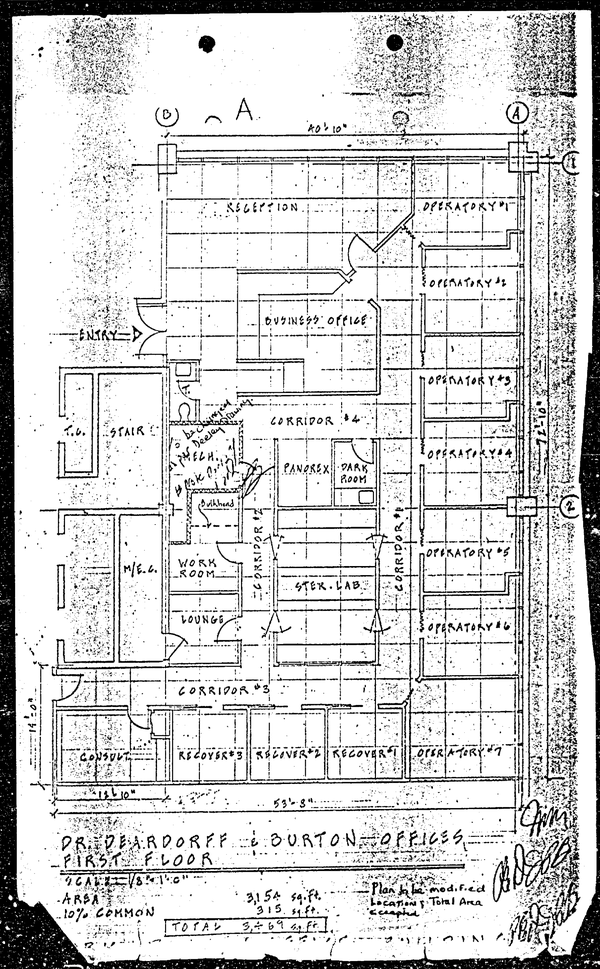
DATE: February 14, 1995

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: 87-335-SPH
NICHOLAS B. MANGIONE, ET AL
District 9

Pursuant to our recent notification by the Circuit Court for Baltimore County that no further appeals have been taken regarding the subject case, we are closing the file and returning same to you herewith.

Attachment



County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

February 14, 1995

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

Richard J. DiPasquale, Esquire
5718 Harford Road
Baltimore, MD 21214

RE: Case No. 87-335-SPH
NICHOLAS B. MANGIONE, ET AL

Dear Mr. Tanczyn:

As no further action has been taken regarding the subject matter in the Circuit Court for Baltimore County, we have returned the Board's copy of the subject zoning file to the office of Zoning Administration and Development Management.

Anyone interested in this case can contact Gwen Stephens of Zoning Administration at 887-3391 upon receipt of this letter. By copy of this letter, all parties of record that may have an interest in this file have been notified.

Sincerely,

Charlotte E. Radcliffe
Legal Secretary

cc: Mr. Louis Mangione
Dulaney Valley Improvement Association, Inc.
People's Counsel for Baltimore County

Printed with Soybean Ink on Recycled Paper

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 295-8824

February 10, 1986

Baltimore County Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

RECEIVED
FEB 10 1987
ZONING OFFICE

Attention of Ms. Jean Jung

Re: 87-335-SPH
NICHOLAS B. MANGIONE, et al

Dear Mrs. Jung:

Enclosed herewith please find a Summons which I ask you to have issued to the Petitioners for the hearing scheduled on February 17, 1987 at 11:45 a.m. Please call me if there are any questions. Thank you very much for processing this and forwarding it to the Petitioners.

Very truly yours,

Michael P. Tanczyn

MPT/ed
Enclosure

87-335-SPH
Case file

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

2/26/87 To JJ
8

February 26, 1987

RECEIVED
FEB 26 1987
ZONING OFFICE

Honorable Jean Jung
Deputy Zoning Commissioner
111 West Chesapeake Avenue
Towson, MD 21204

HAND DELIVERED

Re: Case 87-335-SPH
Mangione - 1205 York Road
Nicholas B. et al

Dear Ms. Jung:

I enclose a xerox copy of the square footage for Drs. Deardorff and Burton. I noted that in the calculations an additional 10% of the square footage shown is shown for a common area. That was not included in the calculations on the review of leases earlier and I presume should be added to the square footage as shown for each of the uses to properly calculate the number of parking spaces required.

There is additional information due on Suite 24, Dr. Nudelman, M. D. Under the term of the lease signed in October of 1975, which I have reviewed, he had an initial term of 5 years with two five year renewal periods. He is in the third 5 year term and has been allotted under the lease 2 spaces for the use of him, his agent, employees, invitees and guests. I do not as yet have Schedule A showing the square footage of Suite 24, which Robin of the Mangione office is mailing to me today. I will forward that to you as soon as possible so that you can have that available prior to making your decision.

Should you have any further questions of counsel, please feel free to contact myself or Mr. DiPasquale.

Very truly yours,

Michael P. Tanczyn

MPT/ed
Enclosure
cc: Richard J. DiPasquale, Esq.

87-1740 A
Case file

MICHAEL P. TANCZYN, P.A.
606 BALTIMORE AVENUE, SUITE 106
TOWSON, MARYLAND 21204 (301) 296-8823

DATE March 2, 1987

TO Ms. Jean Jung
Deputy Zoning Commissioner
111 West Chesapeake Avenue
Towson, MD 21204

HAND DELIVERED

RECEIVED
MAR 2 1987
ZONING OFFICE

87-335-SPH

Dear Ms. Jung:

Enclosed herewith please find the photocopy of Exhibit A from Dr. Nudelman's lease for Suite 24, which was missing previously and just provided to me last Friday by York Road Associates. My computation of the square footage of the suites of 36' x 44' yields 1,584 interior feet plus 10% common area of 158 feet for a total of 1,742 feet. By copy to Mr. DiPasquale, I am asking him to respond if he disagrees with this computation.

FILMED

cc: Richard J. DiPasquale, Esq.
Barbara Poniatowski, President

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

RECEIVED
JUN 10 1987
ZONING OFFICE

June 8, 1987

RECEIVED
JUN 10 1987
ZONING OFFICE

Ms. Jean M. H. Jung
Deputy Zoning Commissioner
111 West Chesapeake Avenue
Towson, MD 21204

Re: Petition for Nicholas B.
Mangione for Special Hearing
Case No. 87-335-SPH

Dear Ms. Jung:

Please enter the Appeal by Barbara Poniatowski, 26 Greenridge Road, Timonium, Maryland; Harry B. Burkholder, 217 Felton Road, Lutherville, Maryland; George L. McNew, 9 Green Ridge Road, Lutherville, Maryland; James H. Barnes, Jr., 1203 Oak Croft Drive, Lutherville, Maryland; Lawrence M. Rackson, 17 Alston Road, Lutherville, Maryland; and Dulaney Valley Improvement Association, Inc., P. O. Box 102, Lutherville, Maryland, from the Decision dated June 8, 1987.

Please acknowledge that you will stay any request for permits since this Decision countermands the Zoning Commissioner's earlier Order.

Very truly yours,

Michael P. Tanczyn

MPT/ed
cc: Richard J. DiPasquale, Esq.
Baltimore County People's Counsel
Ms. Barbara Poniatowski
Mr. Harry B. Burkholder
Mr. George L. McNew
Mr. James H. Barnes, Jr.
Mr. Lawrence M. Rackson
Dulaney Valley Improvement Association, Inc.

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

RECEIVED
COUNTY BOARD OF APPEALS
1987 SEP 22 P 2:22

August 3, 1987

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

Re: Case No. 87-335-SPH
and Case No. 87-504-XA

Gentlemen:

We note that you have rescheduled at Mr. DiPasquale's request the hearing on the Appeal of Dulaney Valley Improvement Association, Inc. in Case No. 87-335-SPH for Wednesday, November 25, 1987, the day before Thanksgiving. We also note that Mr. Mangione, through counsel, has filed an appeal in Case No. 87-504-XA.

Since it would appear to be in the interests of both parties and in conservation of the Board's time that these cases be scheduled for trial at the same time, with the appeal in 87-335-SPH being heard first due to the order in which the appeals were filed, I would respectfully suggest that these matters be consolidated for hearing per the Order of the Board and be scheduled for hearing sometime after the Wednesday before Thanksgiving.

It is my belief that these cases will take two days individually, or approximately three days if tried together to complete if the witnesses are the same as those presented at the Zoning Commissioner level.

I await your response.

Very truly yours,

Michael P. Tanczyn

MPT/ed
cc: Dulaney Valley Improvement Association
Richard J. DiPasquale, Esq.

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

RECEIVED
BOARD OF APPEALS
19 A 10:58

We together few with exhibits and time dates and letter 9/29/87

September 28, 1987

Hackett, Chairman
County Board of Appeals
, Room 200
21204

as B. Mangione, et al
on for Special Hearing
umber 87-335-SPH and
umber 87-504-XA

Dear Mr. Hackett:

As counsel to Dulaney Valley Improvement Association, Inc. and being cognizant of the Board's postponement notice, I would respectfully request that both of these cases be set in for hearing after April 15, 1988. It is my estimate that two (2) days were required for each case and I would ask that they be set in sequence for the first full week open following April 15, 1988, and in the order in which they were presented to the Board of Appeals; namely, 87-335-SPH to be scheduled first.

Very truly yours,

Michael P. Tanczyn
Michael P. Tanczyn

MPT/ed

cc: Baltimore County People's Counsel
Richard J. DiPasquale, Esq.
Dulaney Valley Improvement Association, Inc.

RICHARD J. DiPASQUALE
ATTORNEY AT LAW
3718 HARFORD ROAD
BALTIMORE, MARYLAND 21214
AREA CODE 301
TELEPHONE 426-4538

September 23, 1987

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

RE: Case No. 87-355-SPH
Nicholas B. Mangione, et al

Dear Mr. Hackett:

This office is in receipt of letters from all counsel in the above-captioned matter, who have requested the hearing be postponed from its presently scheduled hearing date of November 25, 1987 at 10:00 a.m. As I indicated previously, I had no objections to a postponement of this matter, but now I too am requesting a continuance, since I have just learned that Mr. Nicholas B. Mangione is required to be present at an injunction hearing in the Circuit Court for Howard County on November 25, 1987 at 10:00 a.m.

It is obvious that all parties would be happy with a continuance to some date in April, 1988, so that proper preparations can be made and all parties can be present at said hearing.

Accordingly, it would greatly appreciated if you would arrange to continue this matter until such time in April, 1988 to accomodate all parties and counsel as requested.

Many thanks for your anticipated consideration and cooperation.

Very truly yours,

Richard J. DiPasquale

RJD/c

cc: Mrs. Barbara Poniatowski
Baltimore County People's Counsel
Michael P. Tanczyn, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
1987 SEP 29 A 11:45

RICHARD J. DiPASQUALE
ATTORNEY AT LAW
3718 HARFORD ROAD
BALTIMORE, MARYLAND 21214
AREA CODE 301
TELEPHONE 426-4538

September 29, 1987

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

Re: Nicholas B. Mangione, et al
Petition for Special Exception
Case No. 87-504-XA

Dear Mr. Hackett:

This office is in receipt of a copy of correspondence from Michael P. Tanczyn, Esquire to the Baltimore County Board of Appeals requesting that the above captioned matter be set in for a hearing after April 15, 1988, to immediatly follow another appeal in Case No. 87-335-SPH.

Unfortunately, I am not as young and spunky as Mr. Tanczyn, and do not relish the idea of having two appeals cases tried in rapid succession, and it would be the position of the Petitioner to comply with Mr. Tanczyn's request that Case No. 87-335-SPH be scheduled first, but there should be at least a 2-4 week interval between the cases when scheduled.

Therefore, it would be appreciated if Case No. 87-504-XA can be scheduled 30 days after 87-335-SPH.

Many thanks for your anticipated compliance with this request.

Very truly yours,

Richard J. DiPasquale

cc: Michael P. Tanczyn, Esquire
Baltimore County People's Counsel
Mr. Nicholas B. Mangione

eeh

RECEIVED
COUNTY BOARD OF APPEALS
1987 SEP 30 A 10:55

ORIGINAL

IN THE MATTER OF: * BEFORE THE
* COUNTY BOARD OF APPEALS
NICHOLAS B. MANGIONE * OF BALTIMORE COUNTY
et al * Case No. 87-335-SPH
* April 19, 1988
* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Courthouse, Towson, Maryland 21204 at 10 a.m., April 19, 1988.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman
THOMAS J. BOLLINGER
HARRY E. BUCHHEISTER, JR.

APPEARANCES:

RICHARD J. DiPASQUALE, Esquire
On behalf of Petitioners

MICHAEL P. TANCZYN, Esquire
On behalf of Protestants

PETER MAX ZIMMERMAN, Esquire
People's Counsel

Reported by:
C.E. Peatt

ORIGINAL

* BEFORE THE
* COUNTY BOARD OF APPEALS
* ... COUNTY
* Case No. 87-335-SPH
* August 23, 1988
* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Courthouse, Towson, Maryland 21204 at 1:30 a.m., August 23, 1988.

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman
THOMAS J. BOLLINGER
HARRY E. BUCHHEISTER, JR.

APPEARANCES:

RICHARD J. DiPASQUALE, Esquire
On behalf of Petitioners

MICHAEL P. TANCZYN, Esquire
On behalf of Protestants

PETER MAX ZIMMERMAN, Esquire
People's Counsel

Reported by:
C.E. Peatt

ORIGINAL

IN THE MATTER OF: * BEFORE THE
* COUNTY BOARD OF APPEALS
NICHOLAS B. MANGIONE * OF BALTIMORE COUNTY
et al * Case No. 87-335-SPH
* August 24, 1988
* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the ... Towson, Maryland 21204 at

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman
THOMAS J. BOLLINGER
HARRY E. BUCHHEISTER, JR.

APPEARANCES:

RICHARD J. DiPASQUALE, Esquire
On behalf of Petitioners

MICHAEL P. TANCZYN, Esquire
On behalf of Protestants

PETER MAX ZIMMERMAN, Esquire
People's Counsel

Reporced by:
C.E. Peatt

...ment and ... hearing Department, and State Highway Administration, as to which there is no objection.

Zoning and Planning Law

Subdivision Regulations and Process

1. Zoning and Planning Generally

2. Zoning and Planning Words and Phrases

3. Zoning and Planning Statutes

4. Zoning and Planning Boards

5. Zoning and Planning Ordinances

6. Zoning and Planning Amendments

7. Zoning and Planning Conditions and Restrictions

8. Zoning and Planning Boards

9. Zoning and Planning Appeals

10. Zoning and Planning Evidence

11. Zoning and Planning Hearings

12. Zoning and Planning Words and Phrases

13. Zoning and Planning Estoppel

14. Zoning and Planning Boards

15. Zoning and Planning Boards

16. Zoning and Planning Boards

17. Zoning and Planning Boards

18. Zoning and Planning Boards

19. Zoning and Planning Boards

20. Zoning and Planning Boards

21. Zoning and Planning Boards

22. Zoning and Planning Boards

23. Zoning and Planning Boards

24. Zoning and Planning Boards

25. Zoning and Planning Boards

26. Zoning and Planning Boards

27. Zoning and Planning Boards

28. Zoning and Planning Boards

29. Zoning and Planning Boards

30. Zoning and Planning Boards

31. Zoning and Planning Boards

32. Zoning and Planning Boards

33. Zoning and Planning Boards

34. Zoning and Planning Boards

35. Zoning and Planning Boards

36. Zoning and Planning Boards

37. Zoning and Planning Boards

38. Zoning and Planning Boards

39. Zoning and Planning Boards

40. Zoning and Planning Boards

41. Zoning and Planning Boards

42. Zoning and Planning Boards

43. Zoning and Planning Boards

44. Zoning and Planning Boards

45. Zoning and Planning Boards

46. Zoning and Planning Boards

47. Zoning and Planning Boards

48. Zoning and Planning Boards

49. Zoning and Planning Boards

50. Zoning and Planning Boards

51. Zoning and Planning Boards

52. Zoning and Planning Boards

53. Zoning and Planning Boards

54. Zoning and Planning Boards

55. Zoning and Planning Boards

56. Zoning and Planning Boards

57. Zoning and Planning Boards

58. Zoning and Planning Boards

59. Zoning and Planning Boards

60. Zoning and Planning Boards

61. Zoning and Planning Boards

62. Zoning and Planning Boards

63. Zoning and Planning Boards

64. Zoning and Planning Boards

65. Zoning and Planning Boards

66. Zoning and Planning Boards

67. Zoning and Planning Boards

68. Zoning and Planning Boards

69. Zoning and Planning Boards

70. Zoning and Planning Boards

71. Zoning and Planning Boards

72. Zoning and Planning Boards

73. Zoning and Planning Boards

74. Zoning and Planning Boards

75. Zoning and Planning Boards

76. Zoning and Planning Boards

77. Zoning and Planning Boards

78. Zoning and Planning Boards

79. Zoning and Planning Boards

80. Zoning and Planning Boards

81. Zoning and Planning Boards

82. Zoning and Planning Boards

83. Zoning and Planning Boards

84. Zoning and Planning Boards

85. Zoning and Planning Boards

86. Zoning and Planning Boards

87. Zoning and Planning Boards

88. Zoning and Planning Boards

89. Zoning and Planning Boards

90. Zoning and Planning Boards

91. Zoning and Planning Boards

92. Zoning and Planning Boards

93. Zoning and Planning Boards

94. Zoning and Planning Boards

95. Zoning and Planning Boards

96. Zoning and Planning Boards

97. Zoning and Planning Boards

98. Zoning and Planning Boards

99. Zoning and Planning Boards

100. Zoning and Planning Boards

PETITION FOR SPECIAL HEARING
Lacrosse Ave., 214' from c/l of York Road, 256' S of c/l of Lacrosse Ave.
9th Election District
Charles W. Held, et ux, Petitioners
No. 81-122-SPH (Item No. 193)

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

ORDER OF APPEAL

MR. COMMISSIONER:

Please enter an Order of Appeal to the Baltimore County Board of Appeals on behalf of the Petitioners from the Order of the Zoning Commissioner dated January 28, 1981 denying "a use permit for business parking in a residential zone for those parking spaces which do not meet the 300 square foot requirement without encroaching upon the D.R.5.5 zoned portion of the property", only.

S. ERIC DINENNA
Attorney for the Petitioners

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 26th day of February, 1981, a copy of the aforegoing Order of Appeal was mailed, first class postage prepaid, to Dulaney Valley Improvement Association, P.O. Box 102, Lutherville, Maryland 21093, and to John W. Hessian, III, Esquire, People's Counsel, Room 223, Court House, Towson, Maryland 21204.

S. ERIC DINENNA
Suite 205 Alex. Brown Building
102 W. Pennsylvania Avenue
Towson, Maryland 21204
825-1620

81-122-SPH

RE: PETITION FOR SPECIAL EXCEPTION for an Office Building; SPECIAL HEARING for Off-Street Parking in a residential zone, and SPECIAL HEARING to amend special exception granted in case #73-4-XXA
E/S of York Road 103' N. of Ridgefield Road, 9th District
Precision Quality Built Homes, Inc., Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 73-146-XSPH

ORDER OF DISMISSAL

Petition of Precision Quality Built Homes, Inc. for special exception for an Office Building; special hearing for Off-Street Parking in a residential zone, and special hearing to amend special exception #73-4 herein before granted as petitioned for 1203 and 1207 York Road, on property located on the east side of York Road 103 feet north of Ridgefield Road, in the Ninth Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of an Order of Dismissal of Appeal filed April 18, 1971 (a copy of which is attached hereto and made a part hereof) from the attorney for the petitioner and the attorney for the protestants in the above entitled matter; and

WHEREAS, the Board of Appeals is in receipt of an Order of Dismissal of Appeal filed April 24, 1971 (a copy of which is attached hereto and made a part hereof) from the protestants-appellants in the above entitled matter; and

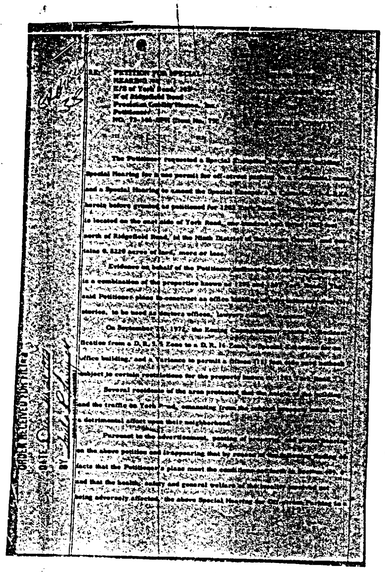
WHEREAS, said attorneys request that the appeal filed on behalf of the protestants-appellants be dismissed and withdrawn as of April 24, 1971, pursuant to the Agreement, with exhibits enclosed, filed simultaneously herewith (attached to the Board's original Order of Dismissal).

IT IS HEREBY ORDERED this 1st day of May, 1973, that said appeal be and the same is dismissed.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Slowik, Chairman
H. Collier Parker
Walter A. Reiter, Jr.

73-146-SPH



73-146-SPH

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

Precision Quality Built Homes,
I, or we, ... Legal owner ... of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an ... zone; for the reasons given in the attached description; and (2) for a Special Exception under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for an office building in a DR-16 zone on properties known as 1203 and 1207 York Road, Baltimore County, Maryland. (2) A special Hearing to permit parking of automobiles in a residential zone. (3) A special Hearing to amend Special Exception # 73-4-XSPH, herein before granted as petitioned herein for 1203 and 1207 York Road, Baltimore County, Maryland. (See attached brief)

See attached description

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above re-classification and/or 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.

PRECISION QUALITY BUILT HOMES, INC.
Contract Purchaser
Douglas A. Merrill
Address 7112 Darlington Drive
Baltimore, Maryland 21234

Frank S. Nirolli, Vice President
Legal Owner
Address Music Fair Road
Owings Mills, Maryland 21117

Protestant's Attorney
Address Saunders N. Almond, Jr.
Jennifer Building, Towson, Md. 21204
Phone 823-2300

ORDERED By the Zoning Commissioner of Baltimore County, this 27th day of November, 197 , that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through out 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 20th day of December, 197 , at 10:30 o'clock A. M.

Zoning Commissioner of Baltimore County

(over)

#73-146-XSPH

MICROFILMED

Plaintiff's Ex 2

PETITION FOR SPECIAL HEARING

81-122-SPH

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Charles W. Held Jr. legal owners of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing Under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a Use Permit for parking in a residential zone (D.R. 16 Zone) in accordance with Section 409.4 to determine whether or not the Isle that provides the necessary access to said parking spaces can be situated within a DR 5.5 residential transition area.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Nicholas B. Mangione
Contract Purchaser

Charles W. Held Jr.
Harriette W. Held
Legal Owner

Address 1205 York Road
Lutherville, Maryland 21093

Address #1 Greenridge Road
Lutherville, Maryland 21093

Petitioner's Attorney
S. Eric DiNenna

Protestant's Attorney

Address Suite 205 Alex. Brown Bldg.
Towson, Maryland 21204

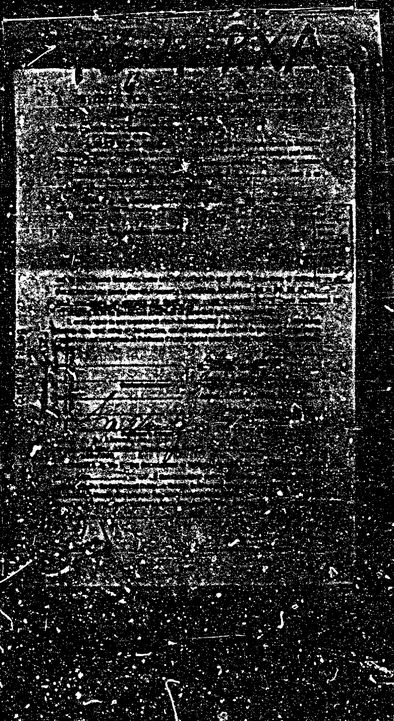
ORDERED By the Zoning Commissioner of Baltimore County, this 20th day of August, 1980, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 30th day of September, 1980, at 10:30 o'clock A. M.

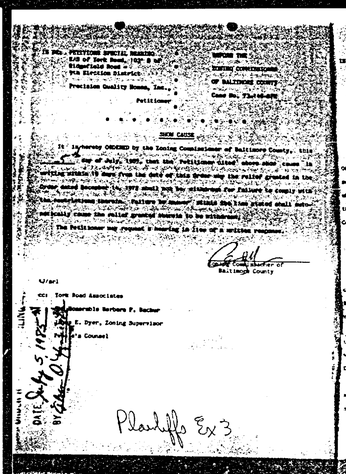
Zoning Commissioner of Baltimore County

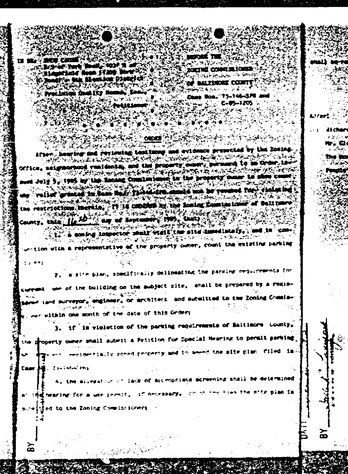
(over)

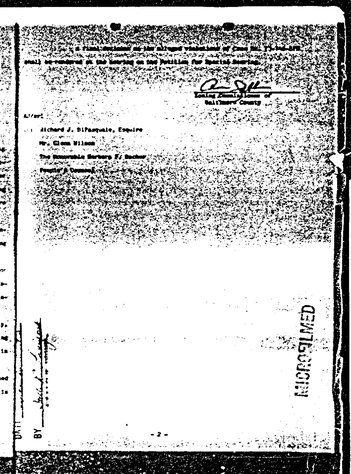
MICROFILMED

MICROFILMED









73-146-SPH

Plaintiff's Ex 4

IN RE: PETITION SPECIAL HEARING
E/S of York Road, 103' N of Ridgefield Road (1205 York Road) - 9th Election District
Nicholas B. Mangione, Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-283-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to permit parking on residentially zoned property adjacent to a commercial use and, additionally, to amend the site plan filed in Case No. 73-146-XSPH, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by Louis Mangione, appeared and testified and was represented by Counsel. Barbara Poniatowski, President of Dulaney Valley Improvement Association, Inc., and other residents of the community appeared in opposition.

Testimony indicated that the subject property, located off York Road on Tenbury Road, zoned D.R.5.5, is adjacent to property owned by the Petitioner, zoned O-1, and improved with an office building, Case Nos. 73-4-XXA and 73-146-XSPH. As a result of a complaint received by the Zoning Office's Enforcement Section, James H. Thompson, Zoning Enforcement Coordinator, inspected the adjacent office building property and determined that only 154 parking spaces were provided. Based on the medical and general office uses in the building, which require different parking quotients pursuant to the Baltimore County Zoning Regulations (BCZR), 210 parking spaces are required (see Petitioner's Exhibit 1). Additionally, the site plan approved in Case No. 73-146-XSPH required 161 parking spaces. As a result, the Zoning Commissioner issued a Show Cause to York Road Associates to explain why the special

MICROFILMED

...and 1207 York Road, Lutherville, Maryland, which is delineated on and made a part hereof, party of the second part, hereby agrees to lease unto the party of the first part, as an office building, with precision ... the property of the party of the first part, and has appealed from the ... with certain qualifications ... Simons to the County ... that the appeal will ... the party of the second part agreeing to comply ... of such building ... is desired, these ...

Agreement, ... parties to this Agree... heirs, personal representatives, successors ... hereby agree as follows:

1. That the party of the first part shall construct an office building with parking areas substantially as shown on the ... first floor plan and elevations as shown on the attached exhibits marked 1, 2 and 3.

2. That such office building shall be no more than three ... stories and no higher than 45 feet at the York Road building line.

ATTEST: ... HILDRETH P. MANGIONE

DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC.

By ...

RECORDED

Case No. 86-283-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this 12th day of December, 1985.

ARNOLD JABLON
Zoning Commissioner

Petitioner Nicholas B.Mangione
Petitioner's Attorney Richard J. DiPasquale, Esquire

Received by: James E. Dyer (mw)
Chairman, Zoning Plans Advisory Committee

86-283-SPH

...M.

...D LENGTH OF HEARING -1/2HR. +1HR.
...AVAILABLE FOR HEARING
MONDAYS/TUES./WED. - NEXT TWO MONTHS
...ADVD. OTHER
DATE (over)

Zoning Commissioner of Baltimore County.

NBC-suggested that it be only hearing in P.M.

COMMERCIAL CONTRACTORS INCORPORATED

GENERAL CONTRACTORS

1205 YORK ROAD • YORK PLACE • PENTHOUSE SUITE • LUTHERVILLE, MARYLAND 21093

825-8400

JOHN EDWARD MANGIONE, SR.
PRESIDENT

June 11, 1979

William E. Hammond
Baltimore County Zoning Commissioner
Room 109 - County Office Bldg.
Towson, MD 21204

Re: Permit 15...
District 9
Location: 1205 York Road

Gentlemen:

This office has submitted to you a copy of the Lease Agreement between Sebco Federal Credit Union and Commercial Contractors, Inc. which has a lease term of two (2) years with two (2) additional two-year renewal options. Please be advised we have every intention of exercising both renewal options, however, in the event that for some reason we do not exercise the options we will inform the zoning office and take whatever actions necessary to comply with any zoning regulations.

Trusting this letter satisfies your request and that our permit can be released, I remain,

Respectfully,

COMMERCIAL CONTRACTORS, INC.

Louis Mangione
Project Manager

lm/mrm

HOURS 9:00 to 5:00 daily; 9:00 to 7:30 Thursday during the school year

A FINANCIAL ORGANIZATION OWNED AND OPERATED EXCLUSIVELY BY AND FOR ITS MEMBERS

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO The Honorable Barbara Bachur
County Council Office

Date May 3, 1985

FROM Eugene A. Bober
Chief, Current Planning and Development

SUBJECT York Place

In response to your April 17, 1985, memo regarding parking at York Place development, 1205 York Road, our files indicate that the plan was originally approved in 1973. One hundred sixty one (161) parking spaces were required and were provided. Zoning Case #73-146 contained a special exception which allowed an office in D.R.16 zone and a special hearing which allowed parking in a residential zone. There apparently were no variances for parking as part of those hearings.

We have no record of any medical office's at this address. However, I understand that a substantial portion of the building contains medical offices. The following is a list of the permits on file for York Place: 1009-73, 1089-74, 624-79, 1361-78, 1252-76, 1438-73 and 1564-81.

Eugene A. Bober
Chief, Current Planning & Development

EAB:rh

cc: Norman E. Gerber
Arnold Jablon

ZONING DEPARTMENT

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Arnold Jablon, Zoning Commissioner

Date May 17, 1985

FROM Councilwoman Barbara F. Bachur

SUBJECT Tenancy at 1205 York Road

In response to complaints from the Dulaney Valley Improvement Association about cars from York Place parking on their streets, I have checked with Current Planning to determine if adequate spaces were provided when the building was first processed. I am enclosing a copy of Gene Bober's response for your information.

I think that the final paragraph in Mr. Bober's memo is important in that the tenancy of York Place was apparently not processed on the basis of medical tenancy, hence a lower parking requirement. Please investigate the tenancy of this building and inform me of your actions.

BFB:mtf
Encl.

cc: Mr. Glen Wilson

ZONING DEPARTMENT

IN RE: PETITIONS SPECIAL HEARING
E/S of York Road, 103' N of Ridgefield Road -
9th Election District

Precision Quality Homes, Inc.,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 73-146-SPH

* * * * * * * * * * *

SHOW CAUSE

It is hereby ORDERED by the Zoning Commissioner of Baltimore County, this 5th day of July, 1985, that the Petitioner cited above show cause in writing within 15 days from the date of this Order why the relief granted in the Order dated December 14, 1972 shall not be withdrawn for failure to comply with the restrictions therein. Failure to answer within the time stated shall automatically cause the relief granted therein to be withdrawn.

The Petitioner may request a hearing in lieu of a written response.

Zoning Commissioner of
Baltimore County

AJ/srl

cc: York Road Associates

The Honorable Barbara F. Bachur

James E. Dyer, Zoning Supervisor

People's Counsel

YORK PLACE

A UNIQUE OFFICE CONDOMINIUM

July 18, 1985

ZONING DEPARTMENT

Mr. Arnold JAblon
Zoning Commissioner
Room 109 - County Office Bldg.
Towson, MD 21204

Re: Case No. 73-146-SPH

Dear Mr. Jablon:

Received your Show Cause notice dated July 5, 1985 on July 10, 1985. I have since talked with Mr. Jim Dyer and am gathering the information that he felt I would need to respond to your Order. I would appreciate if you would forward me the Order dated December 14, 1972 that was originally given to Precision Quality Homes, Inc, so that I may check out any other comments therein. I would also appreciate receiving a few additional days after receipt of same to respond. If you feel that a meeting should be set up in order for me to give you the required information, please do not hesitate to call.

Thanking you in advance for your anticipated cooperation, I remain,

Respectfully,

YORK ROAD ASSOCIATES

Nicholas B. Mangione

NBM/mrp

YORK ROAD ASSOCIATES / 1205 York Road, Penthouse Suite, Lutherville, MD 21093/(301) 825-8400

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

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

July 26, 1985

Mr. Nicholas B. Mangione
York Road Associates
1205 York Road
Penthouse Suite
Lutherville, Maryland 21093

RE: 1205 York Road
Case No. C-85-1205

Dear Mr. Mangione:

In response to your letter of July 18, 1985, enclosed please find the decision rendered in Case No. 73-146-SPH. Please contact Mr. James Thoren at 494-3351 within 10 days from the date of this letter so that a hearing date may be established to address the issues in this matter.

Sincerely,

ARNOLD JABLON
Zoning Commissioner

AJ:eoh

cc: The Honorable Barbara F. Bachur
County Council of Baltimore County

Mr. James E. Dyer
Zoning Supervisor

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

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

August 8, 1985

Mr. Nicholas B. Mangione
York Road Associates
1205 York Road
Penthouse Suite
Lutherville, Maryland 21093

RE: 1205 York Road
Case No. C-85-1205

Dear Mr. Mangione:

The above referenceccd case has been scheduled for a violation hearing on September 12, 1985 at 10:00 a.m. This matter will be heard in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

Sincerely,

ARNOLD JABLON
Zoning Commissioner

AJ:eoh

cc: The Honorable Barbara F. Bachur
County Council of Baltimore County

Mr. James E. Dyer
Zoning Supervisor

People's Counsel

VIOLATION ASSIGNMENT SHEET

CASE NO. C- 85-1205

ELECTION DISTRICT 9th

LOCATION 1205 York Road

ALLEGED VIOLATION S.P. Plan

SEND ACKNOWLEDGEMENT ( ) PICK-UP ( ) POLICE ( )

ASSIGN TO:

( ) W. FLORA ( ) J. PERLOW
( ) C. FREUND ( ) C. RORKE
( ) D. GREEN ( ) J. SULLIVAN
( ) _____ (X) _____

REFER TO:

( ) BUILDINGS ENGINEER ( ) HEALTH DEPARTMENT
( ) FIRE DEPARTMENT ( ) DOG LICENSES
( ) POLICE DEPARTMENT ( ) OTHER _____

COMMENTS:

Gebhardt FC MD 15
Gehris JR. CW MD 10
Grochmal JC MD 2

IN RE: SHOW CAUSE
E/S of York Road, 103' N of Ridgefield Road (1205 York Road) - 9th Election District

Precision Quality Homes, Inc.,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case Nos. 73-146-SPH and C-85-1205

ORDER

After hearing and reviewing testimony and evidence presented by the Zoning Office, neighborhood residents, and the property owner, pursuant to an Order issued July 5, 1985 by the Zoning Commissioner to the property owner to show cause why relief granted in Case No. 73-146-SPH should not be revoked for violating the restrictions therein, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 11th day of September, 1985, that:

1. a zoning inspector shall visit the site immediately, and in conjunction with a representative of the property owner, count the existing parking spaces;

2. a site plan, specifically delineating the parking requirements for current use of the building on the subject site, shall be prepared by a registered land surveyor, engineer, or architect and submitted to the Zoning Commissioner within one month of the date of this Order;

3. if in violation of the parking requirements of Baltimore County, the property owner shall submit a Petition for Special Hearing to permit parking on adjacent residentially zoned property and to amend the site plan filed in Case No. 73-146-SPH;

4. the allegation of lack of appropriate screening shall be determined at the hearing for a use permit, if necessary, or at the time the site plan is submitted to the Zoning Commissioner;

YORK PLACE
A UNIQUE OFFICE CONDOMINIUM

September 16, 1985

Zoning Commissioner
Baltimore County
111 W. Chesapeake Ave.
Towson, MD 21204

ATTENTION: Arnold Jablon

RE: York Place Parking

Dear Mr. Jablon:

For the record, please be advised Mr. James Thompson of Zoning Enforcement met our building superintendent on September 13, 1985 and counted the on-site parking spaces. The total number of spaces is 161.

Yours truly,

YORK ROAD ASSOCIATES

Louis Mangione

LM/jms

cc: R. DiPasquale

YORK ROAD ASSOCIATES / 1205 York Road, Penthouse Suite, Lutherville, MD 21093/(301) 825-8400

ZONING ENFORCEMENT SECTION

TELEPHONE: 494-3351

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

CASE NUMBER C - 82-374 ELECTION DISTRICT: 9TH

LOCATION: 1205 YORK ROAD

DEAR MR. BROCCOLINO :

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

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

☐ THERE IS AN APPARENT VIOLATION AND THE FOLLOWING CORRECTION IS REQUIRED: _____

COMPLIANCE MUST BE ATTAINED BY: _____

☐ 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: RORKE DATE: 7/26/82

( ) DEFENDANT COPY ( ) COMPLAINANT COPY

Handcarried by NDC 10/1/86 DP/ljw

YORK PLACE
A UNIQUE OFFICE CONDOMINIUM

October 1, 1986

Mr. Arnold Jablon
Baltimore County
Zoning Commissioner
Court House
Towson, MD 21204

RE: Proposed Parking Area
Rear of 1205 York Road

Dear Mr. Jablon:

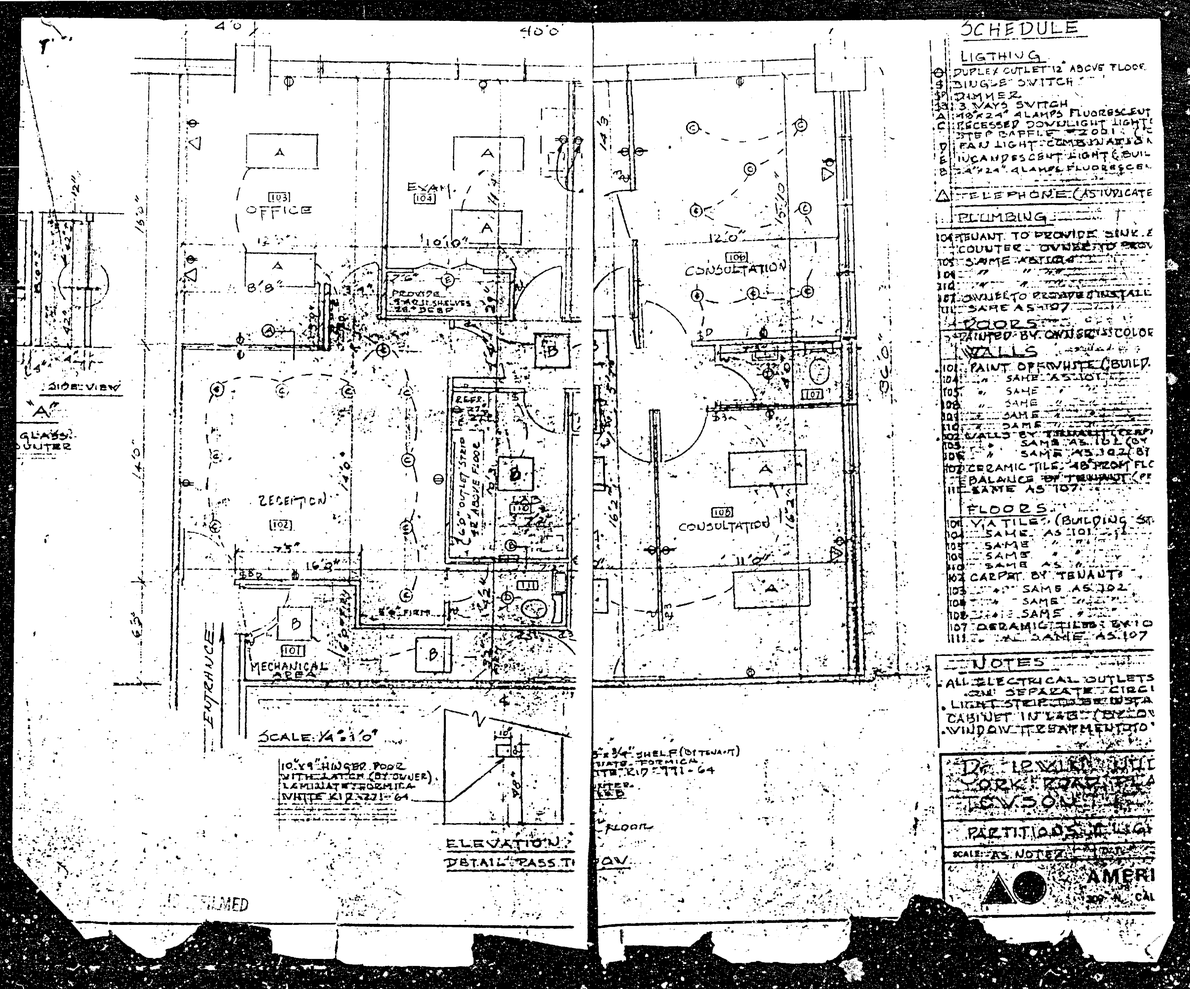
At the outset of this letter, I would like to thank Mr. Dyer for his time at our meeting of September 26, 1986 in reviewing the above matter. I had a number of questions, and he patiently and thoughtfully answered them in his usual efficient manner. However, at the conclusion of this meeting, we decided to address these questions and answers in this letter. By having the final approval from you, in writing, we feel that it is the best way to avoid any future controversy.

We know that an RTA does exist at the southerly portion of this overall development tract, and originates from the houses to the south and on both sides of Tenbury Road, but that matter will be addressed later. At this time, we are only trying to determine the correct procedure to file for a use permit for off-street parking on the subject property without being encumbered by RTA requirements that could originate from within the development tract.

As you can see from the attached plat, parking is proposed in two areas. The first is on a small portion to the north of and abutting Mr. Mangione's existing parking area located at the rear of his office building at 1205 York Road. This property is bisected by the O-1/D.R.5.5 zoning line and was the subject of a previous zoning hearing (Case #81-122-SPH) in which off-street parking was granted on a portion of this area. The second area proposed for parking is larger and is located immediately to the east of and abutting the aforementioned office building parking area. At this time, the parking layout of these two areas, as shown, are for illustrative purposes only and will be redrawn to scale at a later date. All required buffer areas in accordance with any applicable residential transition areas that encompass the property will also be addressed at that time.

Mr. Nicholas Mangione currently owns the areas colored in light green, while Mr. Charles Held owns the entire area outlined in blue and shaded in various colors to indicate separate parcels

YORK ROAD ASSOCIATES / 1205 York Road, Penthouse Suite, Lutherville, MD 21093/(301) 825-8400



86-272-SPH ? 86-272-SPH

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 a 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 parking on residentially zoned property and to amend site plan filed in Case No. 73-146-SPH

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:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s):

NICHOLAS B. MANGIONE
(Type or Print Name)

Signature

(Type or Print Name)

Signature

Attorney for Petitioner:

RICHARD J. DiPASQUALE and RALPH M. MURDY, Attorneys
(Type or Print Name)

Signature

1205 York Road 825-8400
Address Phone No.

Lutherville, Maryland 21093
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

"718 Harford Road
Address

Baltimore, Maryland 21214
City and State

Attorney's Telephone No.: 426-4538

RICHARD J. DiPASQUALE
Name

5718 Harford Road 426-4538
Address Balto., Md. 21214 Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, 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 _____ day of _____, 19____, at _____ o'clock _____M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1 (over)

THIS LEASE AND AGREEMENT, Made this 6 day of March, in the year One Thousand Nine Hundred and Seventy-Nine, by and between CHARLES W. HELD, JR. and HARRIETTE W. HELD, his wife, hereinafter referred to as "Lessor", and NICHOLAS B. MANGIONE and MARY C. MANGIONE, his wife, hereinafter referred to as "Lessee".

WITNESSETH, That for and in consideration of the rent hereinafter reserved, and the performance of the covenants and agreements, set forth hereinbelow, on the part of the respective parties hereto, the Lessors, for themselves, their heirs, personal representatives and assigns, do hereby lease and demise unto the Lessees all that property known as No. 1 Greenridge Road situate in the Ninth Assessment District of Baltimore County, State of Maryland, and described as follows, to wit:

BEING all that three acres of land of the Lessors situate on the south side of Greenridge Road east of York Road as shown on the attached plat as Parcels Nos. 1, 2 and 3.

For Title see the following conveyances to which reference is hereby made for a more particular description.

1. Dated April 15, 1936 and recorded among the Land Records of Baltimore County in Liber C.W.B.Jr. No. 973 folio 200 from B. Elmer Griffith and Hilda A. Griffith, his wife, unto Charles W. Held, Jr. and Harriette W. Held, his wife.

2. Dated March 1, 1941 and recorded among the Land Records of Baltimore County in Liber C.W.B.Jr. No. 1136 folio 567 from Elwood L. Wadsworth and wife, and Homer C. Wadsworth and wife, unto Charles W. Held, Jr. and Harriette W. Held, his wife.

3. Dated February 15, 1946 and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1426 folio 203 from Hamilton H. Poole unto Charles W. Held, Jr. and Harriette W. Held, his wife.

4. Dated October 4, 1946 and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1514 folio 298 from Robert

Pet Exh. #4A

LIBER 6131 PAGE 110

THIS OPTION, Made this _____ day of March, in the year One Thousand Nine Hundred and Seventy-Nine, by and between CHARLES W. HELD, JR. and HARRIETTE W. HELD, his wife, hereinafter referred to as "Sellers", and LOUIS MANGIONE and ROSEMARY MANGIONE, hereinafter referred to as "Buyers".

WITNESSETH, That for and in consideration of $1.00, and the performance of the covenants and agreements, set forth hereinbelow, on the part of the respective parties hereto, the Sellers, for themselves, their heirs, personal representatives and assigns, do hereby grant unto the Buyers, their heirs, personal representatives and assigns, the exclusive option to purchase all that property known as No. 1 Greenridge Road situate in the Ninth Assessment District of Baltimore County, State of Maryland, and described as follows, to wit:

BEING all that three acres of land of the Lessors situate on the south side of Greenridge Road east of York Road as shown on the attached plat as Parcels No. 1 and Parcel No. 2.

For Title see the following conveyances to which reference is hereby made for a more particular description.

1. Dated April 15, 1936 and recorded among the Land Records of Baltimore County in Liber C.W.B.Jr. No. 973 folio 200 from B. Elmer Griffith and Hilda A. Griffith, his wife, unto Charles W. Held, Jr. and Harriette W. Held, his wife.

2. Dated March 1, 1941 and recorded among the Land Records of Baltimore County in Liber C.W.B.Jr. No. 1136 folio 567 from Elwood L. Wadsworth and wife, and Homer C. Wadsworth and wife, unto Charles W. Held, Jr. and Harriette W. Held, his wife.

3. Dated February 15, 1946 and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1426 folio 203 from Hamilton H. Poole unto Charles W. Held, Jr. and Harriette W. Held, his wife.

4. Dated October 4, 1946 and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1514 folio 298

ASSIGNMENT BOOK 6355 PAGE 581

TRANSFER TAX NOT REQUIRED RECEIPT IS ATTACHED BALTIMORE COUNTY, MARYLAND For 1-21-80

Pet Exh. #4B

Property to be posted

DP 3
1/79

BALTIMORE COUNTY MARYLAND

Permit

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

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

COUNTY USE ONLY	
TAX ACCT. NO.	09-08-300-574
BUILDING ADDRESS	GREENRIDGE RD. & TENDURY RD.
OWNER'S NAME	CHARLES & HARRIETTE HELD
MAILING ADDRESS OF OWNER	22 W. PENNSYLVANIA AVE. TOWSON, MD. 21204
TENANT	
BUILDING CONTRACTOR	COMMERCIAL CONTRACTORS
ENGINEER OR ARCHITECT	
IF UNDER CONTRACT OR SALES GIVE SELLER'S NAME AND ADDRESS	
TRANSFER DESCRIPTION	SS GREENRIDGE RD. 500 E. YORK

SMM 11-26-86
DATE ISSUED

92703
PERMIT NUMBER

NR 9 8

NOTICE
THIS PERMIT EXPIRES NOV 25 1987
After this date permit may be renewed if work has been started and will be in accordance with the Baltimore Co Building Code

A. TYPE OF IMPROVEMENT
1 XX NEW
2 ☐ ADDITION
3 ☐ ALTERATION
4 ☐ REPAIR
5 ☐ WRECKING
6 ☐ MOVE
7 ☐ OTHER
DESCRIBE PROPOSED USE

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

INSTALL SET OF STEPS ON VACANT LOT RR REFER TO 92702WR FOR FENCE STOP WORK ORDER #F2650

PLANS WAIVED PER JOHN SCHNEIDER

USE REGISTERED
SLAB
BLOCK
CONCRETE
EXCAVATION
FILL
PARTIAL
NONE

B. OWNERSHIP
1 XX PRIVATELY OWNED 2 ☐ PUBLICLY OWNED

ESTIMATED COST OF MATERIAL & LABOR $ 600.00 00

CHECK APPROPRIATE CATEGORIES FOR RESIDENTIAL ONLY

SINGLE	SEMI-DET.	TOWN HOUSE	APT. HSE.	GARDEN APT.	HIGH RISE	MOBILE HOME

24 PROPOSED USE(S) STEPS & FENCE SHED
EXISTING USE(S)

THIS PERMIT MUST BE POSTED
SEE OTHER SIDE FOR INSPECTIONS

Petitioner's Exh #5

YORK PLACE

A UNIQUE OFFICE CONDOMINIUM

August 22, 1988

Petitioner's Exh #8

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

Dear Members of the Board:

Listed hereon medical and general office square footages per floor.

	MEDICAL	GENERAL	
First Floor	22,860	-0-	
Second Floor	21,187	1,673	
Third Floor, Penthouse	10,053	16,227	
Building Total	54,100	+ 17,900	= 72,000

Respectfully submitted,

Louis Mangione

Nicholas B. Mangione

LM/lm

YORK ROAD ASSOCIATES / 1205 York Road, Penthouse Suite, Lutherville, MD 21093/(301) 825-8400

RD

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

July 11, 1988

Mr. Louis Mangione
York Road Associates
1205 York Road
Penthouse Suite,
Lutherville, Maryland 21093

RE: Building Permit #99-811
New Parking Legislation
Bill No. 26-88

Dear Mr. Mangione:

By letter dated June 29, 1988, you have requested written concurrence from this office that the above referenced Bill permits you the option of proceeding under regulations existing at the time the building permit was submitted or under modified plans that satisfy the new regulations.

Please be advised that said Bill No. 26-88 provides that building permits for projects that have been submitted, but not approved may modify their plans to satisfy the new regulations or proceed under the regulations in effect at the time of said submittal.

If you have any questions, please do not hesitate to contact me at your convenience.

Very truly yours,

JAMES E. DYER
Zoning Supervisor

JED:cer

Petitioner's Exh #9

Protestant's Exh #3

TENANTS OF 1205 YORK ROAD

SUITE NUMBER	TENANT	BUSINESS
11	Abdo, M. S.	Doctor
38	Albright, G. R.	
29A	Asso Speech Services	
23	Bedine, M. S., P.A.	Doctor
17	Bitzel, P. H., Jr.	P. P. T.
23	Bronstein, H. D., P. A.	Doctor
16	Burton, J. P.	Dentist
15	Butchart, S.	Doctor
33	Chesapeake Respiratory Services	
29	Classen, J. N.	Doctor
26	Contexual Family Center	
16	Cook, D. M., P. A.	Doctor
39	Copeland, R.	Doctor
13A	Cox, G. W. & Associates	C. P. T.
28	Ferguson, P. M. N., M. D.	Doctor
31C	Gilbert, R. F. & Associates	
1	Goldsborough, R. C.	Dentist
1	Hirs, Bartolis & Shirey, P. A.	Dentist
1	Dudley, J. D., A. M.	Doctor
36A	Holfarek, E.	Doctor
16	Ferranti, A. M., M. S. W.	
22 & 24	Finney, Trichle & Associates, P. A.	
29	Finney, D. C. W.	Doctor
33	Firth, T. A.	Doctor
15	Gebhardt, F. C.	Doctor
21	Gordon, J. C.	Doctor
25B	Hochheal, J. C.	Doctor
25B	Harrison, F.	
14	HealthAmerica, Inc.	
24A	Hearing Aid Dispensary	
16	Holder, L.	Doctor
39	Jerez, A.	Doctor
28	Kaplar, G. N.	Doctor
25B	Kim, S. K. AFAAP	Doctor
29A	Kimberly Nurses	
24	Kranz V., P. A.	Doctor
28	Krijger, P.	Doctor
20	Leand, P. M.	
38	Lerman, S. H., P. A.	Doctor
38	Lin, J. C.	Doctor
34A	Lorenz, B. R. & Associates	C. P. A.
17	Mand, R. C.	R. P. T.
17	Mand, P. D.	P. T.
28	Martire, J. R.	Doctor
36	McGibbon, B. M., P. A.	Doctor

1

Protestants Exh #1 4/13/88

Prot #2

THIS AGREEMENT, Made this 12th day of April, 1973, by and between NICHOLAS B. MANGIONE, party of the first part, and DUTANY VALLEY IMPROVEMENT ASSOCIATION, INC., party of the second part.

WHEREAS, a Special Exception was filed before the Zoning Commissioner of Baltimore County to use the properties known as 1203 and 1207 York Road, Baltimore County, Maryland, as an office building in a DR-16 zone under the file number 73-146-XSPH, with Precision Quality Built Homes, Inc. as the Owner and the party of the first part as the Petitioners; and

WHEREAS, the party of the second part has appealed from the zoning order granting the Special Exception with certain qualifications dated September 29, 1972 signed by S. Eric DiNenna to the County Board of Appeals; and

WHEREAS the parties hereto have agreed that the appeal will be dismissed upon the party of the first part agreeing to comply with certain conditions in the erection and screening of such building and a written memorandum of such agreement is desired, these presents are executed.

NOW, THEREFORE, WITNESSETH, That the parties to this Agreement, for themselves, their heirs, Personal Representatives, successors and assigns agree as follows:

1. That the party of the first part shall construct an office building with parking spaces substantially as shown on the site plan, first floor plan and elevations as shown on the attached exhibits marked 1, 2 and 3.

2. That such office building shall be no more than three stories and no higher than 40 feet at the York Road building line.

- 2 -

3. That the planting around the properties known as 1203 and 1207 York Road shall be substantially in accordance with that shown on exhibit number 4, which is attached hereto and made a part hereof, prepared by George H. Pryor, in the Office of Planning.

4. That the runoff from precipation from said properties shall be placed in the stream on the south side of said properties so that the flow shall be directed in an easterly direction or down stream, so as to avoid erosion of the south bank of the stream.

5. That the party of the first part shall insert a covenant in each lease for tenants of the proposed office building, requiring such tenants to agree that the tenants and their employees, shall park in the parking lot provided for such building, and not on the streets of the adjoining developments.

6. That the party of the second part shall immediately dismiss the appeal which it filed to the County Board of Appeals in the Zoning appeal before such board known as file 73-146-XSPH, Precision Quality Built Homes, Inc.

7. That in the event of the breach of this Agreement, any reasonable Court cost and attorney's fees incurred by the party of the second part in order to enforce this Agreement shall be borne by the party of the first part.

WITNESS the hands and seals of the parties to this Agreement this 12th day of April, 1973.

TEST:

NICHOLAS B. MANGIONE (SEAL)

ATTEST:

DUTANY VALLEY IMPROVEMENT ASSOCIATION, INC.

By

Cert. Ext #2 6/23/86

4 THE DAILY RECORD TUESDAY, AUGUST 23, 1988

REAL ESTATE EXTRA

Mangione Shuns the Limelight

His Projects are Often Wrapped in Controversy

By Susan Finsilver
Daily Record Staff

Nicholas R. Mangione considers himself a low-profile developer. He likes it that way, he says. In a self-selected vocation that could be usually shuns publicity, preferring to develop his office buildings, nursing homes and other real estate projects in obscurity.

"One of the secrets to our success is not publicizing ourselves. That way people don't get jealous," he says.

His activities, however, often thrust him into the very limelight that he shuns. Mangione does not invest lightly when he proceeds with development plans, frequently stepping on the toes of the communities where he wants to build. He has been accused of many charges. His battles have ignited two-year reviews among administrators and local government officials and into the courts, where petitions have attempted to overturn his development approvals.

Most recently, during decision handed down by Baltimore County Deputy Zoning Commissioner Jean M.H. Jung, Mangione "flagrantly and consistently" violated county zoning laws at an office building he owns in Hunt Valley.

Incidentally, Jung also criticized the expansion that Mangione undertook at the nursing home on 1200 York Road without the proper zoning permits. When told not to use the lot by the Baltimore County Office of Planning and Zoning, Mangione says he stopped parking on it. But he adds with a grin, "I didn't stop other people from using it."

Winning the battle

In that case, which culminated 15 years of bending between Mangione and the area residents, the zoning office permitted him to build the nursing home on the condition that the community association's objections.

When Mangione proposed building a 154-bed nursing home at Timbers and Greenridge in Lutherville, residents in the area garnered a petition with 900 signatures opposing the development. As a result of their efforts, the Baltimore County Office of Planning Commission exercised the 30-member, five-acre project in 1986. Mangione has a second proposal before the agency but with no more community support than during the first time.

Mangione's battles have included a fight to remove trailers from property he owns at Fallston General Hospital, and an effort to persuade Ellicott City neighbors not to oppose an expansion business and resort-type residential community there. He lost in Fallston, above far fewer homes, and in Ellicott City, where he eventually built 120 units.

Mangione downplays his adversarial reputation, saying he has always been willing to listen to both sides of an issue. He is a self-made man who has been successful in business by "keeping my mouth shut and my ears open." He is a developer. Mangione is interested in shaping the landscape, however, putting less of it with each new construction.

Variety of projects

Mangione's largest project is the 700-acre Turf Valley, a planned community consisting of a hotel, proposed high-rise offices, apartments, 1,000 townhouses and 1,000 single-family homes. The 87-room hotel is under construction now, scheduled for completion in April 1989. It will have 174 rooms, 12 conference rooms, a restaurant and other amenities.

With the completion of the golf course, Mangione is also constructing a clubhouse and 36 apartments at Turf Valley. The remaining residential units and business are to be placed in during the next 15 years.

"I have always had a dream to develop my own a hotel and a golf course," says Mangione.

Turf Valley is considered one of the area's largest golf club and related amenities. It has a Lutherville office. Mangione bought the 23-acre City property in 1978 and spent the first few years designing the set of community and receiving approval from its residents. Many owners finally relented and endorsed the development, which now consists of more than a thousand three-property values threefold.

Also under construction is the $20 million Berkshire building in Towson. The building, expected to open in May 1988, will feature 22,500 square feet of office and retail space, 215,500 square feet of retirement living apartments and 100 assisted living units.

Mangione is most responsible for building and maintaining many elderly housing units. Given the square from the Baltimore County from Towson State University, Mangione's investment group is building 215 new apartment housing for elderly persons, where rents will range from $600 to $1,000.

The 215-unit Belmont Hall retirement home, another Mangione project, is under construction in Catonsville. In addition, a structure is slated to begin soon on a 120-bed, 60-unit nursing home on Bolker Road in Baltimore County.

As these projects begin to wind up, Mangione is expected to move ahead with Riverfields, a 474-acre tract of land he bought in Baltimore County last year. This previously owned-owned a 1,000-unit residential development, a project that was thwarted by the community.

Mangione says he is hoping to win approval for a development that would include only about 500 units. Current zoning, however, allows for fewer homes, and the county is expected to limit the number of units.

Mangione's company, Mangione Family Enterprises Inc., of which he is chairman, is a family affair. He has 10 employees, all of whom, with the exception of his wife, are members of his family. Mangione is confident "we'll have several secretary."

The corporate arm as an umbrella for about 10 limited partnerships and construction companies, such as Mangione Building and Commercial Contractors Inc., which handles much of the Mangione's construction work. Also included in the group is Mangione and Co., and Fallston Medical Complex Inc.

Although his children are given jobs at the Mangione empire, they are expected to work their way up the ladder, as he did when he was a kid. The children's jobs range from office manager to overseeing Turf Valley. One son, John, is still in college currently works in the storage room of the receiving department of one of the Mangione companies.

Mangione, the son of Italian immigrants, began his own masonry business in 1949 after working for a carpenter and .even as a bookkeeper for a grossing 65 cents an hour. He has been a member of the Associated Builders and the Baltimore Area Council and active in architecture at the Maryland Insurance at night. He and the Commercial Contractors in 1953. One of his earliest projects, Parsons Parkway Shopping Center, is nearly, 25 years old. Mangione owns a mortgage burning ceremony every time he pays off a loan.

The 62-year-old Baltimore native expects to remain at the helm of the family boat too and "the good Lord takes on." A devout Catholic, Mangione attends church every Sunday, and takes some time during the week to pray. "If I go to a morning and I know I have a tough day ahead, I will pray on the way to my office," he says.

With all of the development Mangione has planning, he unsubtly spends many spare moments in his car while on his way to commercials and local government meetings where he must win support for his projects.

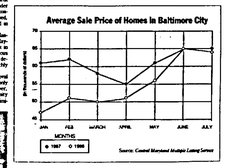
Average Sale Nears $100K

Area's Home Prices, Sales Volume, Show Rise

The average price of a home sold in the Baltimore area rose by $10,000 in the first half of 1987 over 1,786, 6.6 percent increase over the same period in 1986, according to figures released by the Greater Baltimore Board of Realtors. That was a 12 percent increase over the July 1986 average price for a total of $87,165.

For the period from January through July of 1987, the average price of a home sold in the Baltimore area was $87,165, an increase over the average price of $82,950 for the same period during the previous year.

The total dollar volume of settled property sales in the area from January through July was $3,718,628,279, a 21 percent increase over the July 1986 dollar volume. The number of settled sales in July 1987 was 6,746, 6.6 percent increase over the July 1986 figure of 1,430 residential units. There were 1,561 residential units pending/ under contract of sale for July 1987.







Attorney Nicholas R. Mangione says where the limelight, the publicity seeking business tactics of his development group have given him a reputation as a persistent and hard-charging real estate developer.

Prot Exhibit #3

SUZANNE MENSH
CLERK OF CIRCUIT CT.
FOR BALTIMORE COUNTY

RECVD AND RECORDED
08/24/88

C RC/F 14.00
AGRMT 0.0
SH CLERK 14.00
CHECK FL 14.00

1988RECEI[PT] [PRESENTED]
#72298 CH01 R02

BALTIMORE COUNTY, MARYLAND
Office of Finance - Revenue Division
AL PROPERTY TRANSFER - CONSIDERATION AFFIDAVIT

it - original and 1 copy - for each instrument other than of trust (with or without consideration). Sign and return

th Baltimore County Code Title 11, Article IX, Sections -85, as amended, it is certified that an instrument described ing a transfer of real property including, but not limited state, leasehold estate, limited estate and legal or sts in real property, is offered for record in Baltimore ject property is identified as follows:

Prior Deed Reference:
Liber_____ Folio_____
Amount of Mortgage $_____
Other (Cash, etc.) $_____
Total Consideration $_____*
or
Assessed Factor $_____*
Exempt Status Claimed per Baltimore County Code_____

d
eed of Trust
Contract
Other

Agreement
Mortgage
Lease over 7 years
Right-of-way or Easement Agreement

*Total Consideration is transfer tax base.

*Is Subject Property Financed by Bonds Issued Under Article 41, Section 266, Annotated Code of Maryland Yes_____ No_____

PERSON OFFERING INSTRUMENT FOR RECORDING:
Name Lawrence Paglen, Director
Title Co.
or Firm Holmes Valley Improvement
Address P. O. Box 193
Phone:

GRANTOR:
Nicholas R. Mangione

I HEREBY CERTIFY under the penalties of perjury that the information given above is true to the best of my personal knowledge and belief.
Signed
Date

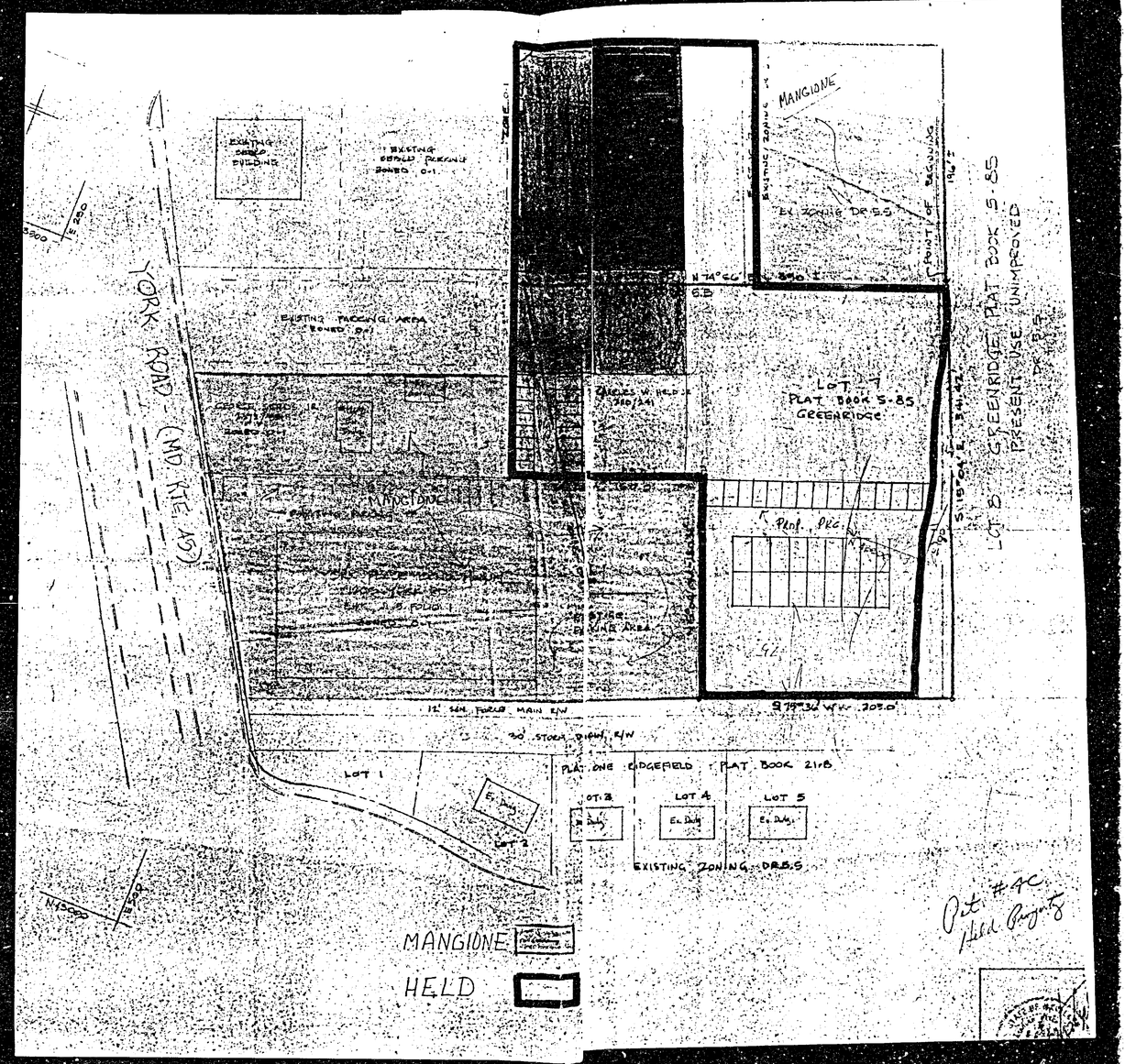
TRANSFERRED PROPERTY KNOWN AS:

WHOLE TRANSFER
PARTIAL TRANSFER - List Improvements on Partial Transfer
Is Plat Availabe for Transfer Office?

GRANTEE_____
GRANTEE MAILING ADDRESS_____

OFFICE OF FINANCE USE ONLY:
Agent _____ Amount $_____ Invoice #_____ Date_____
Tax Bill _____ C.B. Credit _____ Other Credit _____
Comments_____

86-283-SPH



73-146-SPH

Petitioner's Exh #3
showing 24 Parking
Spaces requested

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

The Honorable Ernest C. Crowe
Chairman
Baltimore County Council
Towson, Maryland 21204

Dear Sir:

At the regular meeting on Thursday, May 18, 1972, the Baltimore County Planning Board, under the provisions of subsection 22-22(b), Baltimore County Code 1968, as amended, unanimously approved the following resolution:

WHEREAS, the Baltimore County Planning Board has thoroughly reviewed the map of the Comprehensive Zoning Map Committee with respect to certain zoning, reclassification, parking, and

WHEREAS, the Comprehensive Planning Committee recommends that these petitions be exempted from the regular, appellant procedures of subsections 22-22 (a) through (h), Baltimore County Code, 1968, as amended, in order to avoid a duplication of it is in public interest to expedite, speedily as possible, what the committee would go to be course of consultation and evaluation by the Planning staff in drafting the comprehensive zoning maps now, therefore, be it

RESOLVED, that the Baltimore County Planning Board re-affirm to the Baltimore County Council that early action is essentially required because of emergency and is the public interest on the instant land zoning reclassification petitions, copies of which are attached:

(1) Petition of Harry Gladden, et al, east and west sides of Kings Ridge Road;
(2) Petition of David Brown, et al, east side of Brickenwood Road, north of Cockeysville Road;
(3) Petition of Henry A. Blackburn, east side of York Road, south of Wiseburn Road; and
(4) Petition of H. Denton Smith, et al, east side of York Road, north of Ridgefield Road.

May 25, 1972
Page Three

Re: Five Big Zoning Parcels C. Towson

Mr. Gladden's properties were zoned D.R. and R.A. by Petition #67-245 R.A., and apartments and townhouses were subsequently constructed. The Planning staff, in preparing the newly comprehensively adopted the properties in the D.R.5.5 classification, believing the newly constructed townhouses, the lower zoned not being Mr. Gladden has told many of his townhouse tenants, the lower zoned not being different to have to petition Mr. Gladden's petition by merely signing an entire petition.

Mr. Brown's property was zoned R.L. prior to adoption of the 1971 maps. The Planning Board's Map also designated R.L. - C.N.S. to cover existing development and the downsloth of the commercial fronting R.L. zone - thought to be in a different ownership to R.E. Mr. Brown, the property owner was not notified by certified letter as were the owners of the adjacent property to the north. The staff was unable to find any approved development plan for petitioner's small stores, to the rear of the existing stores.

The Board felt that if all the circumstances were known at the time, it would have recommended hearing enough additional R.L. zoning to cover the proposed expansion.

In accordance with a preliminary development plan, the Planning Board recommended 22.5 acres of D.R.16 zoning for portions of Mr. Dundon's property. When considering these a larger scale map, the Planning staff planted a D.R.16 zone of only slightly more than 20 acres which did not include Mr. Dundon's property boundaries.

During the 1971 Comprehensive Zoning Map processing, D.R.16 zoning was granted on a portion of Mr. Smith's property, as well as on the properties adjoining to the north. The Board's intent had been to cover south of the streams and north of Ridgefield Road and fronting on the east side of York Road with D.R.16 zoning for a depth of 300' from the centerline of York Road.

As the maps were drawn, only a portion of the frontage of the Smith property along York Road was to exceed the balance of the frontage northerly to the stream was zoned D.R.5.5. It was the intent of the Board that all of the frontage be zoned D.R.16.

The Planning Board agreed that these petitions should be exempted from the regular, appellant procedures of subsections 22-22(a) through (h), Baltimore County Code 1968, as amended, for the reasons stated above.

If further information is needed, please contact me.

Sincerely yours,
George E. Gavrelis
GEORGE E. GAVRELIS
Director of Planning

Approved by the County Council June 8, 1972

GEG:dem
Enclosure

Herbert E. Nohenberger, Secretary

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. S. Eric DiNenna, Zoning Commissioner Date June 29, 1972

FROM Arnold E. Jablon, Director of Planning

SUBJECT Petition #72-64-XA - East side of York Road 103 feet North of Ridgefield Road.
Petition for Special Exception for Offices and Office Building.
Petition for Variance for Side Yard.
H. Denton Smith and Virginia E. Smith - Petitioners

7th District

HEARING: Thursday, July 6, 1972 (10:00 A.M.)

The Office of Planning and Zoning has reviewed the subject petition and has the following comments to offer:

D.R. 16 zoning was recommended on the east side of York Road north of Ridgefield Road by the Planning Board in anticipation that these properties would be used for offices.

The requested variance to Section 1802.2C as shown on the petitioner's plat dated March 21, 1972 does not appear to be objectionable because of the property's relationship to the flood control strip and sewage force main right of way.

We note that a parking permit will be required for a portion of the property if the D.R. 16 zoning is extended according to the Planning Board recommendation.

The petitioner's plat dated March 21, 1972 does not include provisions for lighting the parking area. We suggest that a lighting plan be required and that any light standards be limited to 8 feet in height.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. S. Eric DiNenna, Zoning Commissioner Date June 29, 1972

FROM Baltimore County Planning Board

SUBJECT Zoning Petition No 72-64-XA

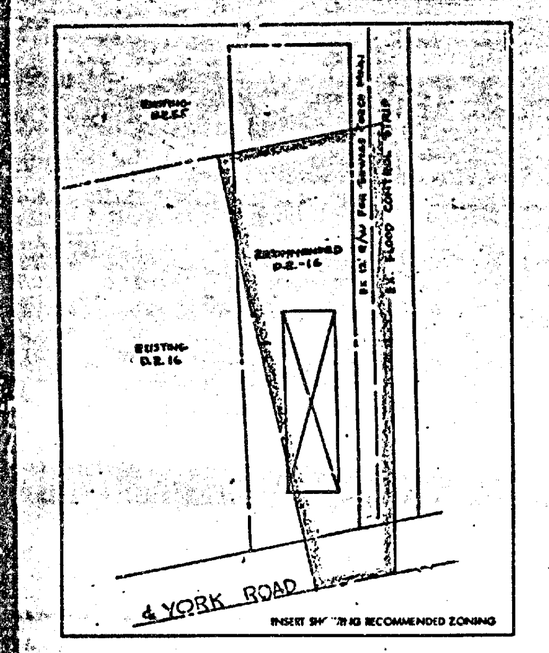
Property Owners H. Denton and Virginia E. Smith
Location: East of York Road, 103' N. of Ridgefield Road
Existing Zoning: D.R. 5.5
Proposed Zoning: D.R. 16
Date of Hearing: July 6, 1972

This property, containing a two-story dwelling, is located on the east side of York Road, 103' N. of Ridgefield Road

The existing zoning along the south side Ridgefield Road separates this property from the adjacent residences facing Ridgefield Road. To the north is a house converted to apartment use. The petitioner is requesting a reclassification of 0.46 acres from D.R. 5.5 to D.R. 16 zoning and a special exception for office use.

In preparing the recently adopted comprehensive zoning maps, it was decided that D.R. 16 zoning be permitted fronting only on the York Road frontage to a depth of 300 feet from the centerline of York Road. As a result of a staff drafting error, only the southeast corner of the tract was zoned D.R. 16, and the remainder D.R. 5.5

It is therefore recommended that D.R. 16 zoning be added so as to correct the oversight (see insert on opposite page); D.R. 5.5 zoning should be retained for the rear portion of the property. By obtaining a permit for off-street parking in a residential zone, this D.R. 5.5 zoned portion of the tract could be utilized as shown on the petitioner's plan.



OFFICE OF
THE TOWSON TIMES

TOWSON, MD. 21204 June 29 19 72

THIS IS TO CERTIFY, that the annexed advertisement of
G. Eric Dinenna
Zoning Commissioner of Baltimore County
was inserted in THE TOWSON TIMES, a weekly newspaper published in Baltimore County, Maryland, once a week for one successive weeks before the 29 day of June 19 72 that is to say, the same was inserted in the issue(s) of June 29, 1972.

STROMBERG PUBLICATIONS, Inc.

By Boots Morgan

CERTIFICATE OF PUBLICATION

TOWSON, MD. June 15 1972

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 ___ successive weeks before the 4th day of July 19 72, the first publication appearing on the 15th day of June 19 72.

THE JEFFERSONIAN

By Edward C. Smith

Cost of Advertisement, $

BALTIMORE COUNTY, MARYLAND No. 3603
DATE July 3, 1972 ACCOUNT 01-662
AMOUNT $50.00
DISTRIBUTION
Baltimore Co. Office, Rm. 113
Courthouse
Towson, Md. 21204
Please do not fold or staple this receipt
For G. Eric DiNenna

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										

Reviewed by: _____ Revised Plans: Change in outline or description ___Yes ___No
Previous case: _____ Map # _____

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
#72-64-XA

District 9th Date of Posting June 15, 72
Posted for: Hearing Thurs. July 6th 1972 @ 10:00 A.M.
Petitioner: H. Denton Smith
Location of property: E/S of York Rd. 103' N. of Ridgefield Rd
Location of Signs: 3 Signs Posted 9th/4 103' No. of Ridgefield Rd. & York Rd.
Remarks:
Posted by Fred K. Hess Date of return June 22, 72

BALTIMORE COUNTY, MARYLAND No. 3736
DATE July 3, 1972 ACCOUNT 01-662
AMOUNT $50.00
DISTRIBUTION
Check #23567
E. Dunbar Smith
9 Bell Alronda, Towson, Md.
Jackson Building
Advertising and Posting of Property
$50.00

EXISTING ZONING - D.R. 5.5 & D.R. 16
EXISTING USE - RESIDENCE
PROPOSED ZONING - D.R. 16 WITH SPECIAL EXCEPTION FOR OFFICE BUILDING AND VARIANCE TO PERMIT 15' SIDE YARD INSTEAD OF 75' REQUIRED BY SECTION 1802.2.C.
PROPOSED USE - OFFICE BUILDING (ONE FLOOR)
AREA OF TRACT - 0.77 ACRES
AREA OF BUILDING - 5,600 S.F.
PARKING SPACES REQUIRED - 19 (5,600 ÷ 300)
PARKING SPACES PROVIDED - 20
PROPOSED PAVEMENT - MACADAM
EXISTING HOUSE - TO BE RAZED
PUBLIC WATER & SEWER - IS AVAILABLE
SCREENING OF PARKING - TO BE PROVIDED BY 4' HIGH COMPACT EVERGREEN PLANTINGS

SMITH, TEACHER & ASSOCIATES
P.O. BOX 172
OWINGS MILLS, MD 21117
363-2100 P.N. D-550

PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION SPECIAL EXCEPTION & VARIANCE
H. DENTON SMITH PROPERTY
YORK ROAD ELECTION DISTRICT NO 9
BALTIMORE COUNTY MARYLAND
SCALE 1" = 50' MARCH 21 1972

NOV 14 1972

the wife; (2) that the chancellor did not have authority to order the clerk of the court to enter a judgment for counsel fees and costs for the wife's law firm; and (3) that the chancellor erred in his calculation of the monetary award.

As to contentions one and three, we find neither error nor an abuse of discretion by the chancellor. However, as to contention two, we find that the chancellor erred in directing the clerk of the court to enter a judgment for counsel fees and costs in favor of the wife's law firm instead of making the award to the wife. The law firm was not a real party in interest to the action prosecuted. Maryland Rule 203. Therefore, it was error to enter a judgment in its favor. Accordingly, we remand the case to the lower court for the limited purpose of modifying its decree in accordance with this opinion.

Decree affirmed.
Case remanded for the limited purpose of modifying the decree in accordance with this opinion.
Costs to be divided equally between the parties.

4. For cases filed after July 1, 1980. "The court may order that any amount awarded for attorney's fees be paid directly to the attorney and may enter judgment in favor of the attorney, who may then enforce the order in his own name in accordance with the Maryland Rules." MD. ANN. CODE art. 16, § 3 (Supp. 1984). Here, the case was filed January 22, 1979.

PRINCE GEORGE'S COUNTY, MARYLAND *v.* E. L. GARDNER, INC.

[No. 385, September Term, 1980.]

Decided January 7, 1981.

Zoning — Special Exception — To Non-Conforming Use — Enlargement Or Extension Of Non-Conforming Use As Distinguished From Intensification — Held That Non-Conforming Use Status Of Applicant's Property Was Irrelevant In Determination Of Issue As To Whether Special Exception, As Provided By Applicable County Zoning Ordinance, Ought Be Granted For Erection And Use Of Sand And Gravel Wet Processing Facility. pp. 476-477

Zoning — Special Exception — Judicial Review — Fairly Debatable Test — Action Of County Council Refusing Grant Of Special Exception Held Arbitrary, Capricious And Illegal Where It Appeared From Record That Applicant Not Only Produced Probative And Credible Evidence To Substantiate Special Exception But Protestants Failed To Raise A Fair Debate In A Reasoning Mind. pp. 478-480

H E F

Appeal from the Circuit Court for Prince George's County (BLACKWELL, J.).

Application for special exception to non-conforming use filed by E. L. Gardner, Inc., and opposed by adjacent landowners and Prince George's County. From an order of the circuit court reversing the order of the county council and remanding to that body for appropriate grant of a special exception, Prince George's County appeals.

Judgment affirmed. Costs to be paid by Prince George's County.*

The cause was argued before GILBERT, C. J., and LISS and WILNER, JJ.

Steven M. Gilbert, Associate County Attorney for Prince George's County, with whom were *Robert B. Ostrom, County Attorney for Prince George's County*, and *Michael O.*

* Note: *Certiorari* granted, Court of Appeals of Maryland, March 26, 1981.

MARYLAND REPORTS

ZENGERLE ET AL. v. BOARD OF COUNTY COMMISSIONERS FOR FREDERICK COUNTY

[No. 256, September Term, 1972.]

Decided May 8, 1973.

Zoning — Appeal — Special Exceptions — Trial Court Will Not Disturb A Zoning Board's Finding Where It Has Complied With The Legal Requirements Of Notice And Hearing, And The Record Shows Substantial Evidence To Sustain The Finding. pp. 17-18

Zoning — Distinction Between Rezoning And Conditional Use Or Special Exception — Rezoning Is A Change In The Existing Law Itself. p. 19

Administrative Law — Zoning — Administrative Agencies Are Not Bound By The Technical Rules Of Evidence And Its Procedures Afforded In Trial Court Provided Such Agencies Observe Basic Rules Of Fairness To Parties Appearing Before Them. pp. 20-21

Zoning — Variances — A Realty Purchaser's Application For An Area Variance Is To Be Distinguished From A Use Variance Where The Need For The Variance Is Not Determined Until After The Granting Of A Special Exception And Where Evidence Exists Of Practical Difficulty In The Absence Of The Grant Of A Variance. pp. 21-22

Zoning — Where A Zoning Ordinance Is Amended After The Filing Of An Application But Before Decision, The Amended Ordinance Is The Applicable Law And Testimony Taken Pursuant To The Amendment But Before Its Filing With The Clerk Of The Court Is Not Nullified. pp. 22-23

Zoning — Sufficiency Of Evidence — Frederick County Zoning Regulations Section 40-145 (b) Requires That Facts And Conditions Necessary To Sustain A Variance Must Be Found To Exist Beyond A Reasonable Doubt Which Simply Demands A Higher Degree Of Conviction Than That Demanded By A Mere Preponderance Of The Evidence. p. 23

less than fifteen years", upon which reliance the appellant, really is used by the Court as for the statutory period. It said: "The lessee than the fifteen years mentioned in the Act, without the covenant for renewal, and which tended by the parties to end at the expiration years or a less period of time." A similar is given in *Sheppard & Enoch Pratt Hospital & Co.*, 178 Md. 200, 209, 13 A. 2d 174, 178, said: "It may be added that leases for less than years means leases without a covenant for which are intended by the parties to the con at the expiration of fifteen years or a less time."

Courts in other States which have had consider similar statutory or constitutional have agreed with the above quotations from *Gorter* and the *Sheppard* case. The New Yo tution declared void a lease of agricultural a period longer than twelve years. In *Hart* 1856, 22 Barb., N. Y., 606, there was a lease years with a covenant for renewal which would it beyond that period. The lease was held valid full twelve years, although the covenant for was declared void. In *Parish v. Rogers*, 20 App. 270, 46 N. Y. Supp. 1058, 1059, the question was whether the creation of an estate for the life of the lessee agricultural lands was prohibited by the constitutional provision. If the estate for life was held to be a longer period than twelve years," it would have void. The Court held that the lease was valid for life of the lessor or for the full period of twelve whichever was shorter. In *Robertson v. Hayes*, 290, 3 So. 674, 675, the Court was construing which provided that "no leasehold can be created a longer term than twenty years". It was held lease for forty years was valid for twenty, although for the period above that. In *Young v. Dake* (1 Schlen), 463, 55 Amer. Dec. 356, where the

required a writing if the term of the lease one year, a parol lease for exactly one year was valid.

think the case before us is one which undoubtedly the strict application of the doctrine of the case of *Bluff v. Father Gray* (A. P. Herbert, on Law 192), in which Lord Mildew said: "If ment does not mean what it says, it must say so." rect and more binding authorities on the proposition where the words of the statute are definite and ambiguous, the meaning of the legislature must be clearly presumed to be manifested in the words of include *Celanese Corp. v. Davis*, 186 Md. 463, 47 A. 2d 379; *Saunders v. Maryland Unemployment Board*, 188 Md. 677, 53 A. 2d 579; and *Maguire v.* 62 Md. 615, 65 A. 2d 299.

Chancellor said: "I do not think the language of statute can be stretched so as to make it apply to which was intended to end at the expiration of ten years or a less period of time. . . The line had drawn somewhere and the Legislature drew it at years." We agree.

Decree affirmed, with costs.

MONTGOMERY COUNTY, MARYLAND *v.* MERLANDS CLUB, INC., ET AL.

[No. 150, October Term, 1952.]

Montgomery County—Special Exception.—Provision Held Delegation of Power to Zoning Board. That portion of the Montgomery County Code (1950), Ch. 175, which empowers the Zoning Board upon a special "to hear and decide requests for and grant requests for the following special exceptions and decisions upon the following special questions to the judgment of the Board such special exceptions and decisions shall be in harmony with the general

RALPH L. KLEIN ET AL. *v.* COLONIAL PIPELINE COMPANY

No. 1265, September Term, 1982.

Decided July 6, 1983.

Zoning — Administrative Law — Judicial Review — Court May Not Substitute Its Judgment For That Of Zoning Board Unless Action Is Arbitrary, Capricious And Illegal.

Zoning — Zoning Board May Not Transform Zoning Application Proceedings Into Violation And Enforcement Process — Absent Specific Authorization, Board May Not Deny Permit For Violations Of Conditions Of Prior Permit. Where Zoning Board denied application upon matters which were not required by zoning ordinance, including violations of conditions of prior permit, the Court held that the trial court did not err in finding Board's action to be arbitrary and capricious. pp. 337-339

Res Judicata — Administrative Law — Zoning — Facts Or Issues Litigated In Prior Proceeding And Determined By Court Of Competent Jurisdiction May Not Be Litigated In Subsequent Action Between Same Parties Or Their Privies — Res Judicata Doctrine Is Civil Application To Final Judicial Determinations But Not To Administrative Proceedings As Inflexible Rule Of Law, Especially Where Administrative Decision Based On Error Of Law — Maryland Rejects Distinction Between Questions Of Fact And Error Of Law In Applying Doctrine — Unreversed Final Decision Of Zoning Board Cannot Foreclose Subsequent Zoning Application If Substantial Change Of Conditions, Or Decision Product Of Fraud, Surprise, Mistake, Or Inadvertence. Where, in prior application, Court of Appeals reversed circuit court on the basis that the court was without jurisdiction to hear case because appeal procedure was ultra vires, and where the judicial review of prior case was limiting that denial of conditional use application was arbitrary, capricious, and illegal, and where evidence showed change in legal status of reputation of applicant's pipeline since prior application, the Court held that the doctrine of res judicata was inapplicable in this case. pp. 338-342

R. J. B.

Appeal from the Circuit Court for Harford County (HIGINBOTHOM, J.).

Colonial Pipeline Company applied for a conditional use permit and variance to construct additional petroleum storage tanks at its tank farm facility. The Zoning Hearing

Examiner recommended approval. Neighboring property owners filed a request for final argument before the Board of Appeals, which rejected the recommendation of the Zoning Hearing Examiner and denied the conditional use permit. Colonial appealed to the circuit court, which reversed the decision of the Board of Appeals. The neighboring property owners appeal.

Order affirmed, costs to be divided equally between the parties.*

The cause was argued before LISS, BISHOP and GETTY, JJ.

John J. Gessner and *Michael E. Leaf*, with whom were *Leaf, Hertsch & Handy* on the brief, for appellants.

Gary C. Duvall, with whom were *Miles & Stockbridge, Charles H. Reed, Gregory A. Szoka* and *Cameron, Reed, Keenan & Love* on the brief, for appellee.

LISS, J., delivered the opinion of the Court.

Colonial Pipeline Company, appellee herein, filed an application seeking approval from the Board of Appeals of Harford County for a conditional use permit and variance to allow the construction and use of two additional petroleum storage tanks and accessory equipment at Colonial's Forest Hill, Maryland tank farm facility.

Colonial obtained the original zoning change for the subject property in 1964 from an "A-1" agricultural classification to an "M-2" manufacturing classification in order to erect a "break-out" tank farm on which five tanks were subsequently erected.[1] The original five tanks were built pursuant to the issuance of a zoning certificate by the Board of Appeals on June 4, 1965.

Subsequent to the construction of the tank farm, Colonial applied in 1976 for a conditional use permit and variance for

* Note: *Certiorari* denied, Court of Appeals of Maryland, October 31, 1983.

1. For earlier case history see St. Clair v. Colonial Pipeline Co., 238 Md. 578, 209 A.2d 576 (1965).

Alimony and Support

The second and third assignments of error are also directed to portions of the decree which we can reverse only if we find the chancellor to have been in clear error. Md. Rule 1086. Appellant argues that the award of alimony, child support and counsel fees were erroneous because appellee failed to prove that her income was insufficient to care for her needs and the needs of the child, and because he cannot afford the amounts required of him. We again disagree. A review of the record reveals ample evidence of the appellee's need for the sums awarded. See Md. Code, Art. 16, §§ 5, 5A. The chancellor found as a fact that appellant was in good physical condition, had a good earning capacity, and could earn up to $22,000 a year if he chose to exercise it. He also found that his conduct had destroyed the home. These are all factors to be considered in addition to the appellee's need. *Waters v. Waters*, 191 Md. 436, 440-441; *Birdsall v. Birdsall*, 23 Md. App. 502, 512-514.

Appellant argues that *Sody v. Sody*, 32 Md. App. 644, stands for the proposition that the husband is not obliged to make payments which exceed his actual resources. That case, however, like many others, merely holds that the husband's resource is one factor, among others, to be considered. On the other hand, it is settled that a husband cannot voluntarily impoverish himself to avoid paying alimony, since that his overall financial potential, not his current income, is controlling. *Colburn v. Colburn*, 35 Md. App. 503, 515-516. The court could have so concluded from the testimony. We hold that the chancellor was not clearly wrong in awarding the amounts at issue.

Visitation

Appellant's last complaint is that the chancellor in effect denied the natural father visitation with his minor child. That contention is not borne out by the decree which allows appellant to have the child on alternating weekends and for one week each summer. The further contention that visitation was conditioned upon payment of support and

alimony is without merit. The court's comment that: "If he doesn't get a job to make these payments that question [visitation] becomes moot, because we are going to put him in jail and there is no point in having the child in jail with him.", was simply placing emphasis upon the penal result of nonpayment. That the child would not be with him if he went to jail was an aside pointing to a tangential inconvenience of incarceration. Payment was not the *quid pro quo* for visitation, but loss of visitation was a logical consequence of incarceration which would follow nonpayment. The point is strained at best. We see no abuse of discretion in determining appellant's visitation rights. See *Dorsey v. Dorsey*, 245 Md. 703, 704; *Townsend v. Townsend*, 205 Md. 591.

Judgments affirmed.
Costs to be paid by appellant.

JOHN HOFMEISTER ET AL. *v.* THE FRANK REALTY COMPANY

[No. 102, September Term, 1976.]

Decided May 12, 1977.

Zoning — "Special Permit" — Special Exception — Legislative Intent — Special "Use Permit" For Off-Street Parking In A Residential Zone Is A Special Exception Within The Delegated Authority Of The Baltimore County Zoning Commissioner — Administrative Interpretations Contemporaneous With The Passage Of A Statute Have Been Considered Strong Evidence On The Question Of Its Best Construction — When A Word In A Statute Is Not Clear, The Courts Will Seek The Legislative Intent In The Language Of The Statute By Considering The Object To Be Accomplished And Adopt The Meaning Which Will Harmonize Therewith — In Carrying Out The Purpose Of The Statute — Where The Language Of A Statute Is Susceptible Of Two Constructions, A Long Continued And Unvarying Construction Applied By Administrative Officials Is Strong Persuasive Influence In Determining The Judicial Construction Of The Statute, And It Should Not Be Disregarded Except For The Strongest And Most Urgent Reasons. pp. 694-710

J. A. R.

	Page
Stillman *v.* Commission On Medical Discipline of the State of Maryland	390
St. Paul Fire and Marine Insurance Company *v.* Molloy	139
Sullivan and A-1 Insurance Agency, Inc. *v.* Insurance Commissioner of the State of Maryland and Aetna Casualty & Surety Company	277
The Derby Steel Company, Inc., Coffey *v.*	241
Valentine *v.* Board of License Commissioners of Anne Arundel County	523
Webb, Nationwide Mutual Insurance Company *v.*	721
Washington Suburban Sanitary Commission *v.* Pride Homes, Inc.	537

MARYLAND REPORTS

ROGER SCHULTZ ET AL. *v.* ROBERT K. PRITTS ET AL.

[No. 153, September Term, 1979.]

Decided July 16, 1981.

Administrative Law — Appeal — Final Judgment — Circuit Court's Order Remanding Proceeding To Administrative Agency Is A Final Appealable Order. Where Circuit Court, in appeal from denial of special exception by Board of Zoning Appeals, remanded the case for further proceedings, the Court held that the Circuit Court's order was a "final judgment" and was appealable. Code (1974, 1980 Repl. Vol.) § 12-301 of Courts and Judicial Proceedings Article. pp. 5-6

Administrative Law — Due Process — Administrative Agencies Must Observe Basic Rules Of Fairness To Parties Appearing Before Them. p. 7

Administrative Law — Due Process — Reliance On Evidence Submitted After Close Of Hearing — Due Process May Be Violated If No Opportunity Is Provided To Challenge Post-Hearing Evidence By Cross-Examination Or Rebuttal — But Due Process May Not Be Violated When Parties Are Aware That Post-Hearing Evidence Will Be Considered, But Make No Objection Prior to Agency's Decision — No Due Process Violation By Receipt Of Post-Hearing Evidence In Instant Case. Where evidence, consisting of written compilation of data testified to by traffic expert, submitted after the close of the hearing was duplicative in nature, and where applicants for special exception were aware that the post-hearing evidence would be considered by the Board of Zoning Appeals prior to its decision, but raised no objection and did not promptly request a further hearing, the Court held that the applicants were not denied procedural due process by the Board's consideration of the post-hearing evidence, or by the Board's denial of a request for a rehearing made after the Board's decision, denying the special exception, had been made. pp. 7-10

Zoning — Special Exception — Judicial Review — Board's Granting Or Denial Of Special Exception Will Be Sustained If Evidence Is Fairly Debatable On Whether Proposed Use Will Adversely Affect Neighboring Properties Or Is In Harmony With General Purpose And Intent Of Comprehensive Zoning Plan. pp. 11-12

ISSUES

1. Did the trial court abuse its discretion in ordering entry of judgment based on the parties' stipulation?

2. Did the trial court err in providing for participation by the Ramsey County Department of Court Services in scheduling of future visitation?

ANALYSIS

1. Appellant claims he should be released from the parties' stipulation because he received ineffective assistance of counsel which greatly impaired his visitation rights and severely compromised his property interests. He asserts the child's best interest is not served because she is deprived of sufficient contact with both her parents. Despite respondent's claim this appeal should be dismissed, this and other issues are reviewable on appeal from the judgment and decree.

[1] Stipulated dissolutions are greatly favored and will not be disturbed absent abuse of trial court discretion. *See Tomscak v Tomscak*, 352 N.W.2d 464, 466 (Minn.Ct.App.1984).

This court has considered the following factors in determining whether a stipulation was entered into properly: (1) whether the party was represented by competent counsel; (2) whether extensive and detailed negotiations occurred; (3) whether the party agreed to the stipulation in open court; and (4) whether when questioned by the judge the party acknowledged understanding the terms and considering them fair and equitable. *Tomscak*, 352 N.W.2d at 466.

Peksarek v. Wilking, 380 N.W.2d 161, 163 (Minn.Ct.App.1986).

[2] Appellant does not complain that settlement negotiations were not sufficiently extensive. The record indicates appellant stated understanding the stipulation and agreeing to it in open court. Appellant argues his counsel was incompetent and ineffective because of counsel's competing full time corporate employment. But the record does not indicate a lack of attention to appellant's case. Late response to interrogatories is not significant or unusual when the attorney can hardly be blamed for geographical distance in the attorney-client relationship. His counsel negotiated a settlement and advised appellant after the stipulation was entered. Appellant has not demonstrated his attorney's incompetence or ineffectiveness in arguing for vacation of the stipulation.

Appellant claims the stipulation was not proper because the visitation provisions are not in his daughter's best interest. Minnesota Statutes provides:

[T]he court shall * * * grant such rights of visitation as will enable the child and the noncustodial parent to maintain a child to parent relationship that will be in the best interests of the child.

Minn.Stat. § 518.175, subd. 1 (1984).

Here, the parties stipulated and the trial court ordered visitation rights be granted appellant in California and Minnesota and psychological evaluations of the young child be made to determine any detrimental effect based on separation from the primary custodian. Any disputes regarding changes in visitation are to be mediated through court services and subject to further court order. These provisions are quite proper given the child's age and quite protective of the child's best interest.

2. Appellant claims the trial court ignored statutory law in accepting the parties' stipulation and permitting court services to restrict visitation by the jurisdiction placed upon it by the trial court. Minnesota Statutes states:

[T]he court may order * * * the department of court services to exercise continuing supervision over the case under guidelines established by the court to assure that the custodial or visitation terms of the decree are carried out.

Minn.Stat. § 518.176, subd. 2 (1984).

[3, 4] The decree provides visitation to be under the jurisdiction of both the court and court services. Disputes are to be mediated through court services and necessary resolved by court order. [illegible] does not violate section 518.176. Appellant has not challenged the psychologist's recommendation nor sought to enjoin the original stipulated visitation. The stipulated procedures regarding visitation are proper and should be followed by appellant if he has a dispute.

DECISION

The trial court properly refused to vacate the parties' stipulation and did not improperly vest court services with unlawful jurisdiction.

Affirmed.

William and Koryne HORBAL, Relators,
v.
CITY OF HAM LAKE, Minnesota, Respondent.

No. C2-86-532.

Court of Appeals of Minnesota.

Sept. 9, 1986.

Relators sought conditional use permit for adolescent group home. The Ham Lake City Council denied the permit, and relators appealed. The Court of Appeals, Popovich, C.J., held that: (1) writ of certiorari was proper method to review denial of conditional use permit, and (2) city council acted arbitrarily and without sustainable reason in denying relators' application for conditional use permit.

Reversed.

1. Zoning and Planning ⇐565
Writ of certiorari to Court of Appeals to review of denial of conditional use permit was proper where parties had completely briefed matter at great expense and where adequate record was presented prior to consideration of proper forum for review.

2. Zoning and Planning ⇐584
Petition for writ of certiorari for review of denial of conditional use permit was properly issued where petition was filed within 60 days of due notice of proceeding. M.S.A. § 606.01.

3. Zoning and Planning ⇐610
Standard of review in all zoning matters is whether zoning authority's action was reasonable and not arbitrary and capricious in light of applicable zoning ordinances.

4. Zoning and Planning ⇐435
Finding that relators' proposed adolescent group home would require increased police supervision thereby depriving remainder of city of police protection was not supported by testimony indicating expected two to three runaways per year, and testimony predicting that runaways would leave county when running and would not incite trouble within city.

5. Zoning and Planning ⇐391
Alleged detriment to neighborhood watch program caused by proposed adolescent group home was not sufficient to deny conditional use permit as any addition of new residents to city could cause such detriment.

6. Zoning and Planning ⇐391
Community fear was not legally sufficient reason for denial of conditional use permit for proposed adolescent group home.

7. Zoning and Planning ⇐391
Finding that proposed adolescent group home was to be operated for profit was irrelevant in determining its residential or commercial nature under zoning ordinance.

8. Zoning and Planning ⇐439
City council acted arbitrarily and without sustainable reason in denying relators' application for conditional use permit for

TURNER, ETC. T/A SALISBURY VENTURE *v.* HAMMOND ET AL.

[No. 20, September Term, 1973.]

Decided October 15, 1973.

Appeal — Where Appellees Did Not Cross-Appeal Ruling Of Lower Court Adverse To Them, The Question Was Not Before Court Of Appeals. p. 54

Zoning — The Conditional Use Or Special Exception Is A Part Of The Comprehensive Zoning Plan Sharing The Presumption That As Such It Is In The Interest Of The General Welfare And Therefore Valid. p. 54

Zoning — The Special Exception Is A Valid Zoning Mechanism That Delegates To An Administrative Board A Limited Authority To Permit Enumerated Uses The Legislature Has Determined Can Be Allowed, Properly Absent Proven Facts, Absent Any Fact Or Circumstance Negating The Presumption. pp. 54-55

Zoning — While The Applicant For A Special Exception Has The Burden Of Adducing Testimony Which Will Show That His Use Meets The Prescribed Standards And Requirements, He Does Not Have The Burden Of Showing Affirmatively That His Proposed Use Accords With The General Welfare And If He Shows To The Satisfaction Of The Board That The Proposed Use Would Be Conducted Without Real Detriment To The Neighborhood And Would Not Actually Adversely Affect The Public Interest, He Has Met His Burden. p. 55

Zoning — The Extent Of Any Harm Or Disturbance From The Proposed Use Of An Applicant For A Special Exception Is Material But If There Is No Probative Evidence Of Harm Or Disturbance In Light Of The Nature Of The Zone Involved Or Of Factors Causing Disharmony To The Functioning Of The Comprehensive Plan, Denial Of The Application Is Arbitrary, Capricious And Illegal. p. 55

Zoning — Denial Of Application For Special Exception Was Improper Where Zoning Ordinance Specifically Permitted Proposed Use As A Special Exception If The Board Found That It Would Not Substantially Affect Adversely The Uses Of Adjacent And Neighboring Property Permitted By The Ordinance, The Board Made No Findings Of Fact Worthy Of The Name And There Was No Evidence Showing That The Proposed Use Would Substantially Affect Adversely The Uses Of Adjacent And Neighboring

Linc Co. v. Commonwealth, 258 Ky. 90, 79 S.W.2d 366 (1935); *Louisiana Iron and Supply Co. v. Jolly*, 174 Okla. 579, 51 P. 2d 280 (1935); *State v. Hammermill Paper Co.*, 149 Minn. 414, 184 N. W. 182 (1921). See also 84 C.J.S. Taxation § 120 at 244-45 (1954) and Powell, Taxation of Things in Transit, 7 Va. L. Rev. 167, 245, 429, 497 (1920-21).

The Department urges that at least the language of the exemption is ambiguous and that the alleged administrative practice of the Department to permit taxation of the radios as stock in trade should be given effect by us, as we indicated in *Macke Co. v. State Department of Assessments & Taxation*, 264 Md. 121, 135, 285 A. 2d 593, 600 (1972). See also *Swarthmore Co. v. Kaestner*, 258 Md. 517, 528-29, 266 A. 2d 341, 346-47 (1970) and cases therein cited. Alas for the Department's contention in this regard, we consider the language clear and unambiguous so that this rule of construction does not apply. We also have grave doubts that the testimony offered by the Department established a "long standing administrative interpretation of the language" in question as contrasted with the personal opinion of the witness for the Department in regard to how the statutory language should be applied.

Bendix also urges upon us that, in any event, the operations at the Broening Highway plant were a part of its manufacturing process so as to entitle it to exemption under the "manufacturer's exemption" and also, alternatively, as "manufactured products in the hands of the manufacturers" even though not manufactured in the City. These are interesting questions, but in view of our decision sustaining the exemption on the basis upon which the Maryland Tax Court predicated its grant of the exemption, as above set forth, we do not decide these additional questions.

Order of December 14, 1972 affirmed, the appellant to pay the costs.

Opinion of the Court. [257 Md.

All of the above contentions of Laurel Plaza do not appear as clearly as Laurel Plaza would have us believe they appear. If all of the above were true, however, there still would remain the fact there is no clear-cut showing that Fidelity at any time knew prior to the submission on December 7, 1965, that Laurel did not have Endicott Johnson and Shoe Mart, two of the major national tenants slated in the original proposal, as tenants. Although no provision was made in the commitment for suitable substitutes, there were none. Accordingly, the contentions relative to equitable estoppel must fail.

IV.

Laurel claims that the motion for a directed verdict on behalf of Fidelity was not sufficiently broad to embrace an objection to the sufficiency of the evidence to establish approval by Fidelity or that Fidelity was estopped to deny that it had approved the changes. It further contends that Fidelity has failed to raise the question of the sufficiency of the evidence on these last two points on appeal. The short answer to these last two points is that a careful reading of the grounds stated by counsel for Fidelity convinces us that this point was covered. On appeal Fidelity argued, "The undisputed evidence showed that Laurel Plaza did not comply with the terms of Fidelity's loan commitment." It appears, therefore, that Fidelity is standing on its argument that there had to be compliance with the original terms of the commitment. Inherent in this argument is the position that there was never any approval which would excuse Laurel from performing according to the commitment. These contentions of Laurel Plaza, therefore, are without merit.

Judgments reversed, Laurel Plaza, Incorporated, to pay the costs, and case remanded for entry of a judgment in accordance with this opinion.

182 F. W. BERENS, INC. v. FIDELITY MUT.

Opinion of the Court. [257 Md.

All of the above contentions of Laurel Plaza do not appear as clearly as Laurel Plaza would have us believe they appear. If all of the above were true, however, there still would remain the fact there is no clear-cut showing that Fidelity at any time knew prior to the submission on December 7, 1965, that Laurel did not have Endicott Johnson and Shoe Mart, two of the major national tenants slated in the original proposal, as tenants. Although no provision was made in the commitment for suitable substitutes, there were none. Accordingly, the contentions relative to equitable estoppel must fail.

IV.

Laurel claims that the motion for a directed verdict on behalf of Fidelity was not sufficiently broad to embrace an objection to the sufficiency of the evidence to establish approval by Fidelity or that Fidelity was estopped to deny that it had approved the changes. It further contends that Fidelity has failed to raise the question of the sufficiency of the evidence on these last two points on appeal. The short answer to the first contention is that a careful reading of the grounds stated by counsel for Fidelity convinces us that this point was covered. On appeal Fidelity argued, "The undisputed evidence showed that Laurel Plaza did not comply with the terms of Fidelity's loan commitment." It appears, therefore, that Fidelity is standing on its argument that there had to be compliance with the original terms of the commitment. Inherent in this argument is the position that there was never any approval which would excuse Laurel from performing according to the commitment. These contentions of Laurel Plaza, therefore, are without merit.

Judgments reversed, Laurel Plaza, Incorporated, to pay the costs, and case remanded for entry of a judgment in accordance with this opinion.

183] Syllabus.

ROCKVILLE FUEL AND FEED COMPANY, INC.
v.
BOARD OF APPEALS OF THE CITY OF GAITHERSBURG

[No. 221, September Term, 1969.]

Decided March 4, 1970.

ZONING—Municipal Corporations Have Power To Zone For Purpose Of Promoting Health, Safety, Morals Or General Welfare Of Community—Municipality May Establish Use Districts In Accordance With Comprehensive Plan To Promote Health, General Welfare And Safety Of Community. Art. 66B, Sec. 81 (b), 81 (c).

ZONING—Comprehensive Zoning Or Rezoning Is Entitled To A Strong Presumption Of Validity And Correctness. I.C. A Presumption Exists That Such Legislation Does Promote The General Welfare And Is Fairly Debatable. Control Exercised By Courts Is Limited And Narrow. Art. 66B, Sec. 81 (b), 81 (c).

ZONING—Comprehensive Zoning Or Rezoning Is Entitled To A Strong Presumption Of Validity And Correctness. I.C. A Presumption Exists That Such Legislation Does Promote The General Welfare And Is Fairly Debatable. Control Exercised By Courts Is Limited And Narrow. Art. 66B, Sec. 81 (b), 81 (c).

ZONING—Special Exception—As Generally Used In Municipal Zoning Ordinance Delegate To An Administrative Board The Power To Permit Enumerated Uses In A Specified District Upon A Finding That Such Use Will Not Adversely Affect Neighborhood Properties And The General Welfare And Therefore Exception Uses Do Promote General Welfare And Therefore Share Presumption Of Validity And Correctness—Under Such Zoning Ordinance Applicant For Special Exception Must Show That Proposed Use Does Not Adversely Affect Neighborhood. But Need Not Demonstrate That Proposed Use Accords With General Welfare. Art. 187-188

ZONING—Special Exception—Gaithersburg—Local Zoning Ordinance Does Not Require Applicant For Special Exception To Show Affirmatively That Requested Use Will Benefit Community At Large—Rather, Applicant Must Show That Proposed Use Would Not Adversely Affect Neighborhood And Would Not Harm Or Disturb Neighboring Uses And Would Not Violate Any Specific Requirement Set Forth In Ordinance. pp. 187-188

ZONING—Special Exception—Gaithersburg—Property Owner Has Prima Facie Right To Enjoy Special Exception—Administrative Board Cannot Deny Special Exception Where There Is No Probative Evidence Of Harm Or Disturbance To Neighborhood Or Violation Of Specific Requirement Set Forth In Ordinance. pp. 188-191

ZONING—Special Exception—Gaithersburg—Property Owner Has Prima Facie Right To Enjoy Special Exception—Administrative Board Cannot Deny Special Exception Where There Is No Probative Evidence Of Harm Or Disturbance To Neighborhood Or Violation Of Specific Requirement Set Forth In Ordinance. pp. 188-191

Opinion of the Court. [204 Md.

Section 22 provides that the Superintendent of State Police "may on the request of the chief executive officer of the chief police officer of any local government unit in the State assist such officer in the investigation of the circumstances of any crime, and in the identification, apprehension, and conviction of the perpetrator or perpetrators thereof. . . ." The Charter of Cumberland (1950 ed.) § 18 vests control and supervision of all city departments in the Mayor and City Council, and provides for the designation of one councilman as Police and Fire Commissioner, having in his special charge the enforcement of all police regulations. § 36(a) calls for the establishment of a Police Department, to be composed of a "Chief of Police" and subordinate officers. § 36(m) sets forth the duties of the Chief of Police and states that he shall be the "chief police officer of the said City". Despite the verbal identity of the phrase "chief police officer" as used in the public general Article 88B and in the Charter, we think that the phrase in Article 88B refers to the training official of a local police department regardless of title. While Robert E. Flynn, the Cumberland Chief of Police, testified that he did not make any request, and it is conceded that the Mayor did not, he also testified that Mr. Long was his "immediate superior". There was testimony of a request by Mr. Long and of compliance by Col. Nuncshower.

But even if the detailing of these officers to the investigation in Cumberland was beyond the legal power of the Superintendent and they were not authorized or deputized to perform police duties there, it would not follow that their testimony was inadmissible. As members of the general public they had a legal right to enter the pool-room to which the public was invited and could testify to what they saw and heard there. *Current v. State*, 199 Md. 64, 85 and cases cited.

The appellant contends that the officers' testimony made out of the presence of the accused, and hence inadmissible. We think, however, that it was part

381] Syllabus.

SKIPJACK COVE MARINA, INC. v. BOARD OF COUNTY COMMISSIONERS OF CECIL COUNTY ET AL.

[No. 177, September Term, 1971.]

Decided February 8, 1972.

ZONING—*Cecil County Zoning Ordinance, Board Of Zoning Appeals Was Authorized, In Granting A Special Exception To Permit An Apartment Development In Commercially Zoned Area To Impose Reasonable Conditions And Safeguards In Connection Therewith. Pp. 386-387*

ZONING—*In Granting Special Exception To Permit Operation Of Illegally In Issuing Of Permit At Variance To By Provisions Of Zoning Ordinance, Board Of Zoning Appeals Did Not Act Arbitrarily Or A Nuisance, Board Of Zoning Appeals Did Not Act Arbitrarily Or Illegally In Issuing Special Exception Permit As Requested Even Though Applicant Had Not Obtained Written Approval Of Certain Property Owners As Required By Ordinance, Where Applicant Had Submitted Evidence Of Approval Of Requisite Number Of Such Property Owners. p. 387*

ZONING—*In Granting Special Exception To Permit Operation Of A Nuisance, Board Of Zoning Appeals Did Not Act Arbitrarily Or Illegally In Issuing Special Exception Permit As Requested Even Though Applicant Had Not Obtained Written Approval Of Certain Property Owners As Required By Ordinance, Where Applicant Had Submitted Evidence Of Approval Of Requisite Number Of Such Property Owners. p. 387*

ZONING—*Cecil County Special Exception To Permit Operation Of Apartment Development In Commercially Zoned Area Was Reasonably Necessary For Convenience And Welfare Of Public, Where Applicant Had Submitted Evidence Of Need For Such Facilities In Area. p. 387*

ZONING—*Cecil County Special Exception To Permit Operation Of Apartment Development In Commercially Zoned Area Would Not Adversely Affect Public Interest, Where Applicant Had Submitted Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General. p. 387*

ZONING—*Cecil County Special Exception To Permit Operation Of Apartment Development In Commercially Zoned Area Was Not Arbitrary Or Illegal Where Applicant Had Submitted Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General. p. 387*

ZONING—*Special Exception—Burden Of Proof. Where Applicant For Special Exception Has Introduced Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General, Burden Is On Opponents To Show By Competent And Material Evidence That Proposed Use Would Have Adverse Effect At Particular Location Different From Effect Ordinarily Experienced From Such Use Throughout Zone. p. 387*

ZONING—*Special Exception—Burden Of Proof. Where Applicant For Special Exception Has Introduced Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General, Burden Is On Opponents To Show By Competent And Material Evidence That Proposed Use Would Have Adverse Effect At Particular Location Different From Effect Ordinarily Experienced From Such Use Throughout Zone. p. 387*

ZONING—*Special Exception—Burden Of Proof. Where Applicant For Special Exception Has Introduced Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General, Burden Is On Opponents To Show By Competent And Material Evidence That Proposed Use Would Have Adverse Effect At Particular Location Different From Effect Ordinarily Experienced From Such Use Throughout Zone, Mere Showing That Proposed Use Would Not Comply With Certain Requirements Of Zoning Ordinance Is Not Sufficient To Show Adverse Effect. p. 387*

ZONING—*Special Exception—Burden Of Proof. Where Applicant For Special Exception Has Introduced Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General, Mere Showing That Proposed Use Would Not Comply With Certain Requirements Of Zoning Ordinance Is Not Sufficient To Show Adverse Effect. p. 387*

ZONING—*Special Exception—Burden Of Proof. Where Applicant For Special Exception Has Introduced Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General, Burden Is On Opponents To Show By Competent And Material Evidence That Proposed Use Would Have Adverse Effect At Particular Location Different From Effect Ordinarily Experienced From Such Use Throughout Zone, Mere Showing That Proposed Use Would Not Comply With Certain Requirements Of Zoning Ordinance Is Not Sufficient To Show Adverse Effect. p. 387*

ZONING—*Special Exception—Burden Of Proof. Where Applicant For Special Exception Has Introduced Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General, Burden Is On Opponents To Show By Competent And Material Evidence That Proposed Use Would Have Adverse Effect At Particular Location Different From Effect Ordinarily Experienced From Such Use Throughout Zone, Mere Showing That Proposed Use Would Not Comply With Certain Requirements Of Zoning Ordinance Is Not Sufficient To Show Adverse Effect. Evidence Against Which Favorable Decision Is Based Must Be Substantial. p. 387*

ZONING—*Special Exception—Burden Of Proof. Where Applicant For Special Exception Has Introduced Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General, Burden Is On Opponents To Show By Competent And Material Evidence That Proposed Use Would Have Adverse Effect At Particular Location Different From Effect Ordinarily Experienced From Such Use Throughout Zone, Mere Showing That Proposed Use Would Not Comply With Certain Requirements Of Zoning Ordinance Is Not Sufficient To Show Adverse Effect. Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Nature. p. 387*

ZONING—*Special Exception—Burden Of Proof. Where Applicant For Special Exception Has Introduced Evidence That Proposed Use Would Not Be Detrimental To Health, Safety Or General Welfare Of Community, Would Not Overburden Existing Streets, Roads, Parking Facilities Or Utilities, Would Not Create Excessive Additional Requirements At Public Cost For Public Facilities, Would Not Cause Economic Or Social Blight Or Deterioration Of Surrounding Property, Would Not Interfere With Adequate Light And Air, Would Not Cause Undue Traffic Congestion Or Hazards, Would Not Overcrowd Land, Would Not Cause Undue Concentration Of Population, Would Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewerage, Transportation Or Other Public Requirements, Would Not Interfere With Development Of Neighboring Property In Accordance With Applicable Zoning Regulations, Would Be Consistent With Spirit, Purpose And Intent Of Zoning Ordinance, Would Not Be Contrary To General Welfare, Would Not Be Detrimental To Economic Welfare Of Community, Would Not Be Detrimental To Orderly Development Or Value Of Adjacent Properties And Would Not Be Detrimental To Public Welfare In General, Burden Is On Opponents To Show By Competent And Material Evidence That Proposed Use Would Have Adverse Effect At Particular Location Different From Effect Ordinarily Experienced From Such Use Throughout Zone, Mere Showing That Proposed Use Would Not Comply With Certain Requirements Of Zoning Ordinance Is Not Sufficient To Show Adverse Effect. Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Nature, Mere Showing That Proposed Use Would Not Comply With Certain Requirements Of Zoning Ordinance Is Not Sufficient To Show Adverse Effect. p. 387*

613] Opinion of the Court.

Limiting Reported Special Exception Was Invalidated And Precluding Of Issuing A Building Permit. pp. 624-626

J. A. R.

Appeal from the Circuit Court for Baltimore County (McDaniel, J.).

Eugene Sawyer and others petitioned the Zoning Commissioner for a special exception to construct a funeral home in a residential zone. From the grant of a special exception the protestants appealed to the Board of Appeals, and from a reversal of the Commissioner and denial of a special exception, the petitioners appealed to a special exception Board of Appeals. The Board of Appeals and granting a special exception, the protestants appeal. Order affirmed. Costs to be paid by the appellants.

The cause was argued before Thompson, Moylan and Davidson, JJ.

William F. Maurer, with whom were *Louis L. DePazzo* and *John R. Cicero* on the brief, for appellants.

Randolph N. Blair and *John S. Arnick* for appellees.

Davidson, J., delivered the opinion of the Court.

This appeal is from an order of the Circuit Court for Baltimore County, reversing a decision of the Baltimore County Board of Appeals (Board) which had denied a special exception for the construction of a funeral home on land zoned for residential use. We shall affirm the order of the Circuit Court requiring the issuance of the special exception.

The record shows that the subject property lies in a block bounded by Merritt Boulevard on the South, Merritt Avenue on the west, Sunberry Road on the north, and Meadow Lane on the east. (See location plan, Exhibit 2, attached hereto.) The parcel, consisting of 1.5 ± acres of land, is

Syllabus. [23 Md. App.

LOUIS E. ANDERSON ET AL. v. EUGENE SAWYER ET AL.

[No. 96, September Term, 1974.]

Decided December 16, 1975.

ZONING — Special Exception For Construction Of Funeral Home In Residential Use Zone — Conditional Use Or Special Exception Is Part Of Comprehensive Zoning Plan Sharing Presumption Valid — Term Applied To Special Exception Also Implies Legislative Judgment That Such Use Will Not Adversely Affect Neighborhood — Opponents Of Proposed Use Would Not Actually Advertently Affect Public, But Rather Would Be Conducted Without Fair Consideration To Surrounding And Would Not Actually Advertently Affect Value Of Adjacent Property. pp. 614-617

ZONING — Special Exception — Funeral Home — Opinion Of Landowners Is Of No Greater Probative Value Than Testimony Of Expert Witness. — Testimony Showing Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property Is Proper And Relevant In Determining Whether Proposed Use Will Or Will Not Adversely Affect Neighborhood. pp. 617-618

ZONING — Special Exception — Funeral Home — Opinion Of Landowners Is Of Greater Probative Value Than Testimony Of Expert Witness In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — Testimony Showing Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property Is Proper And Relevant In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — In Light Of Nature Of Zone Involved (Or Special Exception Sought), Proposed Use Would Be Conducted Without Fair Consideration To Surrounding And Would Not Actually Adversely Affect Public. He Has Burden Of Showing That Proposed Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property. pp. 618-619

ZONING — Special Exception — Funeral Home — Opinion Of Landowners Is Of No Greater Probative Value Than Testimony Of Expert Witness In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — Testimony Showing Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property Is Proper And Relevant In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — In Light Of Nature Of Zone Involved (Or Special Exception Sought), Proposed Use Would Be Conducted Without Fair Consideration To Surrounding And Would Not Actually Adversely Affect Public. He Has Burden Of Showing That Proposed Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property. pp. 618-619

ZONING — Special Exception — Funeral Home — Opinion Of Landowners Is Of No Greater Probative Value Than Testimony Of Expert Witness In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — Testimony Showing Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property Is Proper And Relevant In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — In Light Of Nature Of Zone Involved (Or Special Exception Sought), Proposed Use Would Be Conducted Without Fair Consideration To Surrounding And Would Not Actually Adversely Affect Public. He Has Burden Of Showing That Proposed Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property. Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Nature. pp. 618-619

ZONING — Special Exception — Funeral Home — Opinion Of Landowners Is Of No Greater Probative Value Than Testimony Of Expert Witness In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — Testimony Showing Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property Is Proper And Relevant In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — In Light Of Nature Of Zone Involved (Or Special Exception Sought), Proposed Use Would Be Conducted Without Fair Consideration To Surrounding And Would Not Actually Adversely Affect Public. He Has Burden Of Showing That Proposed Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property. Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Case Here. Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Nature. p. 619

Decided December 16, 1975.

ZONING — Special Exception For Construction Of Funeral Home In Residential Use Zone — Conditional Use Or Special Exception Is Part Of Comprehensive Zoning Plan Sharing Presumption Valid — Term Applied To Special Exception Also Implies Legislative Judgment That Such Use Will Not Adversely Affect Neighborhood — Opponents Of Proposed Use Would Not Actually Advertently Affect Public, But Rather Would Be Conducted Without Fair Consideration To Surrounding And Would Not Actually Advertently Affect Value Of Adjacent Property. pp. 614-617

ZONING — Special Exception — Funeral Home — Opinion Of Landowners Is Of No Greater Probative Value Than Testimony Of Expert Witness In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — Testimony Showing Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property Is Proper And Relevant In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — In Light Of Nature Of Zone Involved (Or Special Exception Sought), Proposed Use Would Be Conducted Without Fair Consideration To Surrounding And Would Not Actually Adversely Affect Public. He Has Burden Of Showing That Proposed Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property. pp. 614-617

ZONING — Special Exception — Funeral Home — Opinion Of Landowners Is Of No Greater Probative Value Than Testimony Of Expert Witness In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — Testimony Showing Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property Is Proper And Relevant In Determining Whether Proposed Use Will Or Will Not Result In Harm Adverse To Neighborhood. — In Light Of Nature Of Zone Involved (Or Special Exception Sought), Proposed Use Would Be Conducted Without Fair Consideration To Surrounding And Would Not Actually Adversely Affect Public. He Has Burden Of Showing That Proposed Use Would Not Actually Adversely Affect Public Interest Or Value Of Adjacent Property. Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Case Here. Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Nature. pp. 617-618

ZONING — Special Exception — Funeral Home — Local Legislative Declaration — In Light Of Local Legislative Intent, Mere Fact As Fact Of Its Compatibility Is A Factual Issue Not To Be Allowed In Determining Whether Proposed Use Will Or Will Not Adversely Affect Public Interest Or Value Of Adjacent Property. If A Presumption Of Validity — Such Presumption Cannot Be Overcome Unless Substantial Facts Of Circumstances Show Proposed Use Has Detrimental Effects Above And Beyond Inherent Ones Ordinarily Associated With Funeral Homes — In Case Here, Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Nature. pp. 618-619

ZONING — Special Exception — Funeral Home — Local Legislative Declaration — In Light Of Local Legislative Intent, Mere Fact As Fact Of Its Compatibility Is A Factual Issue Not To Be Allowed In Determining Whether Proposed Use Will Or Will Not Adversely Affect Public Interest Or Value Of Adjacent Property. If A Presumption Of Validity — Such Presumption Cannot Be Overcome Unless Substantial Facts Of Circumstances Show Proposed Use Has Detrimental Effects Above And Beyond Inherent Ones Ordinarily Associated With Funeral Homes — In Case Here, Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Nature. pp. 617-624

ZONING — Special Exception — Funeral Home — Local Legislative Declaration — In Light Of Local Legislative Intent, Mere Fact As Fact Of Its Compatibility Is A Factual Issue Not To Be Allowed In Determining Whether Proposed Use Will Or Will Not Adversely Affect Public Interest Or Value Of Adjacent Property. If A Presumption Of Validity — Such Presumption Cannot Be Overcome Unless Substantial Facts Of Circumstances Show Proposed Use Has Detrimental Effects Above And Beyond Inherent Ones Ordinarily Associated With Funeral Homes — In Case Here, Evidence Against Which Favorable Decision Is Based Must Be Substantial And Probative In Nature. pp. 617-624

Opinion of the Court.

appeals were not subject to dismissal on theory that district council by rezoning portion outside buffer strip gave owners of one tract exactly what they requested and that owners of the other tract could not impose continuance of buffer strip.

2. Zoning ⇐166

Fact that existing zoning makes property less profitable is not sufficient ground alone to change zoning.

3. Zoning ⇐603

If drawing of zoning line is fairly debatable, court will not substitute its judgment for that of legislative body.

4. Constitutional Law ⇐278(1)

Eminent Domain ⇐21(1)

Where land was suitable for industrial, not residential, use and, although it would be possible to erect single-family dwelling in the proposed residential zone, that and would be deprived of all reasonable uses for the property and property owners would be deprived of any beneficial use of their property, included within a proposed 150-foot buffer strip adjoining highway, the proposed zoning would amount to taking of property without due process or for public use without payment of just compensation and would be invalid.

5. Zoning ⇐193

Where on face of report of technical staff recommending denial of application for rezoning of land it appeared that 150 feet had been established as a one-lot setback by previous zoning decisions as a buffer to process existing and proposed residential areas from more intensive use, although prior decision had established that such would not be done, the report of the technical staff did not make the issue of denial of application for rezoning fairly debatable and it could not be upheld on that basis.

6. Zoning ⇐35, 64

The may be lawful buffer zones and lawful spot zones as well as unlawful ones.

623] Syllabus.

of the *res gestae*. The statement did not purport to implicate him directly in the transaction. It merely indicated an acceptance of their offer by Cagel, either by vessel act of taking a bet, wait or without the knowledge or consent of Little, was genuine to the extent of maintaining premises for gambling. For this limited purpose it was unnecessary to identify the participants. *White v. State*, 204 Md. 442, 104 A. 2d 810; *Alexander v. State*, 198 Md. 395; *Courtney v. State*, 187 Md. 1.

The testimony that Little refunded the money bet, on the following day, is legally sufficient to show that he had knowledge of the previous transaction and personally participated in it. Likewise, the testimony that Little referred them to Vetl, in connection with another proposed bet, and that they saw Vetl accept $2 from Stamp Freeman of Virginia and make notations on a slip, would indicate that bets were being made on the premises and that Little had knowledge of it. Convictions have been sustained on far less evidence of knowledge or participation by a proprietor. *Shelton v. State*, 198 Md. 405, 412; *Alexander v. State, supra.*

Judgment affirmed, with costs.

CITY OF BALTIMORE ET AL. v. COHN ET AL.

[No. 149, October Term, 1952.]

ZONING—*Parties Plaintiff—Vendor In Conditional Contract of Sale of Land.* An owner of real property, zoned as residential, who had agreed to sell it to another upon condition that a permit to build two truck terminal buildings thereon, may apply for a building permit for the use of the vendee and the fact that the owner is not going to build himself is no reason for a denial of the permit. p. 629

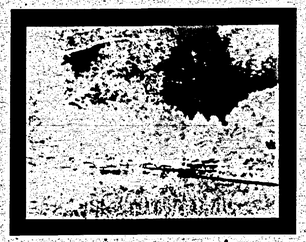


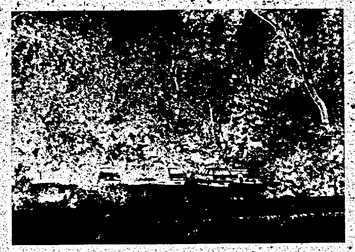












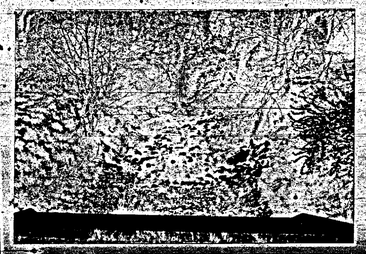






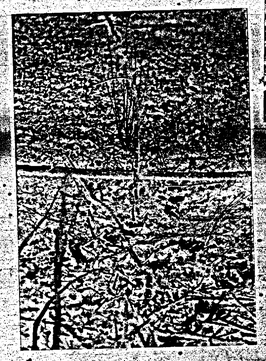


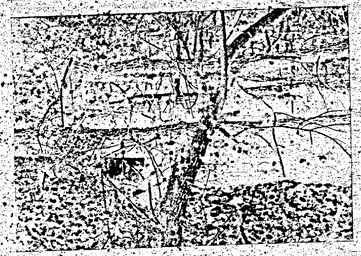












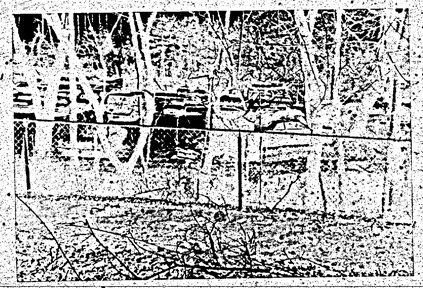




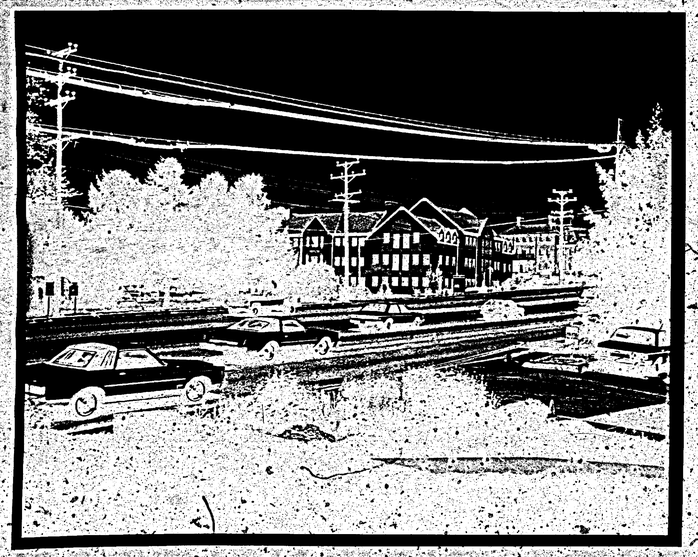


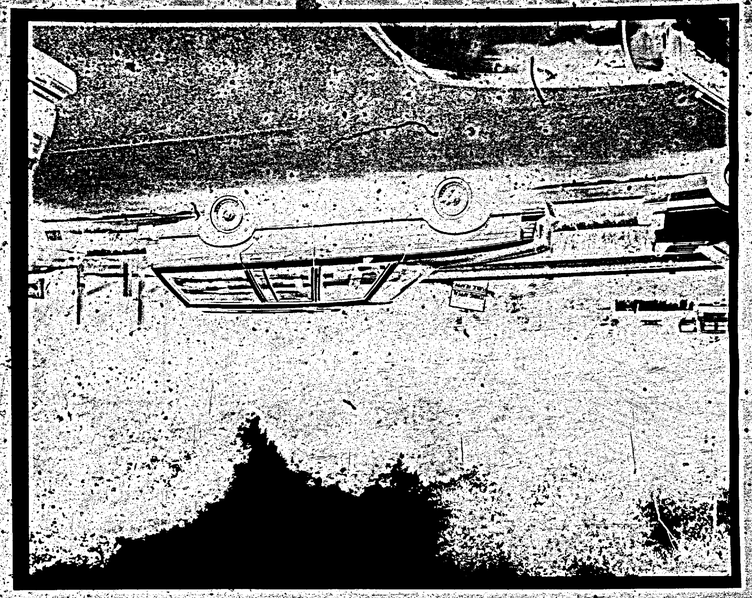


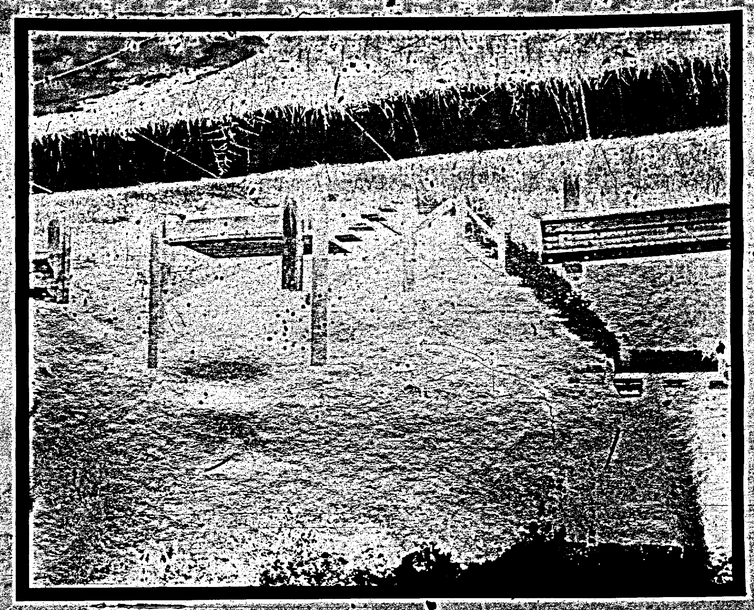




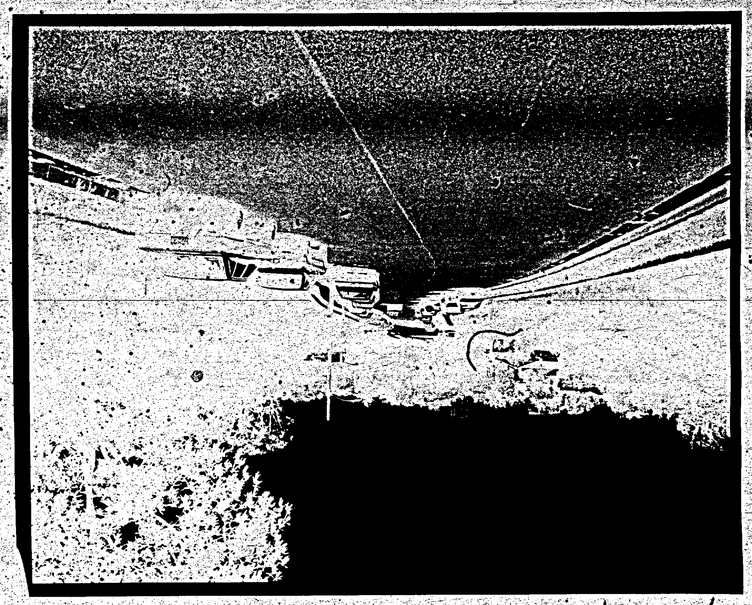


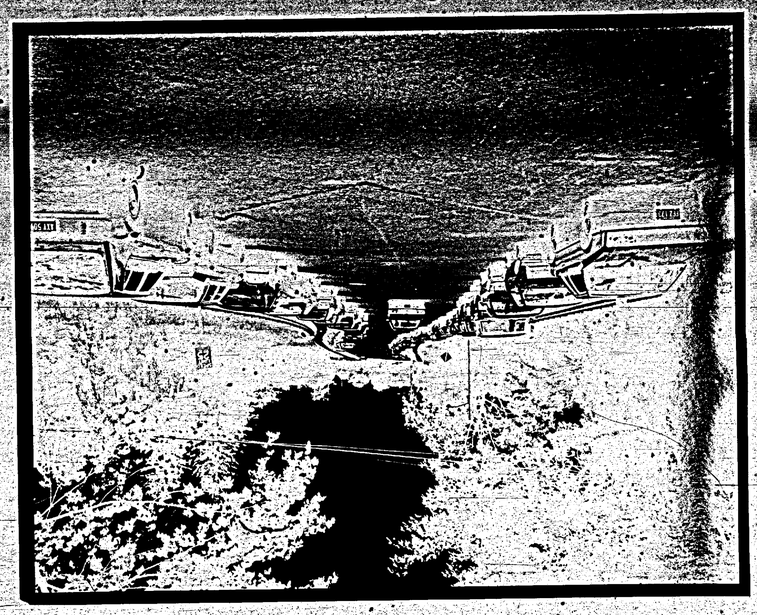


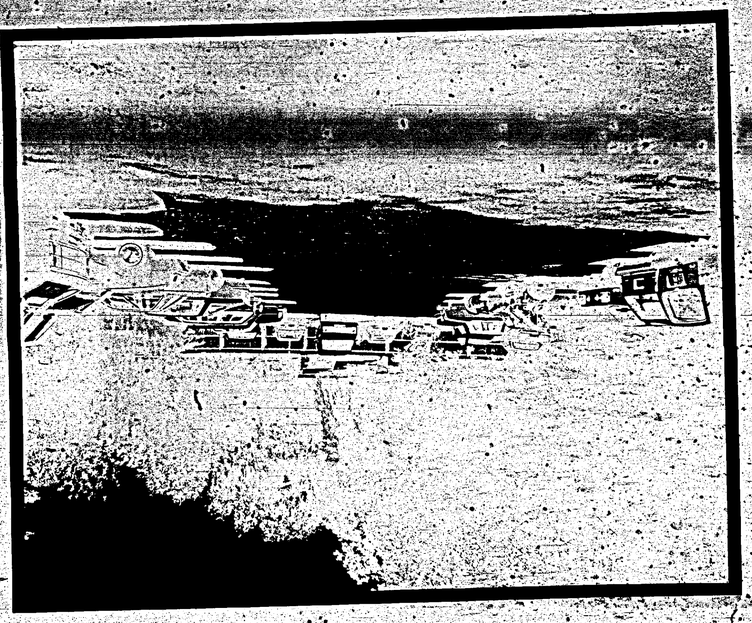


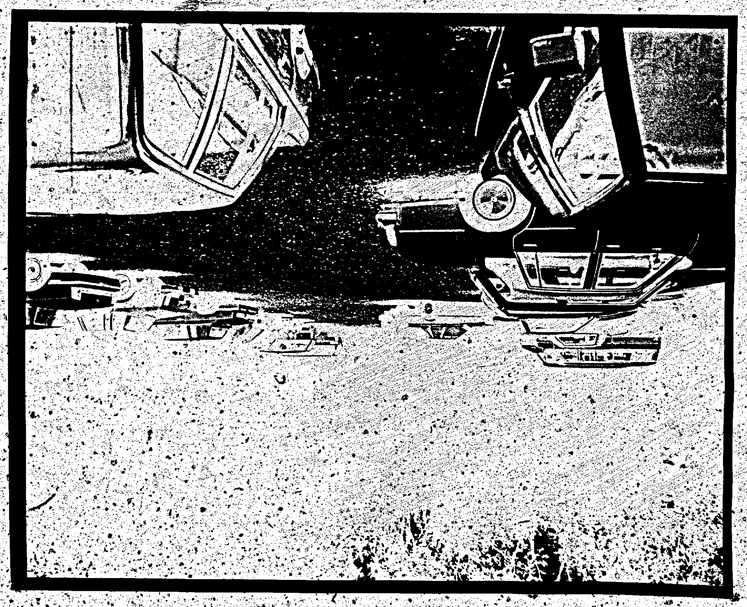


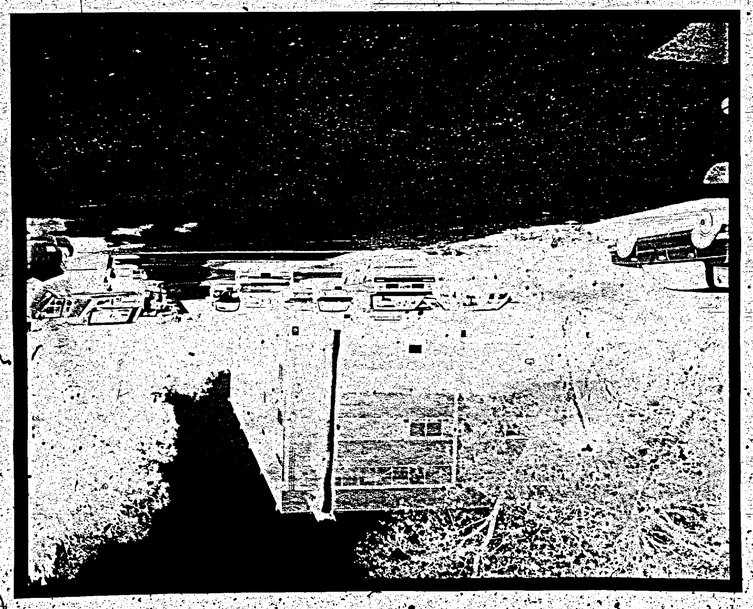


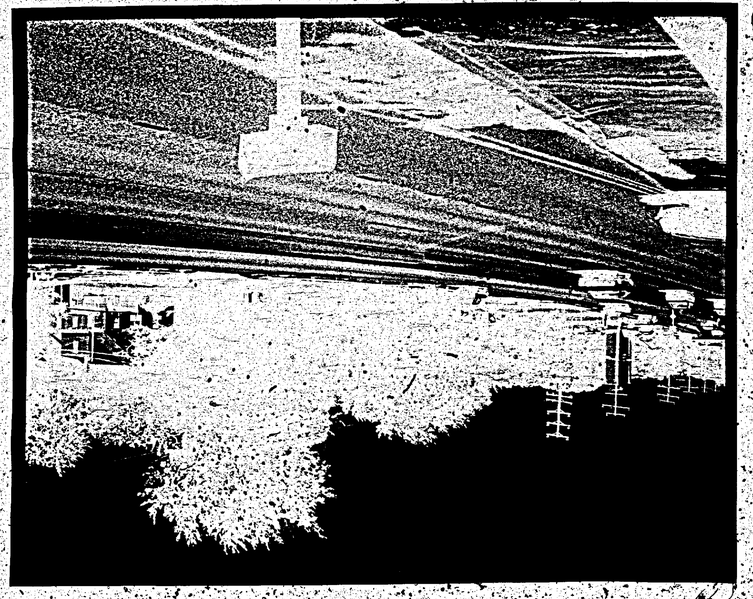












REQUIRED PARKING

ZONING PETITION

PARKING REQUIRED:

1ST FLOOR

MEDICAL & GENERAL OFFICES
23,000 S.F. / 300 = 76.67 P.S.

ABOVE 1ST FLOOR

MEDICAL OFFICES
25,900 S.F. / 300 = 86.33 P.S.
GENERAL OFFICES
23,100 S.F. / 500 = 46.2 P.S.
TOTAL (209.2) = 210 P.S.

PARKING SHOWN (8.5'x18' TYP.)

PARCEL
"A" 153 P.S.
"B" 24 P.S.
"C" 35 P.S.
"D" 78 P.S.
"E" 0 P.S.
TOTAL 293 P.S.

COUNCIL BILL #26-88

PARKING REQUIRED · (40% COMPACT PERMITTED)

1ST FLOOR

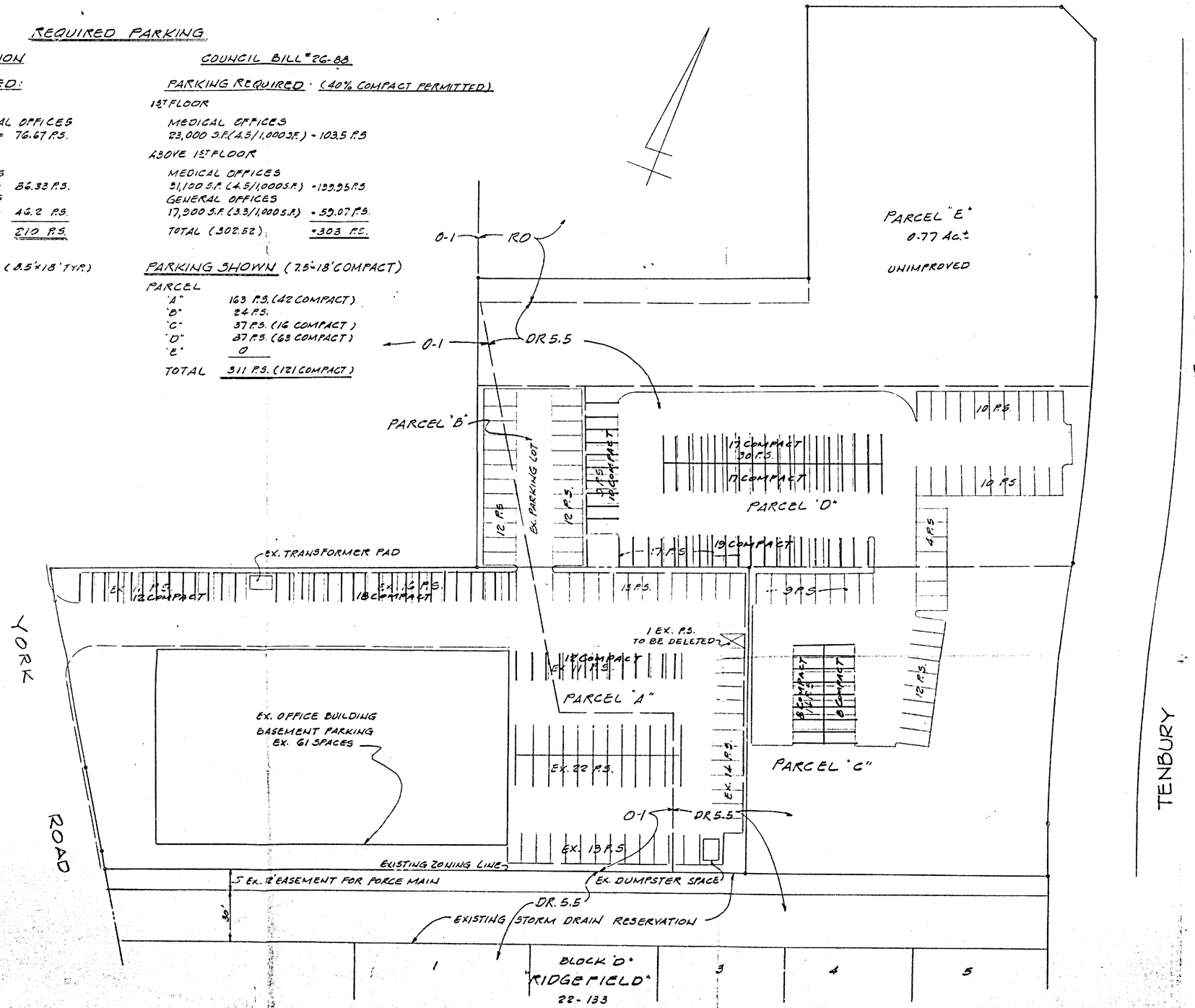
MEDICAL OFFICES
23,000 S.F. (4.5/1,000 S.F.) = 103.5 P.S.

ABOVE 1ST FLOOR

MEDICAL OFFICES
31,100 S.F. (4.5/1,000 S.F.) = 139.95 P.S.
GENERAL OFFICES
17,900 S.F. (3.3/1,000 S.F.) = 59.07 P.S.
TOTAL (302.52) = 303 P.S.

PARKING SHOWN (7.5'x18' COMPACT)

PARCEL
"A" 163 P.S. (42 COMPACT)
"B" 24 P.S.
"C" 37 P.S. (16 COMPACT)
"D" 87 P.S. (63 COMPACT)
"E" 0
TOTAL 311 P.S. (121 COMPACT)



REVISED PARKING LAYOUT
COUNCIL BILL #26-88

#1205 YORK ROAD

9TH ELECT. DIST. BALTO. CO., MD.
SCALE: 1" = 30' AUG. 18, 1988

Petitioner's Exhibit #7
(Amended Plat to Pet. Exh. #2)

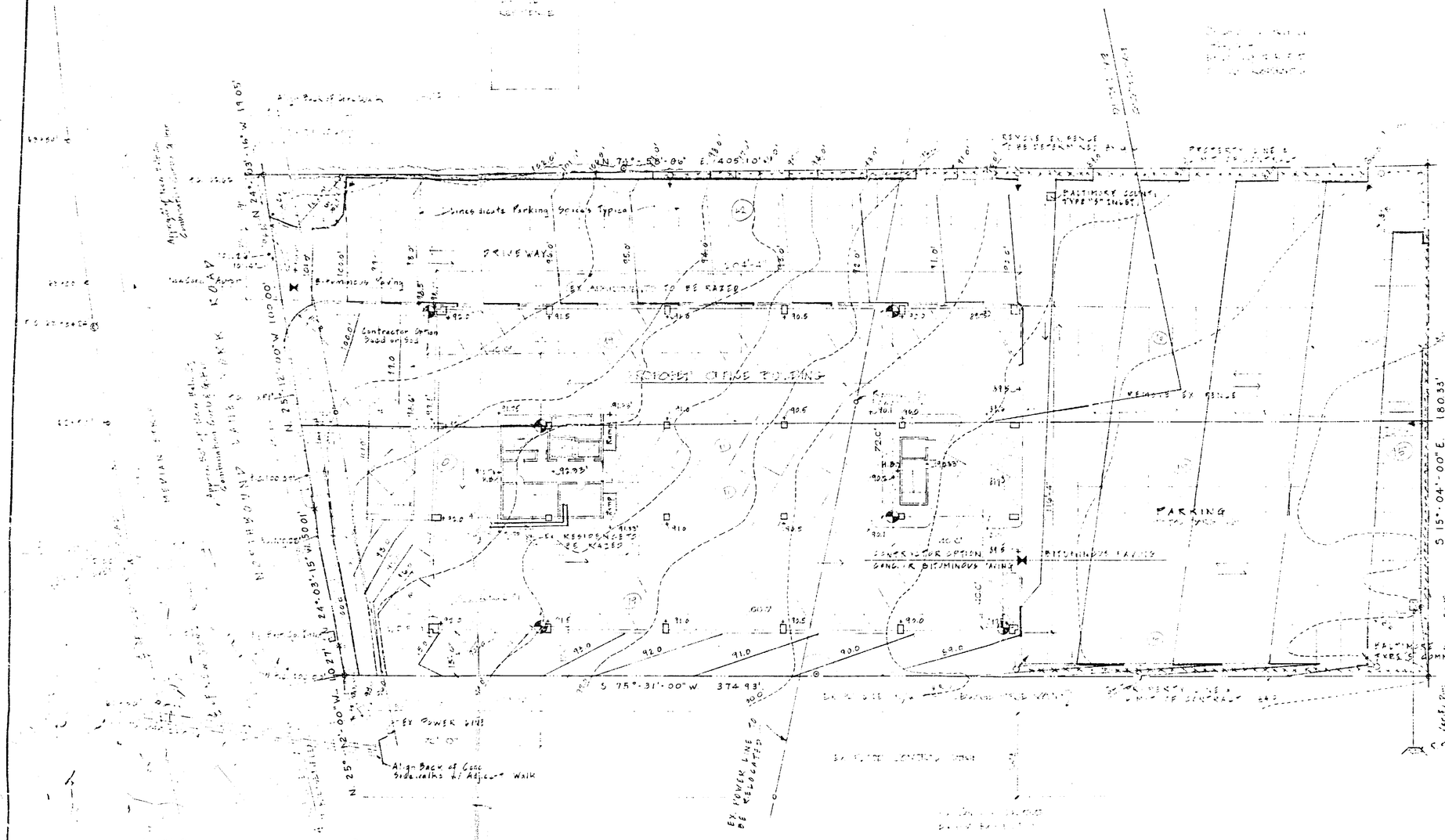
PAUL LEE ENGINEERING, INC.
304 W. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

LEGEND

PROPERTY LINE & LIMIT OF CONTRACT
EXISTING CONTOURS
PROPOSED CONTOURS
EXISTING TREES TO REMAIN
EXISTING TREE LINE TO REMAIN
FENCE
PROPOSED SPOT ELEVATION

LIST OF DRAWINGS

SITE PLAN, LOCATION PLAN, DETAILS
GRADING PLAN
FIRST FLOOR PLAN WITH ROOF & SECTIONS OF BUILDING
SECTIONS OF BUILDING
SECTIONS, ELEVATIONS, SCHEDULES, SPECIFICATIONS & DETAILS
DETAILS
TRAFFIC SIGNS, SIGNALS & MARKINGS
SOIL EROSION & SEDIMENT CONTROL PLAN
SOIL EROSION & SEDIMENT CONTROL DETAILS


N 74° 58' 00" E 405.10'
PROPERTY LINE & LIMIT OF CONTRACT
PRIVATE DRIVEWAYS
EX. RESIDENCE TO BE RAZED
CONTRACTOR OPTION
Sand or Soil
CLOSED CLAY PAVING
EX. RESIDENCE TO BE RAZED
PARKING
CONTRACTOR OPTION
SAND & BITUMINOUS PAVING
BITUMINOUS PAVING
Parking Spaces Typical
Align Back of Curb, Sidewalks w/ Adjacent Walk
EX. POWER LINE
EX. POWER LINE TO BE RELOCATED
S 75° 31' 00" W 374.93'
S 15° 04' 00" E 180.33'
N 24° 03' 15" W 19.05'
N 25° 12' 00" W 100.00'
N 24° 03' 15" W 50.01'
N 25° 12' 00" W 102.71'
MEDIAN STRIP
NORTHBOUND
Approx. Limit of Stone Filling Construction Under E.X.P.K.
Approx. Limit of Stone Filling Construction Under E.X.P.K.
EX. RESIDENCE TO BE RAZED
EX. RESIDENCE TO BE RAZED
EX. RESIDENCE TO BE RAZED

PARCEL "A" (1.64 Ac.±)

1	N 25°12'W	10.27'
2	N 24°03'W	50.01'
3	N 25°12'W	100.00'
4	N 24°03'W	19.05'.
5	N 74°58'E	405.10'
6	S 15°04'E	180.33'
7	S 75°31'W	374.93'

PARCEL "B" (0.10 Ac.±)

1	S 74°58'W	75.0'±
2	N 15°04'W	105.0'±
3	N 74°58'E	75.0'±
4	S 15°04'E	105.0'±

PARCEL "C" (0.74 Ac.±)

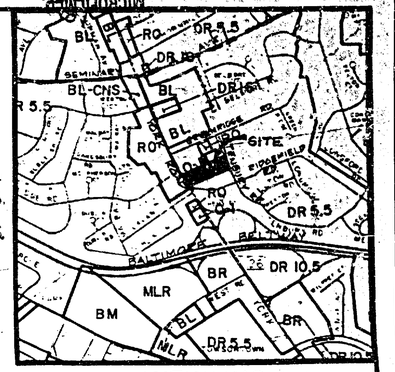
1	S 74°56'W	175.41'±
2	N 15°04'W	180.33'±
3	N 74°58'E	187.0'±
4	SOUTHEASTERLY BY A RADIUS OF 979.93' WITH A LENGTH OF 152'±	
5	S 20°07'E	31.54'±

PARKING REQUIRED

FIRST FLOOR
MEDICAL & GEN. OFFICES
23000 SF ÷ 300 = 76.67 PS
ABOVE FIRST FLOOR
MEDICAL OFFICES
25,200 SF ÷ 300 = 86.33 PS
GENERAL OFFICES
23,100 SF ÷ 500 = 46.2 PS.
TOTAL (209.2) = 210 P.S.

PARKING SHOWN

PARCEL 'A'	159 PS
PARCEL 'B'	24 PS
PARCEL 'C'	29 PS.
TOTAL	212 PS.



LOCATION MAP
SCALE: 1"=1000'

N.B. MANGIONE PROPERTY

C.W. HELD PROPERTY
LEASED TO NICHOLAS B. MANGIONE
OPTION TO PURCHASE TO LOUIS & ROSEMARY MANGIONE
EX. STOCKADE FENCE

MANGIONE (~~SEERS~~ PROPERTY)

EX. BLDG

EX. TRANSFORMER PAD

PARCEL "B" (2 PKG.)

PARCEL "A" (150 P.S.)

EX. PAVING

EX. OFFICE BUILDING INCL. EASEMENT PARKING 2 HCP

EX. 22 PS

EX. 12 PS

EX. 11 PS

EX. 18 PS

EX. 5 PS

1 EX. PS TO BE DELETED

POB "B"

POB "C"

POB "A"

PARCEL "C" (29 PS.)

PROP. 20 PS

PROP. 13 PS

PROP. 22 PS

PROP. 17 PS

PROP. 17 PS

PROP. 12 PS

PROP. 8 PS

PROP. 5 PS

PROP. 5 PS

PROP. 5



VICINITY MAP
SCALE 1"=600'

PARKING REQUIRED
1ST FLOOR
MEDICAL & GENERAL OFFICES
23,000 SF ÷ 300 = 76.67 PS.
ABOVE 1ST FLOOR
MEDICAL OFFICES
25,900 SF ÷ 300 = 86.33 PS.
GENERAL OFFICES
23,100 SF ÷ 300 = 46.2 PS
TOTAL (209.2) = 210 PS

PARKING SHOWN (SEE SITE PLAN FOR DETAILS)
PARCEL
'A' 150 PS
'B' 24 PS.
'C' 11 PS.
'D' 5 PS
'E' 17 PS.
TOTAL 207 PS.

NOTE:
MIN. 50 FT. OF SEPARATION BETWEEN PARKING AREA AND RESIDENTIAL ZONE (SEC. 409.8.A.4)
OR 15 FOOT MIN. BUFFER (SEC. 409.8.A.5)
PLUS 3 FOOT HIGH BERM (SEC. 409.8.A.5)

FINAL LOCATION OF LANDSCAPING TO BE DETERMINED AT TIME OF DEVELOPMENT PLAN REVIEW

GENERAL NOTES

a. The land subject to the business permitted.
b. Only passenger vehicles, excluding buses, will use the parking area.
c. No loading, service, or any use other than parking will be permitted.
d. Lighting will be so oriented as to not reflect upon any adjacent residential zones or interfere with traffic.
e. Screening will be provided in accordance with the Baltimore County Landscape Manual and will consist of 5' high compact evergreen plantings.
f. Parking will consist of a durable, dust free surface or bituminous surface.
g. Parking will be used during normal business hours only.

PARCEL A (1.66 AC±)
A1 N 25°12'W 10.27'
A2 N 24°03'W 50.01'
A3 N 25°12'W 100.00'
A4 N 24°03'W 19.08'
A5 N 74°58'E 405.10'
A6 S 15°04'E 180.33'
A7 S 75°21'W 374.93'

PARCEL B (0.15 AC±)
B1 S 74°56'W 62.0'±
B2 N 15°04'W 105.0'±
B3 N 74°56'E 62.0'±
B4 S 15°04'E 105.0'±

PARCEL C (0.74 AC±)
C1 S 75°21'W 176.81'±
C2 N 15°04'W 180.33'±
C3 N 74°56'E 187.0'±
C4 SOUTHEASTERLY BY A RADIUS OF 272.93' WITH A LENGTH OF 152.0'±
C5 S 14°21'54"E 21.54'±

PARCEL D (0.70 AC±)
D1 S 74°56'W 282.0'±
D2 N 15°04'W 105.0'±
D3 N 74°56'E 206.0'±
D4 SOUTHEASTERLY 100.0'±

HEAVER PLAZA
EX. PARKING LOT
GREENRIDGE ROAD
N 74°56'E 140.00'
S 59°50'55"E 48.18'±
EXISTING DWELLING
CHARLES W. HELD ET UX 1426/203 & 1514/200
PARCEL 'E' 0.77 AC±
UNIMPROVED
N 74°56'E 120.00'±
S 15°04'E 151.20'±
S 15°04'E 151.15'±
S 74°56'W 120.00'±
O-1
RO
DR 5.5
SBECO FEDERAL CREDIT UNION 5007/373 & 5149/620
PARCEL 'D' (14 P.S. TOTAL)
GEORGE SEED JR. ET UX 2072/331
PARCEL 'D' (20 P.S. TOTAL)
EX. TRANSFORMER PAD
EX. 17 P.S.
EX. 16 P.S.
EX. PAVING
EX. P.S. TO BE DELETED
EX. 11 P.S.
PARCEL 'A'
EX. 22 P.S.
EX. 14 P.S.
PARCEL 'C' (44 P.S. TOTAL)
EX. 19 P.S.
EX. OFFICE BUILDING
BASEMENT PARKING
EX. - 61 SPACES
EX. DUMPSTER STORAGE
EX. 12' EASEMENT FOR FORCE MAIN
EXISTING STORM DRAIN RESERVATION
S 14°21'54"E 21.54'
S 75°21'54"W 176.81'
BEGIN
POB
BUFFER
ATTACHMENT FOR FORCE MAIN
STORM DRAIN RESERVATION
YORK ROAD
TENBURY ROAD
RIDGEFIELD ROAD
BLOCK 'D' "RIDGEFIELD" 22/139
BLOCK 'A' "RIDGEFIELD" 22/139
LOT 1
LOT 7
EXISTING DWELLINGS
EL. 4
TURN AROUND
NICHOLAS B MANGIONE 5513/320
4.5 AC± VACANT DR 5.5

P/O NE 11A 1985 PHOTOGRAPHIC MAP
1"=200'

P/O NE 11A 1984 ZONING MAP
1"=200'

SEE GENERAL NOTES

PREVIOUS USE (S)
PARCEL A 4 DWELLINGS
PARCEL B & C 22 S.F.

PETITION AREA
PARCEL
'B' = 0.15 AC±
'C' = 0.74 AC±
'D' = 0.70 AC±
'E' = 0.77 AC±

NOTE: ALL OFFSITE DWELLINGS AND SMALL LOTS THAT CREATE AN EIA ONSITE ARE SHOWN.

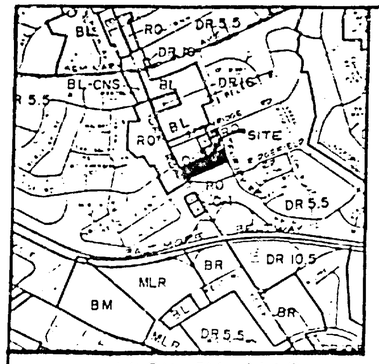
1205 YORK ROAD
PLAT TO ACCOMPANY A PETITION FOR A SPECIAL HEARING TO PERMIT OFFSTREET PARKING IN A RESIDENTIAL ZONE

SCALE: 1"=20'
DATE: 12/9/86
ELECTION DISTRICT 9 BALTO. CO.
P.N. 5132

OWNERS
NICHOLAS B AND MARY MANGIONE
AND
CHARLES W AND MARGET HELD
1205 YORK ROAD
TOWSON, MARYLAND 21204

PETITIONER'S EXHIBIT 1

MICROFILMED



VICINITY MAP
SCALE 1"=1000'

GENERAL NOTES

a. The land adjoins the business involved.
b. Only passenger vehicles, excluding buses, will use the parking area.
c. No loading, service, or any use other than parking will be permitted.
d. Lighting will be so oriented as to not reflect rays into adjacent residential areas or interfere with traffic.
e. Screening will be provided in accordance with the Baltimore County Landscape Manual and will consist of 3' high compact evergreen plantings.
f. Paving will consist of a durable, dust free macadam or bituminous surface.
g. Parking will be used during normal business hours only.

PARCEL A (1.66 AC±)
A1 N 23°12'W 10.27'
A2 N 24°03'W 50.01'
A3 N 25°12'W 100.00'
A4 N 24°03'W 19.05'
A5 N 74°58'E 405.10'
A6 S 15°04'E 180.33'
A7 S 75°31'W 374.33'

PARCEL B (0.15 AC±)
B1 S 75°53'W 62.0'±
B2 N 15°04'W 105.0'±
B3 N 74°56'E 62.0'±
B4 S 15°04'E 105.0'±

PARCEL C (0.74 AC±)
C1 S 75°31'W 175.41'±
C2 N 15°04'W 180.33'±
C3 N 74°56'E 187.0'±
C4 SOUTHEASTERLY BY A RADIUS OF 372.33' WITH A LENGTH OF 152.0'±
C5 S 14°21'54"E 21.54'±

PARCEL D (0.70 AC±)
D1 S 74°56'W 282.0'±
D2 N 15°04'W 105.0'±
D3 N 74°56'E 296.0'±
D4 SOUTHEASTERLY 106.0'±

HEANEY PLAZA

GREENRIDGE ROAD

CHARLES W. HELD ET UX
1426/203 & 1514/388

PARCEL 'E'
UNIMPROVED

CROSS FEDERAL CREDIT UNION
5007/272 & 5149/600

PARCEL 'D'
(14 P.S. TOTAL)

GEORGE COCH JR. ET UX
2072/231

PARCEL 'D'
(20 P.S. TOTAL)

PARCEL 'A'

PARCEL 'C'
(35 P.S. TOTAL)

EX. TRANSFORMER PAD

EX. OFFICE BUILDING
EASEMENT PARKING
EX. 61 SPACES

EXISTING ZONING LINE

EX. DUMPSTER AREA

EXISTING STORM DRAIN RESERVATION

EX. 12" WATER MAIN FOR FORCE MAIN

YORK ROAD

TENBURY ROAD

RIDGEFIELD ROAD

BLOCK D
"RIDGEFIELD"
22/33

BLOCK A
"RIDGEFIELD"
22/33

EXISTING DWELLINGS

1205 YORK ROAD
PLAT TO ACCOMPANY A PETITION FOR A SPECIAL HEARING TO PERMIT OFFSTREET PARKING IN A RESIDENTIAL ZONE

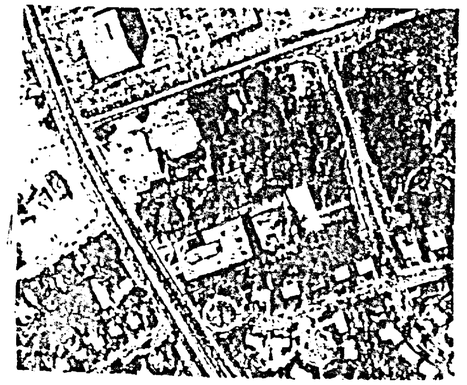
SCALE: 1"=30'
DATE: 12/9/86

ELECTION DISTRICT 9 BALTO CO.
P.H. 5132

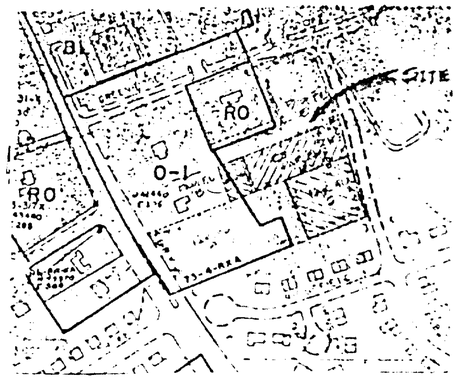
NOTE ALL OFFSITE DWELLINGS AND SMALL LOTS THAT CREATE AN ETA ONSITE ARE SHOWN

266

OWNERS
NICHOLAS B AND MARY MALIOUS
AND
CHARLES W AND HARRIET HELD
1205 YORK ROAD
TOWSON, MARYLAND 21204



PO NE HA 1988 PHOTOGRAPHIC MAP
1"=200'



PO NE HA 1984 ZONING MAP
1"=200'

NICHOLAS B MALIOUS
5514/550

NEAR POINT DR 5.5

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
303 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(301) 823-6200



VICINITY MAP
SCALE 1" = 1000'

PARKING REQUIRED
1ST FLOOR:
MEDICAL + GENERAL OFFICES
13,000 SF ÷ 300 = 76.67 PS
ABOVE 1ST FLOOR
MEDICAL OFFICES
25,800 SF ÷ 300 = 86.33 PS
GENERAL OFFICES
25,120 SF ÷ 300 = 83.73 PS
TOTAL 246.73 = 210 PS

PARKING SHOWN (SEE DETAIL)
PARCEL
'A' 150 PS ✓
'B' 24 PS ✓
'C' 35 PS ✓
'D' 89 PS OK
'E' 0 PS
TOTAL 298 PS.

NOTE:
ANY ROW OF 10 PS
(A): 50 STRT TO 1 HP PS (SDLF)
OR 2 VAL HAND CAP PS / 24 PS
PLUS 5 COMPACT (4 LF)

FINAL LOCATION OF HANDICAP PS TO BE DETERMINED AT BUILDING PERMIT STAGE

GENERAL NOTES
P2 PARKING IN A RESIDENTIAL ZONE

PARCEL A (1.60 AC±)
A1 N 25°12'W 10.27'
A2 N74°03'W 50.01'
A3 N25°12'W 100.00'
A4 N74°03'W 10.00'
A5 N74°38'E 409.10'
A6 S15°04'E 180.33'
A7 S75°31'W 274.22'

PARCEL B (0.15 AC±)
B1 S74°56'W 62.0'±
B2 N15°04'W 105.0'±
B3 N74°56'E 62.0'±
B4 S15°04'E 105.0'±

PARCEL C (0.74 AC±)
C1 S75°31'W 175.41'±
C2 N15°04'W 180.33'±
C3 N74°56'E 187.0'±
C4 SOUTHEASTERLY BY A RADIUS OF 979.03' WITH A LENGTH OF 192.0'±
C5 S16°21'54"E 21.54'±

PARCEL D (0.70 AC±)
D1 S74°56'W 282.0'±
D2 N15°04'W 105.0'±
D3 N74°56'E 296.0'±
D4 SOUTHEASTERLY 100.0'±

EXISTING DWELLING
CHARLES W. HELD ET UX 1426/202 & 1514/000
GREENRIDGE ROAD
HEAVER PLAZA
EX. PARKING LOT
N74°56'E 149.00'
S30°50'55"E 25.10'
PARCEL 'E' 0.77 Ac UNIMPROVED
N74°56'E 120.00'
N15°04'W 151.00'
S15°04'E 157.34'
RO
O-1
DR 5.5
OSCO FEDERAL CREDIT UNION 5007/273 & 5140/620
PARCEL 'D' (14 P.S. TOTAL)
GEORGE SEED JR. ET UX 2072/321
PARCEL 'D' (35 P.S. TOTAL)
EX. TRANSFORMER PAD
EX. 11 P.S.
EX. 16 P.S.
EX. PAVING
1 EX. P.S. TO BE DELETED
PARCEL 'A'
EX. 14 P.S.
EX. 22 P.S.
EX. OFFICE BUILDING BASEMENT PARKING EX. GARAGE
EX. PAVING
EX. 12 P.S.
PARCEL 'C' (35 P.S. TOTAL)
EXISTING ZONING LINE
EX. DUMPSTER OFFICE
EX. 12' EASEMENT FOR FORCE MAIN
EXISTING STORM DRAIN RESERVATION
R=979.03'
L=192.00'
CHD. S20°51'05"E 191.68'
15' EASEMENT FOR FORCE MAIN
EX. STORM DRAIN RESERVATION
BEGIN
POB
TENBURY ROAD
YORK ROAD
RIDGEFIELD ROAD
BLOCK 'D' RIDGEFIELD 22/133
BLOCK 'A' RIDGEFIELD 22/133
EXISTING DWELLINGS
NICHOLAS B. MANSIONS 5513/520
4.5 Ac± VACANT DR 5.5
P/O NE 11A 1986 PHOTOGRAPHIC MAP 1"=200'
P/O NE 11A 1984 ZONING MAP
SITE
RO
O-1
DR 5.5
PETITIONER'S AREA
PARCEL
'A' 1.60 Ac±
'C' 0.74 Ac±
'D' 0.70 Ac±
'E' 0.77 Ac±
1105 York Road
PLAT TO ACCOMPANY A PETITION FOR A SPECIAL HEARING TO PERMIT OFF-STREET PARKING IN A RESIDENTIAL ZONE
ELECTION DISTRICT 9 BALTO. CO.
OWNERS
NICHOLAS B. MANSIONS, MARGUERITE MANSIONS, CHARLES W. HELD, ET UX, DANIEL J. HARTY
Received 1/19/88
H. Cannabrai
GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
GWS

REQUIRED PARKING

ZONING PETITION

PARKING REQUIRED:

1ST FLOOR

MEDICAL & GENERAL OFFICES
23,000 S.F. / 300 = 76.67 P.S.

ABOVE 1ST FLOOR

MEDICAL OFFICES
25,200 S.F. / 300 = 86.33 P.S.
GENERAL OFFICES
23,100 S.F. / 500 = 46.2 P.S.
TOTAL (209.2) = 210 P.S.

PARKING SHOWN (8.5'x18' TYP.)

PARCEL	
"A"	159 P.S.
"B"	24 P.S.
"C"	35 P.S.
"D"	78 P.S.
"E"	0 P.S.
TOTAL	298 P.S.

COUNCIL BILL #26-88

PARKING REQUIRED: (40% COMPACT PERMITTED)

1ST FLOOR

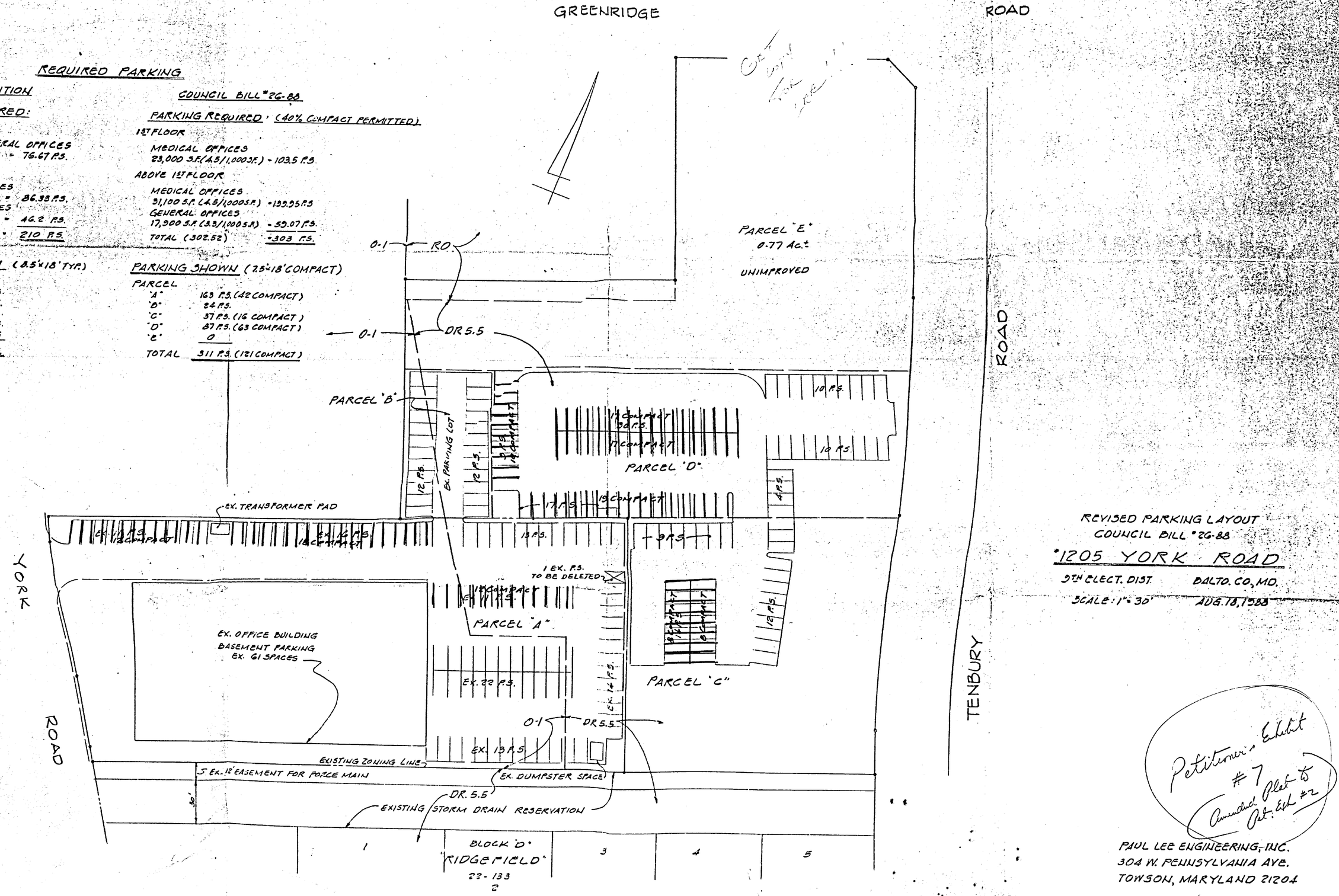
MEDICAL OFFICES
23,000 S.F. (4.5/1,000 S.F.) = 103.5 P.S.

ABOVE 1ST FLOOR

MEDICAL OFFICES
31,100 S.F. (4.5/1,000 S.F.) = 139.95 P.S.
GENERAL OFFICES
17,900 S.F. (3.3/1,000 S.F.) = 59.07 P.S.
TOTAL (302.52) = 303 P.S.

PARKING SHOWN (7.5'x18' COMPACT)

PARCEL	
"A"	163 P.S. (42 COMPACT)
"B"	24 P.S.
"C"	37 P.S. (16 COMPACT)
"D"	87 P.S. (63 COMPACT)
"E"	0
TOTAL	311 P.S. (121 COMPACT)



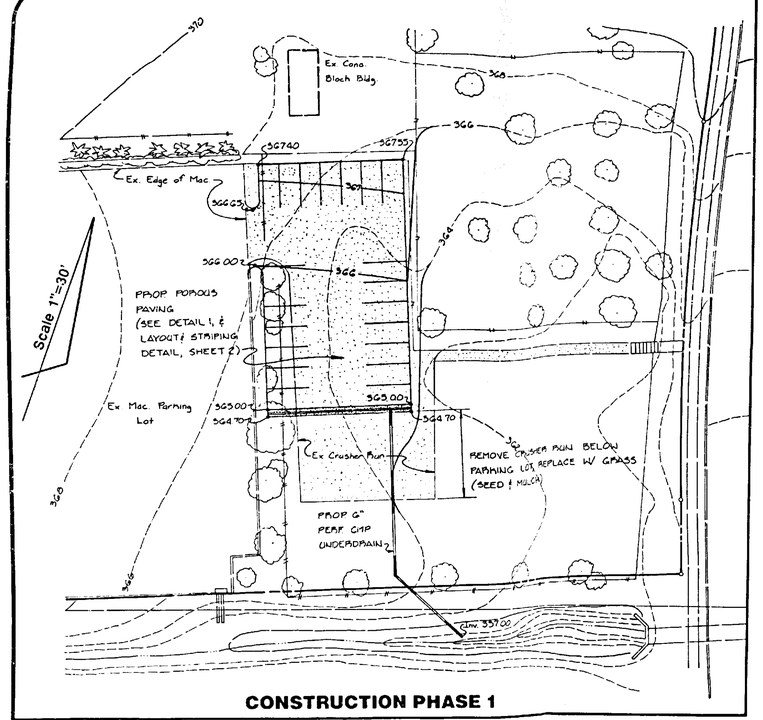
REVISED PARKING LAYOUT
COUNCIL BILL #26-88

1205 YORK ROAD

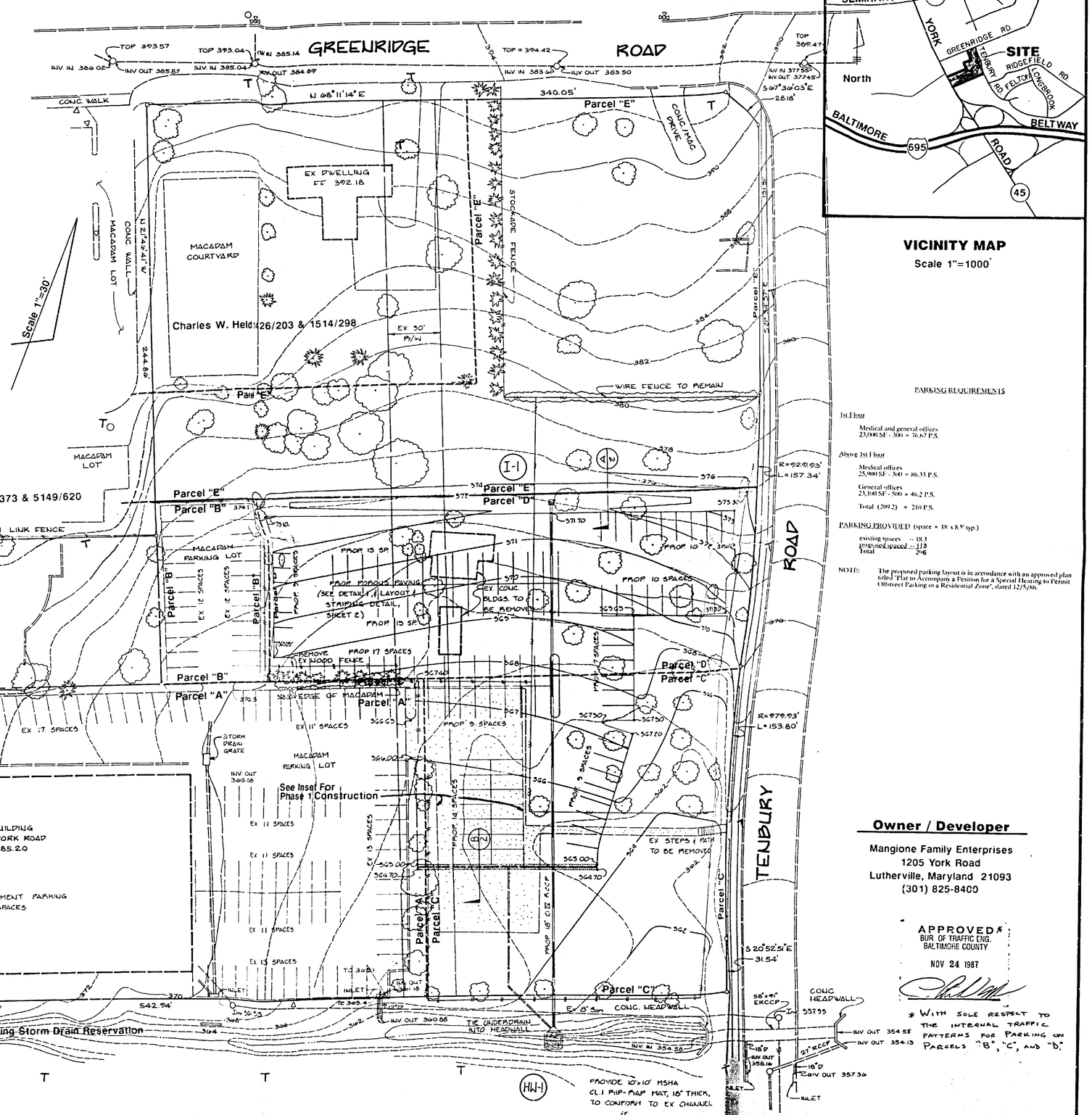
9TH ELECT. DIST. BALTO. CO., MD.
SCALE: 1" = 30' AUG. 18, 1988

Petitioner's Exhibit #7
Amended Plat to Pet. Exh. #2

PAUL LEE ENGINEERING, INC.
304 W. PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

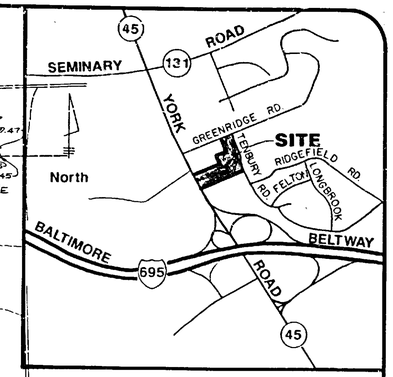


CONSTRUCTION PHASE 1



CONSTRUCTION PHASE 2

Sebco Federal Credit Union 5007/373 & 5149/620



VICINITY MAP
Scale 1"=1000'

PARKING REQUIREMENTS

1st Floor

Medical and general offices
23,000 SF - 300 = 76.67 P.S.

Along 1st Floor

Medical offices
25,900 SF - 300 = 86.33 P.S.

General offices
23,100 SF - 500 = 46.2 P.S.

Total (209.2) = 210 P.S.

PARKING PROVIDED (space = 18'x8.5' typ.)

existing spaces -- 183
proposed spaces -- 113
Total 296

NOTE: The proposed parking layout is in accordance with an approved plan titled "Plat to Accompany a Petition for a Special Hearing to Permit Offstreet Parking in a Residential Zone", dated 12/5/86.

Owner / Developer

Mangione Family Enterprises
1205 York Road
Lutherville, Maryland 21093
(301) 825-8400

APPROVED*
BUR. OF TRAFFIC ENG.
BALTIMORE COUNTY
NOV 24 1987

* WITH SOLE RESPECT TO THE INTERNAL TRAFFIC PATTERNS FOR PARKING ON PARCELS "B", "C", AND "D."

project 87005.00 | date 9/28/87
illustration JMS/JLM | engineering JBM/JLM
scale 1"=30' | approval JBM

no. | description revisions | date

1205 YORK ROAD
ELECTION DISTRICT 9 BALTIMORE COUNTY, MARYLAND
Parking Lot Expansion - Site Plan

MILDENBERG, MOCH & ASSOCIATES, INC.
ENGINEERS • SURVEYORS • PLANNERS
3300 North Ridge Road, Suite 235, Ellicott City, Maryland 21043-3350
(301) 461-0278 D.C. Metro (301) 621-5168