File

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Copy: J. Robert Haines

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| MICHAEL RUBY & CARL WANNEN, | * | IN THE |
| Plaintiffs | * | |
| vs. | * | CIRCUIT COURT FOR |
| PRESBYTERIAN HOME OF MARYLAND, | * | |
| INC., Defendants | * | BALTIMORE COUNTY, MARYLAND |
| | * | |
| Case No. 88CG1827 | * | August 10, 1988 |
| Zoning File No. 88-4-SPH | * | |

OPINION OF COURT

* * * * * * * * *

THE COURT: Gentlemen, I have had occasion to review the file in this case. I have had occasion to review the pertinent documents and listen to your argument. It seems to me that the Board of Appeals decision was based really on two grounds. One, they found that (to use terms that I think everybody will understand) the Presbyterian Home was grandfathered in, in effect, out of the RTA requirements, in that the Presbyterian Home was there before the RTA requirements were passed and, therefore, the existing use of the home that existed prior to the RTA would take it out of any requirement for the RTA when, in fact, they expanded that use. That was the first ground.

Quite frankly, I am concerned about that ground. I don't find that very persuasive. The reason that I don't is it doesn't seem to make much sense. If, in fact, you had a

1 particular institution, let's say the Presbyterian Home, and
2 that home had 25 beds. Does that mean that you can expand it
3 to 3,000 beds? And it still would not be affected by the RTA?
4 Would that be, in effect, an existing use?
5 I think what the purpose of the existing use exception
6 is, that if, in fact, you have an institution, a structure, and
7 that structure is built and it's operating and now you pass the
8 RTA, and under the RTA that structure would not be able to
9 function, the purpose of the grandfathering clause is to say,
10 we are not going to now say that your existing operation has to
11 shut down or your existing operation is in violation of the
12 law. Because had that operation been a new operation it would
13 not comply with the RTA. So I don't find the first ground
14 persuasive.
15 However, the Board found that the second, separate and
16 independent basis for its decision was that they found as a
17 matter of fact that the Presbyterian Home and the addition was
18 an exception under 1B01.1.B.1.c4 of the Baltimore County Zoning
19 Regulations. Specifically they found that this addition that
20 was proposed was an addition to an existing church or other
21 building for religious worship. They found as a matter of fact
22 that religious services had been conducted at the home; that,
23 in fact, they are regularly held there; that, in fact, people
24 came from the outside community as well as the people who live
25 in the Home; and that, therefore, this exception applies.

1 Whether or not I agree with that factual determination
2 is irrelevant. In fact, I might disagree with it. But it
3 doesn't matter. Because the standard of review for me is to
4 determine whether or not that factual determination was
5 arbitrary, was made capriciously or was made illegally. Upon
6 reviewing the transcript I cannot find that it was an
7 arbitrary, capricious or illegal decision.
8 The legal issue that's posed by Mr. Tanczyn is an
9 interesting one, I believe, and that is whether or not this
10 exception means that the addition itself must be the place
11 where the service is conducted. In my view, I do not believe
12 that's what the exception means.
13 However, it's an interesting point. My view is that the
14 particular addition doesn't have to be the specific place where
15 the service is held. However the addition must be an addition
16 to the place where the service is held. If I am incorrect in
17 that, then the Board's decision would, in my view, be illegal.
18 In any event it is not arbitrary. It is not capricious.
19 Nevertheless, I believe that it is not required that the
20 particular addition be the specific locus of the actual service
21 as long as the addition is an addition to the place where the
22 religious service is held. Based on that ground, that the
23 Presbyterian Home was exempt under the provisions of
24 1B01.1B.1.c4, and my view that the Board's decision was
25 supported by facts, the decision of the County Board of Appeals

is affirmed.

Thank you, gentlemen.

8/19/88

Date

DANA M. LEVITZ, JUDGE

* * * * * * * * *

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MICHAEL RUBY & CARL WANNEN, * IN THE
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OPINION OF COURT

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THE COURT: Gentlemen, I have had occasion to review the file in this case. I have had occasion to review the pertinent documents and listen to your argument. It seems to me that the Board of Appeals decision was based really on two grounds. One, they found that (to use terms that I think everybody will understand) the Presbyterian Home was grandfathered in, in effect, out of the RTA requirements, in that the Presbyterian Home was there before the RTA requirements were passed and, therefore, the existing use of the home that existed prior to the RTA would take it out of any requirement for the RTA when, in fact, they expanded that use. That was the first ground.

Quite frankly, I am concerned about that ground. I don't find that very persuasive. The reason that I don't is it doesn't seem to make much sense. If, in fact, you had a



particular institution, let's say the Presbyterian Home, and that home had 25 beds. Does that mean that you can expand it to 3,000 beds? And it still would not be affected by the RTA? Would that be, in effect, an existing use?

I think what the purpose of the existing use exception is, that if, in fact, you have an institution, a structure, and that structure is built and it's operating and now you pass the RTA, and under the RTA that structure would not be able to function, the purpose of the grandfathering clause is to say, we are not going to now say that your existing operation has to shut down or your existing operation is in violation of the law. Because had that operation been a new operation it would not comply with the RTA. So I don't find the first ground persuasive.

However, the Board found that the second, separate and independent basis for its decision was that they found as a matter of fact that the Presbyterian Home and the addition was an exception under 1B01.1.B.1.c4 of the Baltimore County Zoning Regulations. Specifically they found that this addition that was proposed was an addition to an existing church or other building for religious worship. They found as a matter of fact that religious services had been conducted at the home; that, in fact, they are regularly held there; that, in fact, people came from the outside community as well as the people who live in the Home; and that, therefore, this exception applies.



Whether or not I agree with that factual determination is irrelevant. In fact, I might disagree with it. But it doesn't matter. Because the standard of review for me is to determine whether or not that factual determination was arbitrary, was made capriciously or was made illegally. Upon reviewing the transcript I cannot find that it was an arbitrary, capricious or illegal decision.

The legal issue that's posed by Mr. Tanczyn is an interesting one, I believe, and that is whether or not this exception means that the addition itself must be the place where the service is conducted. In my view, I do not believe that's what the exception means.

However, it's an interesting point. My view is that the particular addition doesn't have to be the specific place where the service is held. However the addition must be an addition to the place where the service is held. If I am incorrect in that, then the Board's decision would, in my view, be illegal. In any event it is not arbitrary. It is not capricious.

Nevertheless, I believe that it is not required that the particular addition be the specific locus of the actual service as long as the addition is an addition to the place where the religious service is held. Based on that ground, that the Presbyterian Home was exempt under the provisions of 1B01.1B.1.c4, and my view that the Board's decision was supported by facts, the decision of the County Board of Appeals

is affirmed.

Thank you, gentlemen.

8/19/88 — Date

[signature] DANA M. LEVITZ, JUDGE

* * * * * * * * * *

RECEIVED 6/27/88 CBA 10:35 a.m.

MICHAEL RUBY, et al * IN THE
Appellants * CIRCUIT COURT
v. * FOR
PRESBYTERIAN HOME OF MARYLAND, INC. * BALTIMORE COUNTY
Appellee * Case No. 88 CG 1827 55/227
*

* * * * * * * * *

**ANSWER TO SUPPLEMENTAL PETITION TO ACCOMPANY APPEAL**

Presbyterian Home of Maryland, Inc., Appellee, by H. Barritt Peterson, Jr. with Cook, Howard, Downes & Tracy, its attorney, answers the Supplemental Petition to Accompany Appeal filed by Appellants Michael Ruby and Carl Wannen, Jr. and says:

1. Appellee denies the allegations contained in paragraphs 1 and 2 of Appellant's Supplemental Petition to Accompany Appeal.

2. Further answering the Supplemental Petition, Appellee states that the decision of the County Board of Appeals of Baltimore County was reasonable and supported by legally competent and substantial evidence.

WHEREFORE, Appellee respectfully requests that:

a. The Appeal be dismissed; or

b. The Order of the Board of Appeals of Baltimore County be affirmed, and;

c. The Appellee be granted such other and further relief as the nature of this case may require.

[signature]
H. BARRITT PETERSON, JR.
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P. O. Box 5517
Towson, Maryland 21204
(301) 823-4111
Attorney for Appellee

**CERTIFICATION OF SERVICE**

I HEREBY CERTIFY that on this 24th day of June, 1988, a copy of the foregoing Answer to Supplemental Petition to Accompany Appeal was mailed to Michael P. Tanczyn, Esquire, Suite 106, 606 Baltimore Avenue, Towson, Maryland 21204, Attorney for Appellants; and to Michael Ruby, 7 Florida Road, Towson, Maryland 21204; Carl Wannen, Jr., Esquire, 9 Florida Road, Towson, Maryland 21204; and to Administrative Secretary, County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204.

[signature]
H. BARRITT PETERSON, JR.

IN THE MATTER OF : BEFORE
THE APPLICATION OF
PRESBYTERIAN HOME OF MD., INC. : COUNTY BOARD OF APPEALS
FOR SPECIAL HEARING ON PROPERTY
LCOATED ON THE NORTHWEST CORNER : OF
OF GEORGIA COURT AND FLORIDA AVENUE
(400 GEORGIA COURT) : BALTIMORE COUNTY
9th ELECTION DISTRICT
4th COUNCILMANIC DISTRICT : CASE NO. 88-4-SPH
:

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

OPINION

The matter comes before the Board as an appeal from the decision of the Zoning Commissioner dated July 22, 1987 and amended July 30, 1987, which granted a Petition for Special Hearing filed by the property owner, the Presbyterian Home of Maryland, Inc. In its petition, the property owner seeks an amendment from the site plan as filed in Case No. 3624-X to allow expansion of the existing convalescent home.

The Petitioner presented two plans for the proposed expansion. Plan A is, from the Petitioner's viewpoint, more preferable and allows an expansion of the facility on the eastern portion of the property abutting the existing Home. Plan B, which the property owners are willing to construct but do not view as favorably as Plan A, proposes an addition on the southeastern portion of the property. Two alternatives have been presented because Plan A may be in conflict with the Residential Transition Area (RTA) requirements which dictate a rear year setback of 150 feet.

The Board heard testimony and received evidence from numerous witnesses, both favoring and opposing the proposed expansion. There seems to be no dispute that the Home fills a needed service to the community and is, had has been, a good neighbor to the community. The Appellants' objection is not as to the use, rather the expansion. Additionally, the opposition to this expansion apparently is not uniform throughout the community, rather the



immediate neighbors object but the surrounding community known as Southland Hills as a whole favors the project.

Testimony solicited discloses that the site has been improved with a convalescent home since 1930. Additions to the home have been made throughout the years, with the most recent being in 1977. The original special exception, which the Petitioners seek to amend, was granted in 1957.

Further testimony disclosed that the site presently houses 100 domiciliary beds. In order for individuals to be considered for admission, they must be over 65 years of age, good-standing Presbyterians, and in good physical and mental health. The current facility is operating to capacity and a waiting list of 60 to 90 people is customary. In addition to housing residents, the site also contains a chapel which regularly conducts services for residents and their guests. Additionally, other meetings are often conducted on-site. Kitchen and dining facilities for the residents are also available. The Petitioner's proposed expansion seeks room for an additional 27 beds. An expansion of that size is all that is possible under the current kitchen and dining arrangement.

In addressing the RTA requirements, the Board believes that the site is exempt from same. Both the convalescent home and parking area have been in use since prior to 1970, the date the RTA requirements were enacted. Clearly, that legislation was created to protect existing uses and rights of way. Additionally, we agree with the Petitioner's argument that the proposed use on-site would fall within the exception for existing church or other building for religious worship as set forth in Section 1B01.1.B.1.c.4 of the Baltimore County Zoning Regulations.

Turning to the amendment to the special exception, we are persuaded to grant the Petitioner's Petition for Special Hearing for Plan A. In our view, expansion in accordance with Plan A would be more consistent with the design and scheme of the existing building. Additionally, we do not find this expansion to constitute an over-use or overcrowding of the land. Clearly, the site contains a good deal of open space.

For the aforegoing reasons, the Board is persuaded to grant, with restriction, the property owner's Petition for Special Hearing for construction in accordance with Plan A and will so order.

O R D E R

It is therefore this 22nd day of March, 1988 by the County Board of Appeals of Baltimore County ORDERED that the amendment to the site plan in Case No. 3624-X to expand the existing convalescent home be approved and as such, the Petition for Special Hearing is hereby GRANTED, subject however to the following restrictions:

1. Petitioner's Exhibit #1 (Plan A) shall be adopted in its entirety and made a part of this Order.
2. No further expansion of the convalescent home may be permitted by further amendments to the site plan filed in Case No. 3624-X, and any and all future uses of the subject site may only occur in compliance with the zoning regulations then in effect.
3. All external light fixtures as contained on the expansion of the property as set forth in Petitioner's Exhibit #1 shall be directed and placed with the appropriate screening so as to prohibit the emission of substantial light into the surrounding neighborhood.

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

Lawrence E. Schmidt, Acting Chairman

Henry H. Lewis

Thomas J. Bollinger

RECEIVED 7/20/88 cBA 11:25am K.

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|---|---|---|
| MICHAEL RUBY, et al. | * | IN THE |
| Appellants | * | CIRCUIT COURT |
| v. | * | FOR |
| PRESBYTERIAN HOME OF MARYLAND, INC. | * | BALTIMORE COUNTY |
| | * | CASE NO.: 88 CG 1827 55/227 |
| Appellee | * | |

* * * * * * *

**PRESBYTERIAN HOME OF MARYLAND, INC.'s MEMORANDUM OPPOSING APPEAL OF MICHAEL RUBY AND CARL WANNEN, JR.**

Presbyterian Home of Maryland, Inc. (the "Presbyterian Home"), Appellee, by H. Berritt Peterson, Jr., with Cook, Howard, Downes & Tracy, its attorney, pursuant to Maryland Rule B12 submits the following memorandum in opposition to the appeal of Michael Ruby and Carl Wannen, Jr. (the "Appellants").

**STATEMENT OF THE CASE**

This case is an appeal from an Opinion and Order of the County Board of Appeals of Baltimore County ("the Board") dated March 22, 1988 granting the Presbyterian Home's Petition for Special Hearing and permitting expansion of its convalescent facility subject to certain restrictions. The decision of the Board was unanimous.

Appellants filed a Notice of Appeal on April 20, 1988 and filed a Petition for Appeal on April 28, 1988.

Thereafter, the Presbyterian Home answered Appellants' Petition on Appeal and asked that the appeal be dismissed or that the unanimous decision of the Board be affirmed.

**QUESTIONS PRESENTED**

I. WAS THE BOARD CORRECT AS A MATTER OF LAW IN REFUSING TO CONSIDER TWO PROPOSED BALTIMORE COUNTY COUNCIL BILLS THAT HAD NOT BECOME EFFECTIVE AT THE TIME OF THE BOARD'S HEARING OR AT THE TIME OF ITS ORDER?

II. WAS THERE SUFFICIENT EVIDENCE BEFORE THE BOARD TO SUPPORT ITS FINDING THAT THE PRESBYTERIAN HOME'S SITE WAS EXCEPTED FROM THE RESIDENTIAL TRANSITION AREA REQUIREMENTS OF THE BALTIMORE COUNTY ZONING REGULATIONS?

III. WAS THERE SUFFICIENT EVIDENCE BEFORE THE BOARD TO SUPPORT ITS CONCLUSION THAT THE PRESBYTERIAN HOME'S PLAN SATISFIED THE REQUIREMENTS FOR SPECIAL EXCEPTIONS FOUND IN SECTION 502.1 OF THE BALTIMORE COUNTY ZONING REGULATIONS?

**STATEMENT OF FACTS**

The Presbyterian Home owns roughly 4.5 acres situated between Florida Road and Dixie Drive in a Towson subdivision known as Southland Hills. (Transcript at pp. 12, 22). Since approximately 1930 the Presbyterian Home has operated a convalescent home at this location to serve the Presbyterian community of Baltimore. Currently, the Presbyterian Home houses 75 residents all of whom are, by virtue of the Presbyterian Home's admission requirements, over the age of 65 and members of the Presbyterian faith. The Presbyterian Home conducts church services in its



chapel and holds religious meetings for both residents and non-residents. (Transcript at pp. 44-45). There is an 8 to 10 year waiting list for between 60 and 70 and applicants creating a pressing need for additional space. (Transcript at p. 75).

Because of the growing need for housing for the elderly, the Presbyterian Home filed a Petition for Special Hearing on or around March 24, 1987 to expand its existing facility which is located in a Density Residential ("D.R.") zone and which is permitted by way of a special exception granted in Zoning Commissioner Case No. 3624-X. The Presbyterian Home proposed two alternative plans for expanding the existing Facility by an additional 27 beds.

The Presbyterian Home's Plan A, which was favored by the Presbyterian Home and its architect and which was approved by the Board, identified a layout for the proposed expansion. According to testimony before the Board, Plan A would be less costly than Plan B, would require less external grading, would involve a shorter walking distance for the elderly residents between the Home's chapel and dining room and would avoid the need to destroy certain existing parking spaces and a very large, mature tree. Testimony indicated that the only disadvantage of the Plan A layout was that it would not



meet the Residential Transition Area ("RTA") requirements imposed by Section 1B01.1.B.1.b of the Baltimore County Zoning Regulations ("BCZR"). Plan B, otherwise less acceptable to the Presbyterian Home, suggested a layout that would meet RTA requirements. (Transcript at pp. 25, 29, 30, 49, 50).

The Appellants conceded at the hearing before the Board that the Presbyterian Home has been "a very good neighbor" and stated they were not in a position of opposing the Presbyterian Home. However, the essence of Appellants case is that they do oppose the expansion of the present Presbyterian Home, an expansion which Mr. Timothy Kolaric, president of the Southland Hills Improvement Association, on behalf the community as a whole, did not oppose. (Transcript at p. 14).

The Zoning Commissioner and the Board both granted the Presbyterian Home's Petition for Special Hearing and approved Plan A. They each found that the proposed expansion was exempt from RTA requirements for two reasons. First, the Presbyterian Home was in existence prior to 1970, the date the RTA requirements became effective, and therefore, the Presbyterian Home's proposed expansion did not fall within the legislative intent underlying the RTA provisions (that is, to protect existing dwellings or small lots from incompatible new



uses). Second, the Presbyterian Home's proposed addition fell within the specific statutory exception to the RTA requirements for an "existing church or other building for religious worship" set forth in Section 1B01.1.B.1.c.4 of the BCZR. The Zoning Commissioner and the Board also both found that the Presbyterian Home's expansion in accordance with Plan A met the criteria for Special Exceptions found in Section 502.1 of the BCZR. In reaching its decision, the Board refused to consider proposed legislation, discussed by one of Appellants' witnesses, that was pending before the Baltimore County Council but that had not yet taken effect at the time of the hearing before the Board or at the time of the Board's Order.

**ARGUMENT**

I. THE BOARD PROPERLY REFUSED TO CONSIDER PROPOSED LEGISLATION THAT WAS PENDING BEFORE THE BALTIMORE COUNTY COUNCIL.

Appellants suggest that this case should be remanded to the Board of Appeals for consideration of Baltimore County Council Bills 36-88 and 37-88 which pertain, respectively, to zoning regulations for elderly housing facilities and to zoning regulations for hospitals and nursing homes. These bills were both introduced before the Baltimore County Council on March 21, 1988, and both became effective on June 13, 1988. Neither bill is retroactive in effect.



The hearing before the Board took place on February 18, 1988, before the bills were formally introduced before the Baltimore County Council, and the Board's Opinion and Order were rendered on March 22, 1988, almost three months before the bills became effective.

Appellants do not argue that the Board's decision would have been different had it considered Bills 36-88 and 37-88. The Presbyterian Home submits that consideration of Bills 36-88 and 37-88 would not have altered the Board's decision. Even if it were appropriate for the Court to consider Bills 36-88 and 37-88 on this review, it is clear that those Bills furnish no basis for a remand to the Board for further proceedings.

Bill 36-88 defines and applies to various types of elderly housing facilities. It permits all types of elderly housing facilities to locate in D.R. zones within Baltimore County, either as a matter of right or by special exception. It imposes no new criteria or standards for the granting of a special exception for elderly housing, if, as in the Presbyterian Home's case, the applicant is not seeking a density bonus, a relaxation of height standards, or a modification or waiver of RTA requirements. Thus, even if the Presbyterian Home's expansion were to fit within the definition of an elderly housing facility, and Bill 36-88 were to apply, the Board

would not be required to consider any different criteria or standards in granting a special exception other than the Section 502.1 criteria it has already considered.

By the same token, the fact that Bill 37-88 has now taken effect would in no event justify a remand. Bill 37-88 repealed the BCZR definition of "convalescent home" and replaced it with a new definition of "nursing home (formerly convalescent home)." The Bill did not change the provision in Section 1B01.1.C.5 of the BCZR permitting convalescent homes (now nursing homes) in all D.R. zones by special exception. Thus, even were the Presbyterian Home to be considered a nursing home covered by bill 37-88, that Bill, like Bill 36-88, would not impose any new or different criteria should the Board consider it in deciding whether to grant the Presbyterian Home's Petition for Special Hearing and permit its expansion.

However, assuming, arguendo, that consideration of Bills 36-88 and 37-88 may have impacted the Board's consideration, because the bills were not law at the time of the Board's Order and because they were not retroactive in effect, they could not and should not have been considered by the Board.

"The general presumption is that all statutes or ordinances are to be given prospective application unless the manifest intention of the enacting body was to the



contrary." Kastendike v. Baltimore Association for Retarded Children, Inc., 267 Md. 389, 395-6 (1972) (which held that a Baltimore City Code provision which regulated the establishment of hospitals and nursing homes would not be given a retroactive effect absent express evidence of an intention to that effect in the regulation); Higgins v. City of Baltimore, 206 Md. 89, 98 (1955) (which held that zoning regulations are intended to operate in the future). Only if a zoning ordinance is amended before the Board's decision does that amended ordinance become the applicable law. Zamparla v. Board of County Commissioners for Frederick County, 262 Md. 1, 22-23 (1971).

Because Baltimore County Bills 36-88 and 37-88 were not the law of the County at the time of the Boa d's decision, the Board acted properly in declining to consider them, and the case should not be remanded to the Board for consideration of those bills.

II. A. THERE WAS A SUFFICIENT BASIS FOR THE BOARD TO CONCLUDE THAT THE PRESBYTERIAN HOME IS AN EXISTING CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP AND THEREBY EXCEPTED FROM THE RTA REQUIREMENTS.

Section 1B01.1.B.1.b BCZR, the provision concerning RTA, imposes certain setback and buffer restrictions on the development of new uses in a D.R. zone within 300 feet of an existing dwelling or within 250 feet of a vacant lot less than two acres in size. The



expansion proposed in the Presbyterian Home's Plan A would lie within a D.R. zone and be within 300 feet of an existing dwelling. However, Section 1B01.1.B.1.c of the BCZR enumerates certain exceptions to the RTA buffer and setback requirements. The Fourth exception covers:

> An addition to an existing church or other building for religious worship, including parking areas and driveways, provided all other applicable zoning regulations, including setback, parking, and screening requirements, are maintained.

There was ample and uncontradicted testimony before the Board that the Presbyterian Home houses only members of the Presbyterian faith, contains a chapel, conducts religious services for both residents and non-residents, and conducts other religious meetings. Based on those facts, the Board concluded that the Presbyterian Home fell within the exception for an existing church or other building for religious worship and was therefore excepted from the RTA requirements.

There have been a large number of cases in Maryland setting forth the ground rules governing the disposition of appeals from decisions of zoning authorities. A court may not substitute its judgment for that of a zoning authority if the authority's decision was supported by substantial evidence and the issue before the authority was fairly debatable. Montgomery County v. Pleasants, 266 Md. 462, 465 (1972), Bosley v. Hospital for



Consumptives, 246 Md. 197, 204 (1967) (emphasis supplied). In reviewing the actions of zoning authorities, a reviewing court may not substitute its judgment for that of the authority unless the latter's action was arbitrary, capricious or illegal. If the facts are sufficient to support the decision, and where the question decided was fairly debatable, the decision must be upheld. Himmelheber v. Charnock, 258 Md. 636, 641 (1970), DePaul v. Board of County Commissioners for Prince Georges County, 237 Md. 221, 226 (1965).

Because there were sufficient facts before the Board to support its decision that the Presbyterian Home falls within the exception for an addition to an existing church or other building for religious worship, the issue before it was certainly "fairly debatable." Therefore, the Board's conclusion that the proposed addition falls within the RTA exception for existing church or other building for religious worship must be affirmed.

II. B. THE BOARD PROPERLY FOUND THAT THE PRESBYTERIAN HOME WAS EXEMPT FROM RTA REQUIREMENTS BECAUSE IT WAS IN EXISTENCE PRIOR TO THE DATE THE RTA REQUIREMENTS WERE ENACTED AND THE RTA LEGISLATION WAS INTENDED TO PROTECT HOMES AND RESIDENTIAL LOTS FROM INCOMPATIBLE NEW USES, BUT NOT FROM EXISTING USES.

The intent of RTA legislation is to protect existing uses permitted as a matter of right or by special exception in residential zones from proposed changes to



the neighborhood, a protection from new and different uses which would cause an adverse impact on the existing uses. As previously stated, the Presbyterian Home has been in existence at its present location on the subject property since the 1930's. The RTA requirements went into effect under Bill 100 in 1970 as Section 1B01.1.B of the BCZR.

Simply put, the RTA requirements were intended to proctect the dwellings of small lots from new, incompatible uses. Conversely, it was not intended to protect existing dwellings or small lots from uses already in existence at the time the RTA requirements were established. As the Board stated at page 2 of its Opinion and Order, "clearly that legislation was created to protect existing uses and rights of way." However, the RTA legislation was not intended to protect existing uses from other existing uses. Accordingly, the Board properly found that because the Presbyterian Home was in existence prior to the establishment of RTA requirements, its expansion is not subject to the RTA requirements.

III. THERE WERE SUFFICIENT FACTS BEFORE THE BOARD TO SUPPORT ITS DECISION THAT THE PRESBYTERIAN HOME'S PROPOSED EXPANSION SATISFIED THE REQUIREMENTS OF SECTION 502.1 OF THE BCZR.

Section 502.1 of the BCZR provides that:

> Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:



> a. Be detrimental to the health, safety, or general welfare of the locality involved;
>
> b. Tend to create congestion on roads, streets, or alleys therein;
>
> c. Create a potential hazard from fire, panic or other dangers;
>
> d. Tend to overcrowd the land and cause undue concentration of population;
>
> e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
>
> f. Interfere with adequate light and air;
>
> g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
>
> h. Be inconsistent with the impermeable surface and vegetation retention provisions of the sezoning regulations.

At the hearing before the Board, Susan Duel, an Assistant Administrator at the Presbyterian Home, gave a general discussion of the Presbyterian Home's history, its affiliation with the Presbyterian Church, and its ongoing operation. (Transcript at pp. 25-32). Ms. Duel was questioned directly concerning whether she had reviewed Section 502.1 of the BCZR regarding the criteria for the granting of Special Exceptions and whether the Presbyterian Home's proposed expansion would create any conflicts with regard to those criteria. (Transcript at p. 31).



> Q. Without going through each one, do you see any problems -- and I will summarize -- that could be caused by this request if it were granted, specifically Plan A, with respect to the general safety or welfare of the locality, the problems with road or alleys, hazards from fire and undue concentration of population, parking and other criteria?
>
> A. No. I did not.
>
> Q. At present, is there a fair amount of open space on the site?
>
> A. Yes, there is.
>
> Q. Lawn areas?
>
> A. Yes.

(Transcript at pp. 31-32).

Additionally, architect Frederick W. Baukhages, qualified as an expert in architecture, testified there would be no adverse impact, in terms of traffic on the roads, streets or alleys, caused by the proposed addition. Furthermore, Mr. Baukhages testified that the size of the existing Presbyterian Home, even with the addition, would not be intrusive in terms of overcrowding the land. (Transcript at p. 52).

The testimony before the Board clearly supported its finding that the Presbyterian Home's proposed expansion would not constitute an overuse or overcrowding of the land or create any of the negative conditions enumerated in Section 502.1 of the BCZR. Because the Board had sufficient facts before it to make fairly



debatable its decision, under the authority previously cited, the Court may not substitute its judgment for that of the Board concerning whether the Presbyterian Home had satisfied the requirements of Section 502.1 of the BCZR. Therefore, the Board's conclusion that the Presbyterian Home's proposed expansion satisfies the requirements of Section 502.1 of the BCZR must be upheld.

## CONCLUSION

The Appellants have failed to present any arguments sufficient to warrant this Court's reversal or modification of the Board's decision. On the contrary, for the reasons stated above, there was ample evidence before the Board to support its decision to grant Appellee's Petition for Special Hearing.

WHEREFORE, Appellee Presbyterian Home of Maryland, Inc. submits that the Court must affirm the decision of the County Board of Appeals of Baltimore County.

H. BARRITT PETERSON, JR.
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301-823-4111
Attorney for Appellee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of July, 1988, a copy of the foregoing Memorandum Opposing Appeal was mailed to Michael P. Tanczyn, Esquire, Suite 106, 606 Baltimore Avenue, Towson, Maryland 21204, Attorney for Appellants and to Michael Ruby, 7 Florida Road, Towson, Maryland 21204, Carl Wannen, Jr., Esquire, 9 Florida Road, Towson, Maryland 21204, and to the Administrative Secretary, County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204.

H. BARRITT PETERSON, JR.



| | | |
|---|---|---|
| MICHAEL RUBY, et al. | * | IN THE |
| Appellants | * | CIRCUIT COURT |
| v. | * | FOR |
| PRESBYTERIAN HOME OF MARYLAND, INC. | * | BALTIMORE COUNTY |
| Appellee | * | Case No.: 88 CG 1827 55/227 |

* * * * * * * * * *

MOTION FOR ATTORNEY FEES AND COSTS

Appellee Presbyterian Home of Maryland, Inc. by H. Barritt Peterson, Jr. with Cook, Howard, Downes & Tracy, its attorney, pursuant to Maryland Rule 1-341 requests an Order awarding costs and attorney fees against Appellants Michael Ruby and Carl Wannen, Jr., and for reasons says:

1. In the Spring of 1987 Appellee filed a Petition for Special Hearing with the Zoning Commissioner of Baltimore County endeavoring to proceed with the construction of an addition to Appellee's present facility to house approximately twenty-seven (27) additional residents.

2. On July 22, 1987, the Zoning Commissioner granted Appellee's Petition in Zoning Commission Case No. 88-4 SPH, Item No. 375.

3. Appellants appealed the decision of the Zoning Commissioner to the County Board of Appeals of Baltimore County (the "Board"), and on March 28, 1988 the Board granted Appellee's Petition.



4. On April 20, 1988, Appellants filed the instant appeal. At the Hearing before the Board, Appellants stated that it was their intention to note Appeals at every level which is an attempt to delay Appellee's construction for as long as possible.

5. Appellants' behavior throughout the course of these proceedings indicates that they are acting with an intent to delay Appellee's construction. For example, Appellant Michael Ruby moved for a postponement of the Hearing before the Zoning Commissioner which the Zoning Commissioner denied. Ruby then *on parte* again requested a postponement of the Hearing before the Zoning Commissioner arguing that he could not proceed without the presence of his attorney, Carl Wannen, Jr., Esquire, the Co-Appellant. The postponement was granted on that basis, but at the Hearing at which Mr. Wannen was present, he literally did not say one word even though Ruby had obtained a postponement on the assertion that Wannen's presence was necessary at the Hearing. It is submitted that this conduct is indicative of the delay tactics exhibited by Appellants throughout these proceedings.

6. The Appeal in this case is taken, it is submitted, solely for the purposes of delaying the construction permitted by both the Baltimore County Zoning Commissioner and the County Board of Appeals of Baltimore County. Because there is no justification for the Appeal, and because the Appeal is taken solely for the purposes of delay, it is made in bad faith.

6. Appellee has been and will continue to expend attorneys fees in defending the Appeal, and these fees would be unnecessary but for the bad faith Appeal taken by Appellants.

WHEREFORE, Appellee Presbyterian Home of Maryland, Inc. respectfully submits that it is entitled to an Order awarding attorney fees and the costs of this action against Appellants Michael Ruby and Carl Wannen, Jr.

H. BARRITT PETERSON, JR.
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
(301) 823-4111
Attorney for Appellee

STATEMENT OF GROUNDS AND AUTHORITIES

1. Maryland Rule 1-341 provides that:

   "In any civil action, if the Court finds that the conduct of any parties in maintaining ... any proceeding was in bad faith or without substantial justification the Court may require the offending party ... to pay the adverse party the costs of the proceeding and the reasonable expenses, including reasonable attorney's fees, incurred by the adverse party in opposing it."

2. Under Rule 1-314, "bad faith" may include an action taken for the purposes of causing unjustifiable delay. Blanton v. Equitable Bank, 61 Md. App. 158 (1958).

H. BARRITT PETERSON, JR.



CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 16th day of May, 1988, a copy of the foregoing MOTION FOR ATTORNEY FEES AND COSTS was mailed to Michael Ruby, 7 Florida Road, Towson, Maryland 21204; Carl Wannen, Jr., 9 Florida Road, Towson, Maryland 21204; and to Administrative Secretary, County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204.

H. BARRITT PETERSON, JR.

RECEIVED
COUNTY BOARD OF APPEALS
1988 MAY 18 P 1:16



| | | |
|---|---|---|
| MICHAEL RUBY, et al. | * | IN THE |
| Appellants | * | CIRCUIT COURT |
| v. | * | FOR |
| PRESBYTERIAN HOME OF MARYLAND, INC. | * | BALTIMORE COUNTY |
| Appellee | * | Case No.: 88 CG 1827 55/227 |

* * * * * * * * * *

ORDER

Appellee Presbyterian Home of Maryland, Inc.'s Motion for Attorney Fees and Costs having come before and being considered by this Court, and the Court finding that the Appeal in this case has been taken for the purposes of unjustifiable delay and has been taken in bad faith, it is this_____day of _____, 1988

ORDERED that the Appellants Michael Ruby and Carl Wannen, Jr. pay the costs of this action and the reasonable attorney fees incurred by the Appellee which fees will be set by this Court upon submission of an affidavit from Appellee's counsel outlining the fair and reasonable attorney fees incurred by Appellee in defending this Appeal, and which amount as ordered by this Court shall constitute a judgment against Michael Ruby and Carl Wannen, Jr.

JUDGE

| | | |
|---|---|---|
| MICHAEL RUBY, et al. | * | IN THE |
| Appellants | * | CIRCUIT COURT |
| v. | * | FOR |
| PRESBYTERIAN HOME OF MARYLAND, INC. | * | BALTIMORE COUNTY |
| Appellee | * | Case No.: 88 CG 1827 55/227 |

* * * * * * * * * *

MOTION TO SHORTEN TIME
FOR TRANSMITTING RECORD

Presbyterian Home of Maryland, Inc., Appellee, by H. Barritt Peterson, Jr., with Cook, Howard, Downes & Tracy, its attorney, pursuant to Maryland Rule B7(b) moves to shorten the time for transmitting the record from the County Board of Appeals of Baltimore County to the Clerk of the Circuit Court for Baltimore County and for reasons says:

1. In the Spring of 1987 Appellee filed a Petition for Special Hearing with the Zoning Commissioner of Baltimore County endeavoring to proceed with the construction of an addition to Appellee's present facility to house approximately twenty-seven (27) additional residents.

2. On July 22, 1987, the Zoning Commissioner granted Appellee's Petition in Zoning Commission Case No. 88-4 SPH, Item No.: 375.

3. Appellants appealed the decision of the Zoning Commissioner to the County Board of Appeals of Baltimore County (the "Board"), and on March 28, 1988 the Board granted Appellee's Petition.

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COUNTY BOARD OF APPEALS
1988 MAY 16 P 3:30

4. On April 20, 1988, Appellants filed the instant appeal. At the Hearing before the Board, Appellants stated that it was their intention to note Appeals at every level which, it is submitted, is an attempt to delay Appellee's construction for as long as possible.

5. Appellee is, has been and will continue to be damaged by the delays caused by the Appellants' groundless appeals. See the attached letter of Ralph E. Ensor which is incorporated herein as Exhibit A to this Motion.

6. Good cause exists to shorten the time in which the record must be transmitted to May 23, 1988 in order to expedite this Appeal.

WHEREFORE, Appellee respectfully requests this Court to shorten the time for transmitting the record of the Board to the Clerk of the Circuit Court.

H. BARRITT PETERSON, JR.
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
(301) 823-4111
Attorneys for Appellee

STATEMENT OF GROUNDS AND AUTHORITIES

1. Maryland Rule B7(b) "Upon application of any party, ... and for sufficient cause shown, the Court may direct the record be transmitted in such shorter ... time ... as may be ordered."

H. BARRITT PETERSON, JR.

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 1988, a copy of the foregoing MOTION TO SHORTEN TIME FOR TRANSMITTING RECORD was mailed to Michael Ruby, 7 Florida Road, Towson, Maryland 21204; to Carl Wannen, Jr., 9 Florida Road, Towson, Maryland 21204; and to Administrative Secretary, County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204.

H. BARRITT PETERSON, JR.



PRESBYTERIAN HOME OF MARYLAND, INC.
400 GEORGIA COURT
TOWSON, MARYLAND 21204
(301) [illegible]

May 6th, 1988

COOK, HOWARD, DOWNES & TRACY
P.O. Box 5517
210 Allegheny Avenue
Towson, Maryland 21204

Attention: Mr. John B. Howard

Dear Mr. Howard:

The PRESBYTERIAN HOME OF MARYLAND, INC. has been endeavouring to proceed with the construction of an addition to our present facility to house 27 additional residents for approximately one year.

However, in spite of the approval of the Zoning Commissioner on July 22nd, 1987, and the further approval of the County Board of Appeals on March 22nd, 1988, the proposed expansion is again being delayed by an appeal to the Circuit Court filed by the two objecting individuals, Michael Ruby and Carl L. Wannen, Jr.

It seems totally unreasonable that in view of the overwhelming need for domiciliary housing that these individuals should be able to further delay our progress. The need for domiciliary housing is so great in the Towson area and in the State of Maryland that the State Health Department approved this project without Board review.

At the present time, we have a waiting list of 65 applicants, which has varied since the concept of the project from 60 to 93, the variation being due to the need by the applicants to seek other housing due to our delay.

It is the sincere hope of the PRESBYTERIAN HOME that this matter can be reviewed and resolved without further unreasonable delay.

Sincerely yours,

PRESBYTERIAN HOME OF MD., INC.

RALPH E. ENSOR,
Chairman of Building Committee

REE:KZ

EXHIBIT A

| | | |
|---|---|---|
| MICHAEL RUBY, et al. | * | IN THE |
| Appellants | * | CIRCUIT COURT |
| v. | * | FOR |
| PRESBYTERIAN HOME OF MARYLAND, INC. | * | BALTIMORE COUNTY |
| Appellee | * | Case No.: 88 CG 1827 55/227 |

* * * * * * * * *

ANSWER TO PETITION ON APPEAL

Presbyterian Home of Maryland, Inc., Appellee, by H. Barritt Peterson, Jr. with Cook, Howard, Downes & Tracy, its attorney, Answers the Petition on Appeal filed by Appellants Michael Ruby and Carl Wannen, Jr. and says:

1. Appellee denies the allegations contained in paragraphs 1 and 2 of Appeallants' Petition.

2. Further answering the Petition, Appellee states that the decision of the County Board of Appeals of Baltimore County was reasonable and supported by legally competent and substantial evidence.

WHEREFORE, Appellee respectfully requests that

(a) The Appeal be dismissed; or

(b) The Order of the Board of Appeals of Baltimore County be affirmed, and;

(c) The Appellee be granted such other and further relief as the nature of this case may require.

H. BARRITT PETERSON, JR.
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
(301) 823-4111
Attorneys for Appellee

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 1988, a copy of the foregoing ANSWER TO PETITION ON APPEAL was mailed to Michael Ruby, 7 Florida Road, Towson, Maryland 21204 and Carl Wannen, Jr., 9 Florida Road, Towson, Maryland 21204: AND TO Administrative Secretary, County Board of Appeals, Room 200, Courthouse, Towson, Maryland 21204.

H. BARRITT PETERSON, JR.

| | | |
|---|---|---|
| MICHAEL RUBY, et al. | * | IN THE |
| Appellants | * | CIRCUIT COURT |
| v. | * | FOR |
| PRESBYTERIAN HOME OF MARYLAND, INC. | * | BALTIMORE COUNTY |
| Appellee | * | Case No.: 88 CG 1827 55/227 |

* * * * * * * * *

H. BARRITT PETERSON, JR.
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
(301) 823-4111
Attorney for Appellee

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 1988, a copy of the foregoing REQUEST FOR EXPEDITED HEARING was mailed to Michael Ruby, 7 Florida Road, Towson, Maryland 21204; Carl Wannen, Jr., 9 Florida Road, Towson, Maryland 21204; and to Administrative Secretary, County Board of appeals, Room 200, Courthouse, Towson, Maryland 21204.

H. BARRITT PETERSON, JR.

| | | |
|---|---|---|
| MICHAEL RUBY, et al. | * | IN THE |
| Appellants | * | CIRCUIT COURT |
| v. | * | FOR |
| PRESBYTERIAN HOME OF MARYLAND, INC. | * | BALTIMORE COUNTY |
| Appellee | * | Case No.: 88 CG 1827 55/227 |

* * * * * * * * *

ORDER

Appellee Presbyterian Home of Maryland, Inc.'s Motion to Shorten Time for Transmitting Record having come before and been considered by this Court, it is this ____ day of _____, 1988

ORDERED that the time within which the record of the Board of Appeals of Baltimore County must be transmitted to the Clerk of the Circuit Court for Baltimore County be and is shortened, and it is further

ORDERED that the record of the Board of Appeals of Baltimore County must be transmitted to the Clerk of the Circuit Court for Baltimore County by no later than May 23, 1988.

JUDGE

| | | |
|---|---|---|
| IN RE: PETITION SPECIAL HEARING NW/corner of Georgia Court and Florida Avenue (400 Georgia Court) - 9th Election District | * | BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY |
| Presbyterian Home of Maryland, Inc., Petitioner | * | Case No. 88-4-SPH |

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests an amendment to the site plan filed in Case No. 3624-X in order to expand the existing convalescent home, as more particularly described on Petitioner's Exhibit 2.

The Petitioner, by Ralph Ensor, Chairman of the Building Committee, appeared and was represented by Counsel. Mr. and Mrs. Michael Ruby and Carl Wannen, nearby property owners, appeared in opposition to the location of the proposed addition and not to the expansion itself.

Testimony indicated that the subject property, presently zoned D.R.5.5 and located at the intersection of Florida Road, Dixie Court, and Georgia Court, has been improved with a convalescent home since 1930. Additions to the home occurred in 1932, 1940, 1957, and 1977. See Petitioner's Exhibit 3. The expansion in 1957 necessitated the request for and subsequent approval of a special exception (Case No. 3624-X).

The Petitioner now wishes to expand from 100 to 127 domiciliary beds. There is a waiting list of 93 individuals, and the need for the additional beds has become paramount. The Petitioner holds regular Sunday services in its chapel, which is affiliated with and recognized by the Presbyterian Church as a formal church entity.

The protestants support the proposed addition, but object to it being located at the east end of the addition constructed in 1977, i.e., 100 feet

ORDER RECEIVED FOR FILING
Date
By

from the north property line, 75 feet from the east property line, and 138 feet from the south property line. They expressed concern that the open space and aesthetic comfort which presently exists as they view the site from their homes directly across Florida Road would be destroyed if the addition were constructed where proposed. They believe their concerns would be met if the wing were relocated 50 feet closer to the north property line.

The Petitioner's architect testified that an existing parking lot would have to be removed in order to move the building as suggested by the protestants, which would not be cost effective.

The Petitioner noted that although the residential transition area (R.T.A.) requirements dictate a rear yard setback of 150 feet in contrast to the proposed 100 feet, it believes that the site is an exception by way of Section 1B01.1.B.1.c.4, BCZR, as an addition to a building for religious worship, or that the site was developed prior to the adoption of the R.T.A. legislation and is therefore nonconforming.

Inasmuch as the convalescent home and parking areas have been in continuous use since prior to 1970, the first year the R.T.A. requirements were enacted, the use is nonconforming as to the R.T.A. requirements. The intent of the R.T.A. legislation was to protect uses existing as of right or by special exception in residential zones from proposed changes to the neighborhood, a protection from new and different uses which would cause an adverse impact on the existing uses. This is not the case here. The proposed addition, notwithstanding the above conclusion, would at any rate fall within the exception to the R.T.A. requirements, Section 1B01.1.B.1.c.4.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested amendment should be granted.

ORDER RECEIVED FOR FILING
Date
By



Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 22nd day of July, 1987, that the amendment to the site plan filed in Case No. 3624-X to expand the existing convalescent home be approved and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner's Exhibit 2 shall be adopted in its entirety and made a part of this Order.
2. No further expansion shall be permitted on this site.

Zoning Commissioner of
Baltimore County

AJ/srl

cc: John B. Howard, Esquire
Mr. Michael Ruby
Mr. Carl Wannen
People's Counsel

ORDER RECEIVED FOR FILING
Date
By



COLUMBIA OFFICE
Walter Park
Registered Surveyor
Phone 730-0000

TOWSON OFFICE
HUDKINS ASSOCIATES, INC.
Engineers, Surveyors and Landscape Architects
200 East Joppa Road
Room 101, Shell Building
Towson, Maryland 21204
Phone: 828-0000

February 10, 1987

**DESCRIPTION FOR SPECIAL EXCEPTION: TOWSON PRESBYTERIAN HOME:**

Beginning for the same at a point formed by the intersection of the west side of Florida Road with the north side of Georgia Court, thence binding along the north side of said Georgia Court North 78 degrees 09 minutes 00 seconds West 605.88 feet to the east side of Dixie Drive, thence binding thereon North 23 degrees 23 minutes 41 seconds East 356.43 feet thence South 76 degrees 23 minutes 00 seconds East 544.00 feet to a point on the west side of said Florida Road, thence binding thereon South 13 degrees 26 minutes 00 seconds West 332.57 feet to the place of beginning.

Containing 4.505 acres of land more or less and being located in the Ninth Election District of Baltimore County, Maryland.

STATE OF MARYLAND — MALCOLM E. HUDKINS — REGISTERED LAND SURVEYOR

Malcolm E. Hudkins
Registered Surveyor #5095

PLAN AB 375

ALTERNATE
# PETITION FOR SPECIAL HEARING

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 the expansion of the existing convalescent home by amending or expanding the special exception granted in Zoning Commissioner of Baltimore County Case No. 3624-X.

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

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and 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):
Presbyterian Home of Maryland, Inc.
(Type or Print Name)
By:
Signature Louise K. Cockey, President
(Type or Print Name)
Signature

Attorney for Petitioner:
John B. Howard, Esquire
(Type or Print Name)
Signature
210 Allegheny Avenue
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 823-4111

400 Georgia Avenue 823-4622
Address Phone No.
Towson, Maryland 21204
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
John B. Howard, Esquire
Name
210 Allegheny Avenue
Towson, Maryland 21204 823-4111
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of May, 1987, 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 6th day of July, 1987, at 11:00 o'clock A. M.

Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date
By

ZCO—No. 1

(over)

CKR 3/23/87

88-4-A

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 May, 1987.

ARNOLD JABLON
Zoning Commissioner

Petitioner Presbyterian Home of Md., Inc.
Petitioner's Attorney John B. Howard, Esq.

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

# BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Zoning Commissioner
Date: June 8, 1987

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

SUBJECT: Zoning Petitions No. [redacted] 88-7-SpH, 88-13-SpH and 88-14-SpH

In view of the subject of these petitions, this office offers no comments.

Norman E. Gerber, AICP
Director

NEG:JGH:slb

RECEIVED
JUN 9 1987
ZONING OFFICE

CPS-008

Sent 6/23/87

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

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

June 8, 1987

John B. Howard, Esquire
210 Allegheny Avenue
Towson, Maryland 21204

RE: Item No. 375 - Case No. 88-4-A
Petitioner: Presbyterian Home of Md., Inc.
Petition Special Hearing

Dear Mr. Howard:

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
Chairman
Zoning Plans Advisory Committee

JED:kkb

Enclosures

cc: Hudkins Assoc., Inc.
101 Shell Building
200 East Joppa Road
Towson, Maryland 21204

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

STEPHEN E. COLLINS
DIRECTOR

April 24, 1987

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

| | | |
|---|---|---|
| Item No. 375 | -ZAC- | Meeting of April 6, 1987 |
| Property Owner: | | Presbyterian Home of Maryland, Inc. |
| Location: | | NW/C Georgia Court and Florida Avenue |
| Existing Zoning: | | D.R. 5.5 |
| Proposed Zoning: | | Special Hearing to approve either the expansion of the existing convalescent home as an exception to residential transition or the expansion of not more than 25% of the ground floor area of the existing convalescent home pursuant to Section 104 in that said convalescent home is non-conforming to the R.T.A. requirements, and further, that said expansion as permitted under (1) or (2) be approved by amending or expanding the special exception granted in Case No. 3624X |
| Area: | | 4.505 acres |
| District: | | 9th Election District |

Dear Mr. Jablon:

We have reviewed the site plan for this site and have the following comments:

1. Sidewalks should be provided around the entire frontage of the site.

Mr. Arnold Jablon 2 April 24, 1987
Item No. 375

2. The driveway entrance and exit are located within the intersection of Dixie Drive and Georgia Court and Florida Road and Georgia Court; this is a poor and potentially hazardous condition that may require relocation in the future.

3. Angle parking would be better along the driveway since it is a one-way driveway.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF:lt

---

4/21/87
Date

BALTIMORE COUNTY DEPARTMENT OF HEALTH

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

Zoning Item # 375, Zoning Advisory Committee Meeting of April 6, 1987

Property Owner: Presbyterian Home of Maryland Inc

Location: NW/C Georgia Ct and Florida Ave. District 9

Water Supply metro Sewage Disposal metro

COMMENTS ARE AS FOLLOWS:

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

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

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

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

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

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

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

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

WWQ 1 4/86

7/6

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Zoning Item # 375 Zoning Advisory Committee Meeting of April 6, 1987
Page 2

( ) Prior to razing of existing structure/s, petitioner must contact the Division of Water Quality and Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes.

( ) Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Water Quality and Waste Management at 494-3768.

( ) Soil percolation tests (have been/must be) conducted.
{ } The results are valid until ____________.
{ } Soil percolation test results have expired. Petitioner should contact the Division of Environmental Support Services to determine whether additional tests are required.

( ) Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.

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

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

( ) If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted.

( ) Others ____________

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

WWQ 2 4/86

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

PAUL H. REINCKE
CHIEF

April 7, 1987

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

RE: Property Owner: Presbyterian Home of Md., Inc.

Location: NW/C Georgia Ct. and Florida Avenue

Item No.: 375 Zoning Agenda: Meeting of 4/6/87

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.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals or 300 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works. New fire hydrants shall be on 8" fire mains only.

(X) 2. A second means of vehicle access is required for the site. New buildings shall have paved access for fire apparatus.

( ) 3. The vehicle dead end condition shown at ____________ EXCEEDS the maximum allowed by the Fire Department.

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

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

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

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

REVIEWER: Capt Joseph Kelly 4-7-87
Planning Group
Special Inspection Division

Noted and Approved: John F. O'Neill
Fire Prevention Bureau

/mb

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BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204

TED ZALESKI, JR.
DIRECTOR

May 5, 1987

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

Dear Mr. Jablon:

Comments on Item # 375 Zoning Advisory Committee Meeting are as follows:

Property Owner: Presbyterian Home of Maryland, Inc.
Location: NW/C Georgia Court & Florida Ave.
District: 9th

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

Building(s) shall comply to Article 5 for height and area.

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

G. The requested variance appears to conflict with Section(s) ________, ________, of the Baltimore County Building Code.

H. When filing for a required Change of Use/Occupancy Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of Use Groups are from Use ________ to Use ________, or to 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.

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

4/22/85

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August 21, 1987

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

RE: Petition for Special Hearing
NW/cor. of Georgia Court and Florida Avenue (400 Georgia Court)
9th Election District, 4th Councilmanic District
Presbyterian Home of Maryland, Inc. - Petitioner
Case No. 88-4-SPH

Dear Board:

Please be advised that on August 20, 1987, an appeal of the decision rendered in the above-referenced case was filed by Michael Ruby, a Protestant. All materials relative to the case have been previously forwarded to your office in response to an earlier appeal.

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

Very truly yours,

J. ROBERT HAINES
Zoning Commissioner

JRH:bjs

cc: John B. Howard, Esquire
Cook, Howard, Downes & Tracy
210 Allegheny Avenue, Towson, Md. 21204

Mr. Michael Ruby
7 Florida Avenue, Towson, Md. 21204

Mr. Carl Wannen
9 Florida Avenue, Towson, Md. 21204

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

File

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RECEIVED
AUG 20 1987
ZONING OFFICE

20 August 1987
7 Florida Rd.
Towson, MD 21204

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines,

Please enter an appeal from the decision of the zoning commissioner dated July 22, 1986 regarding Case No. 88-4-SPH, Presbyterian Home of Maryland, Inc., Petitioner.

The names and addresses of the appellants are as follows:
Mr. and Mrs. Michael Ruby
7 Florida Rd.
Towson, MD 21204

Mr. and Mrs. Carl Wannen
9 Florida Rd.
Towson, MD 21204

Enclosed please find a check for $105 made payable to Baltimore County, Maryland, which includes the $75 appeal fee and charges for two signs at $15 each. Thank you.

Sincerely,

Michael Ruby

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

No. 33094

DATE 8/21/87 ACCOUNT R-01-615-000

AMOUNT $ 105.00

RECEIVED FROM: Michael Ruby, 7 Florida Road, Towson, Md. 21204

FOR: Appeal Filing & Posting Fees: Case No. 88-4-SPH
Presbyterian Home of Maryland, Inc. - Petitioner

B B157*****10500:a 321BF

VALIDATION OR SIGNATURE OF CASHIER

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

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

August 11, 1987

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

RE: Petition for Special Hearing
NW/corner of Georgia Court and Florida Avenue (400 Georgia Court)
9th Election District, 4th Councilmanic District
Presbyterian Home of Maryland, Inc. - Petitioner
Case No. 88-4-SPH

Dear Board:

Please be advised that on August 7, 1987, an appeal of the decision rendered in the above-referenced case was filed by People's Counsel for Baltimore County. All materials relative to the case are being forwarded to your office herewith.

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

Very truly yours,

J. ROBERT HAINES
Zoning Commissioner

JRH:bjs

cc: John B. Howard, Esquire
Cook, Howard, Downes & Tracy
210 Allegheny Ave., Towson, Md. 21204

Mr. Michael Ruby
7 Florida Avenue
Towson, Md. 21204

Mr. Carl Wannen
9 Florida Avenue
Towson, Md. 21204

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

File

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
NW Corner Georgia Ct. and
Florida Ave. (400 Georgia Ct.) : OF BALTIMORE COUNTY
9th Election District
:
PRESBYTERIAN HOME OF MARYLAND, : Case No. 88-4-SPH
INC., Petitioner :

: : : : : : :

RECEIVED
AUG 7 1987
ZONING OFFICE

NOTICE OF APPEAL

Please note an appeal from the Zoning Commissioner's decision dated July 22, 1987, and his Amended Order dated July 30, 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 7th day of August, 1987, a copy of the foregoing Notice of Appeal was mailed to John B. Howard, Esquire, 210 Allegheny Ave., Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

IN RE: PETITION SPECIAL HEARING * BEFORE THE
NW/corner of Georgia Court and
Florida Avenue (400 Georgia * ZONING COMMISSIONER
Court) - 9th Election District
* OF BALTIMORE COUNTY
Presbyterian Home of Maryland,
Inc., * Case No. 88-4-SPH
Petitioner *

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

AMENDED ORDER

It is ORDERED by the Zoning Commissioner of Baltimore County, this 30th day of July, 1987, that Condition Precedent 2 shall be deleted and in its place the following condition precedent shall be adopted and made a part of the Findings of Fact and Conclusions of Law rendered on July 22, 1987:

2. No further expansion of the convalescent home may be permitted by further amendments to the site plan filed in Case No. 3624-X, and any and all future uses of the subject site may only occur in compliance with the zoning regulations then in effect.

Zoning Commissioner of
Baltimore County

AJ/srl

cc: John B. Howard, Esquire
Mr. Michael Ruby
Mr. Carl Wannen
People's Counsel

ORDER RECEIVED FOR FILING
Date July 30, 1987
By

88-0355

7/29/87
TO AD - being sent file

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

JAMES D. C. DOWNES
(1906-1979)

TELEPHONE
(301) 823-4111

TELECOPIER
(301) 821-0147

July 29, 1987

Arnold E. Jablon
Zoning Commissioner for
Baltimore County
1st Floor, County Office Building
Towson, Maryland 21204

Re: Case No.: 88-4-SPH
Presbyterian Home of Maryland, Inc.

Dear Mr. Jablon:

I am writing to respectfully request reconsideration of the language contained in Paragraph 2 of the restrictions on page 3 of the Order (the "Order") that you passed in the above-captioned matter on July 22, 1987. The pertinent language is as follows:

"2. No further expansion shall be permitted on this site."

The evidence adduced at the time of hearing, and correctly recited in your Findings of Fact indicated that the subject Convalescent Home had been located at its Florida Road location since 1930 and that additions thereto had occurred in 1932, 1940, 1957 and 1977. Thus, the addition approved by the subject Order would be the fifth to occur. It is entirely appropriate, therefore, to restrict against any further expansion of the Presbyterian Home in its present configuration and to preclude any further amendments to the special exceptions. Indeed, the Presbyterian Home has no plans whatsoever for future expansion and certainly does not contemplate any needs beyond those which will be addressed by the proposed addition.

Very serious concern has been expressed, however, that, although the intent to preclude any further expansion of the



special exception is clearly stated and appropriate, the actual wording may unwittingly result in a cloud on the Presbyterian Home's title and a substantial impairment of the value of this most valuable asset of the Presbyterian Church. Conceivably, there might be an interpretation that would preclude any reuse of the subject site for other purposes and, therefore, a sale by the Church at a future date; at some point in the future the center of Towson may shift, thus necessitating redevelopment of the Home as a high-rise facility (not unlike Edenwald, a high-rise life care facility located on property formerly owned by Goucher College). Other examples of problems that could occur may relate to possible modernization or redesign of the facility, refinancing, minor additions to accommodate new medical technology for the elderly, etc.

It is most respectfully requested therefore, that the restriction be modified in a manner that would address the concerns expressed by the neighboring property owners and in keeping with your intent to preclude any further expansion of the existing facility.

One suggestion would be the following:

"2. No further expansion of the Convalescent Home may be permitted by further amendments to the site plan filed in Case No. 3624-X; and any and all future uses of the subject site may only occur in compliance with the zoning regulations then in effect."

Thank you very much for your careful consideration.

Kind regards.

Sincerely,
John Howard
John B. Howard

JBH/ddr

cc: Mr. Michael Ruby
Mr. Carl Wannen
People's Counsel

88-4-SPH

MICHAEL RUBY & CARL WANNEN, * IN THE
Plaintiffs *
vs. * CIRCUIT COURT FOR
PRESBYTERIAN HOME OF MARYLAND, *
INC., Defendants * BALTIMORE COUNTY, MARYLAND
*
Case No. 88CG1827 * August 10, 1988
*

OPINION OF COURT

* * * * * * * * *

THE COURT: Gentlemen, I have had occasion to review the file in this case. I have had occasion to review the pertinent documents and listen to your argument. It seems to me that the Board of Appeals decision was based really on two grounds. One, they found that (to use terms that I think everybody will understand) the Presbyterian Home was grandfathered in, in effect, out of the RTA requirements, in that the Presbyterian Home was there before the RTA requirements were passed and, therefore, the existing use of the home that existed prior to the RTA would take it out of any requirement for the RTA when, in fact, they expanded that use. That was the first ground.

Quite frankly, I am concerned about that ground. I don't find that very persuasive. The reason that I don't is it doesn't seem to make much sense. If, in fact, you had a



particular institution, let's say the Presbyterian Home, and that home had 25 beds. Does that mean that you can expand it to 3,000 beds? And it still would not be affected by the RTA? Would that be, in effect, an existing use?

I think what the purpose of the existing use exception is, that if, in fact, you have an institution, a structure, and that structure is built and it's operating and now you pass the RTA, and under the RTA that structure would not be able to function, the purpose of the grandfathering clause is to say, we are not going to now say that your existing operation has to shut down or your existing operation is in violation of the law. Because had that operation been a new operation it would not comply with the RTA. So I don't find the first ground persuasive.

However, the Board found that the second, separate and independent basis for its decision was that they found as a matter of fact that the Presbyterian Home and the addition was an exception under 1B01.1.B.1.c4 of the Baltimore County Zoning Regulations. Specifically they found that this addition that was proposed was an addition to an existing church or other building for religious worship. They found as a matter of fact that religious services had been conducted at the home; that, in fact, they are regularly held there; that, in fact, people came from the outside community as well as the people who live in the Home; and that, therefore, this exception applies.

Whether or not I agree with that factual determination is irrelevant. In fact, I might disagree with it. But it doesn't matter. Because the standard of review for me is to determine whether or not that factual determination was arbitrary, was made capriciously or was made illegally. Upon reviewing the transcript I cannot find that it was an arbitrary, capricious or illegal decision.

The legal issue that's posed by Mr. Tanczyn is an interesting one, I believe, and that is whether or not this exception means that the addition itself must be the place where the service is conducted. In my view, I do not believe that's what the exception means.

However, it's an interesting point. My view is that the particular addition doesn't have to be the specific place where the service is held. However the addition must be an addition to the place where the service is held. If I am incorrect in that, then the Board's decision would, in my view, be illegal. In any event it is not arbitrary. It is not capricious.

Nevertheless, I believe that it is not required that the particular addition be the specific locus of the actual service as long as the addition is an addition to the place where the religious service is held. Based on that ground, that the Presbyterian Home was exempt under the provisions of 1B01.1B.1.c4, and my view that the Board's decision was supported by facts, the decision of the County Board of Appeals is affirmed.

Thank you, gentlemen.

8/19/88
Date

Dana M. Levitz
DANA M. LEVITZ, JUDGE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Al Wirth - SWM
Bob Bowling - Dev. Eng. (3)
Gary Kerns - Current Planning
Rahim Famili - Traffic Engineering
Rocky Powell - DEPRM
Larry Pilson - DEPRM
Dave Flowers - DEPRM
Carl Richards - Zoning
Capt. Kelly - Fire Department
Pat Kincer - Rec. & Parks
Chuck Weiss - Sanitation
Larry Brocato - SHA

DATE: May 4, 1989

FROM: Tom Watson
Bureau of Public Services

SUBJECT: Towson Presbyterian Church
Dave Billingsley
679-8719

To John L. 5/8/89 UCR

Ck hearing 88-4 Application

The subject property was granted a waiver of CRG meeting by the Office of Planning & Zoning. However, CRG approval signatures must be obtained.

Please review the attached plan for concurrance with current development regulations and give us your approval or comments by May 19, 1989. Nonresponsiveness by the aforementioned date is considered to be concurrance by your office of the plan.

RECEIVED
MAY 5 1989
ZONING OFFICE

CTW:srh
Attachment
cc: File

SEE OTHER SIDE FOR COMMENTS

MICROFILMED

Include with the Zoning Case #s the date of each order, what was granted or denied, and any restrictions.

The 97 ft. setback of the S.76°23'00"E Property Line does not comply with the 100' setback on site plan "A" which was approved by the Board of Appeals in Zoning Case 88-4-SPH. The 2 methods of addressing this problem are: (1) Provide a letter describing the proposed change along with red lined site plan "A" showing the said changes and request approval by the Zoning Commissioner (a $20.00 fee is charged for this review) or (2) Change the setbacks on the proposed C.R.G. plan to conform to Plan A as originally approved by the Board of Appeals.

Be aware that building permit approval requires the information on the blue commercial checklist (provided).

MICROFILMED

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

March 22, 1988

Carl Wannen, Esquire
9 Florida Avenue
Towson, MD 21204

RE: Case No. 88-4-SPH
Presbyterian Home of Md., Inc.

Dear Mr. Wannen:

Enclosed is a copy of the final Opinion and Order issued today by the County Board of Appeals regarding the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Administrative Secretary

Encl.

cc: Mr. Michael Ruby
John B. Howard, Esquire
Presbyterian Home of Md., Inc.
Phyllis Cole Friedman, Esquire
P. David Fields
James G. Hoswell
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Robyn Clark
Arnold Jablon, County Attorney

RECEIVED
MAR 23 1988
ZONING OFFICE

MICROFILMED

| | | |
|---|---|---|
| IN THE MATTER OF THE APPLICATION OF PRESBYTERIAN HOME OF MD., INC. FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF GEORGIA COURT AND FLORIDA AVENUE (400 GEORGIA COURT) 9th ELECTION DISTRICT 4th COUNCILMANIC DISTRICT | : | BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 88-4-SPH |

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

OPINION

The matter comes before the Board as an appeal from the decision of the Zoning Commissioner dated July 22, 1987 and amended July 30, 1987, which granted a Petition for Special Hearing filed by the property owner, the Presbyterian Home of Maryland, Inc. In its petition, the property owner seeks an amendment from the site plan as filed in Case No. 3624-X to allow expansion of the existing convalescent home.

The Petitioner presented two plans for the proposed expansion. Plan A is, from the Petitioner's viewpoint, more preferable and allows an expansion of the facility on the eastern portion of the property abutting the existing Home. Plan B, which the property owners are willing to construct but do not view as favorably as Plan A, proposes an addition on the southeastern portion of the property. Two alternatives have been presented because Plan A may be in conflict with the Residential Transition Area (RTA) requirements which dictate a rear year setback of 150 feet.

The Board heard testimony and received evidence from numerous witnesses, both favoring and opposing the proposed expansion. There seems to be no dispute that the Home fills a needed service to the community and is, had has been, a good neighbor to the community. The Appellants' objection is not as to the use, rather the expansion. Additionally, the opposition to this expansion apparently is not uniform throughout the community, rather the

MICROFILMED



immediate neighbors object but the surrounding community known as Southland Hills as a whole favors the project.

Testimony solicited discloses that the site has been improved with a convalescent home since 1930. Additions to the home have been made throughout the years, with the most recent being in 1977. The original special exception, which the Petitioners seek to amend, was granted in 1957.

Further testimony disclosed that the site presently houses 100 domiciliary beds. In order for individuals to be considered for admission, they must be over 65 years of age, good-standing Presbyterians, and in good physical and mental health. The current facility is operating to capacity and a waiting list of 60 to 90 people is customary. In addition to housing residents, the site also contains a chapel which regularly conducts services for residents and their guests. Additionally, other meetings are often conducted on-site. Kitchen and dining facilities for the residents are also available. The Petitioner's proposed expansion seeks room for an additional 27 beds. An expansion of that size is all that is possible under the current kitchen and dining arrangement.

In addressing the RTA requirements, the Board believes that the site is exempt from same. Both the convalescent home and parking area have been in use since prior to 1970, the date the RTA requirements were enacted. Clearly, that legislation was created to protect existing uses and rights of way. Additionally, we agree with the Petitioner's argument that the proposed use on-site would fall within the exception for existing church or other building for religious worship as set forth in Section 1B01.1.B.1.c.4 of the Baltimore County Zoning Regulations.

MICROFILMED



Turning to the amendment to the special exception, we are persuaded to grant the Petitioner's Petition for Special Hearing for Plan A. In our view, expansion in accordance with Plan A would be more consistent with the design and scheme of the existing building. Additionally, we do not find this expansion to constitute an over-use or overcrowding of the land. Clearly, the site contains a good deal of open space.

For the aforegoing reasons, the Board is persuaded to grant, with restriction, the property owner's Petition for Special Hearing for construction in accordance with Plan A and will so order.

ORDER

It is therefore this 22nd day of March, 1988 by the County Board of Appeals of Baltimore County ORDERED that the amendment to the site plan in Case No. 3624-X to expand the existing convalescent home be approved and as such, the Petition for Special Hearing is hereby GRANTED, subject however to the following restrictions:

1. Petitioner's Exhibit #1 (Plan A) shall be adopted in its entirety and made a part of this Order.
2. No further expansion of the convalescent home may be permitted by further amendments to the site plan filed in Case No. 3624-X, and any and all future uses of the subject site may only occur in compliance with the zoning regulations then in effect.
3. All external light fixtures as contained on the expansion of the property as set forth in Petitioner's Exhibit #1 shall be directed and placed with the appropriate screening so as to prohibit the emission of substantial light into the surrounding neighborhood.

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

MICROFILMED



COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence E. Schmidt, Acting Chairman

Henry H. Lewis

Thomas J. Bollinger

MICROFILMED

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

April 20, 1988

John B. Howard, Esq.
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
Towson, Md. 21204

Re: Case No. 88-4-SPH
Presbyterian Home of Md., Inc.

Dear Mr. Howard:

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, Secretary

Encl.

cc: Arnold Jablon, Esq.
P. David Fields
James Hoswell
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Docket Clerk

MICROFILMED

| | | |
|---|---|---|
| IN THE MATTER OF THE APPLICATION OF PRESBYTERIAN HOME OF MD., INC. FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF GEORGIA COURT AND FLORIDA AVENUE (400 GEORGIA COURT) 9th ELECTION DISTRICT 4th COUNCILMANIC DISTRICT | : | IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW |
| MICHAEL RUBY, ET AL, PLAINTIFFS | : | CG Doc. No. 55 |
| ZONING FILE NO. 88-4-SPH | : | Folio No. 227 |
| | : | File No. 88-CG-1827 |

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Lawrence E. Schmidt, Henry H. Lewis 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, John B. Howard, Esq., Cook, Howard, Downes & Tracy, 210 Allegheny Ave., Towson, Md. 21204, Counsel for Petitioner; Michael Ruby, 7 Florida Ave., Towson, Md. 21204, Plaintiff; Carl Wannen, 9 Florida Ave., Towson, Md. 21204; and Arnold Jablon, Esq., Court House, Towson, Md. 21204, County Attorney for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

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



I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to John B. Howard, Esq., Cook, Howard, Downes & Tracy, 210 Allegheny Ave., Towson, Md. 21204, Counsel for Petitioner; Michael Ruby, 7 Florida Ave., Towson, Md. 21204, Plaintiff; Carl Wannen, 9 Florida Ave., Towson, Md. 21204; and Arnold Jablon, Esq., Court House, Towson, Md. 21204, County Attorney for Baltimore County, on this 20th day of April, 1988.

June Holmen
June Holmen
County Board of Appeals of Baltimore County



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

HEARING ROOM #218

January 14, 1988

NOTICE OF POSTPONEMENT AND REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). 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. 88-4-SPH

PRESBYTERIAN HOME OF MD., INC.

NW/cor. Georgia Ct. and Florida Avenue
(400 Georgia Court)

9th Election District
4th Councilmanic District

SPH -to amend site plan in Case 3624-X to permit expansion of existing convalescent home

7/22/87 -Z.C. GRANTED Petition for Special Hearing w/restrictions

After consideration of additional correspondence received from the Appellant in this case, the Board will reverse its earlier decision regarding this postponement request and will GRANT THE POSTPONEMENT from the scheduled hearing date of January 26, 1988, and will reschedule this hearing to February 18, 1988.

REASSIGNED FOR: THURSDAY, FEBRUARY 18, 1988 at 12:00 noon

| | | |
|---|---|---|
| cc: | John B. Howard, Esquire | Counsel for Petitioner |
| | Michael Ruby | Appellant/Protestant |
| | Carl Wannen, Esquire | " " |
| | Presbyterian Home of Md., Inc. | Appellee/Petitioner |
| | Phyllis C. Friedman | People's Counsel for Baltimore County |
| | P. David Fields<br>James G. Hoswell<br>J. Robert Haines<br>Ann M. Nastarowicz<br>James E. Dyer<br>Robyn Clark<br>Arnold Jablon, County Attorney | |

RECEIVED
JAN 19 1988
ZONING OFFICE

Kathleen C. Weidenhammer
Administrative Secretary

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

J. Robert Haines
Zoning Commissioner

June 20, 1989

Dennis F. Rasmussen
County Executive

David W. Billingsley
Central Drafting and Design, Inc.
601 Charwood Court
Edgewood, MD 21040

RE: Towson Presbyterian Home
Case #88-4-SPH

Dear Mr. Billingsley:

This letter references your letter and red-lined site plan submitted to this office on June 7, 1989 requesting approval of a setback which differs from the site plan as approved in Zoning Case #88-4-SPH.

The change from the 100 foot setback for the proposed three-story addition to a 97 foot setback substantially complies with the spirit and intent of the Order and is, therefore, permitted as shown on the above referenced red-lined plan now to be included with the zoning case file.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JLL:scj

SEE THAT

CENTRAL DRAFTING AND DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MARYLAND 21040
1-301-679-8719

June 6, 1989

Mr. J. Robert Haines, Zoning Commissioner
Baltimore County Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

Subject: Towson Presbyterian Home
Zoning Case 88-4-SPH

In Zoning Case No. 88-4-SPH, approval was granted to expand the existing convalescent home facility as shown on the enclosed "Plan A". Due to architectural and structural considerations, we are requesting that the 100 foot setback shown on the referenced plan be permitted to be reduced as shown on the enclosed red-lined copy of the C.R.G. Plan presently under consideration by Baltimore County.

Also enclosed is a check in the amount of $20.00 for the fee charged for this review.

Since this project is in the building permit stage, we would appreciate a response at your earliest convenience.

Thank you for your consideration in this matter and should you have any questions, please do not hesitate to contact this office.

Very truly yours,

David W. Billingsley
David W. Billingsley

RECEIVED
JUN 7 1989
ZONING OFFICE

DWB:cjb
enclosures

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

J. Robert Haines
Zoning Commissioner

June 20, 1989

Dennis F. Rasmussen
County Executive

David W. Billingsley
Central Drafting and Design, Inc.
601 Charwood Court
Edgewood, MD 21040

RE: Towson Presbyterian Home
Case #88-4-SPH

Dear Mr. Billingsley:

This letter references your letter and red-lined site plan submitted to this office on June 7, 1989 requesting approval of a setback which differs from the site plan as approved in Zoning Case #88-4-SPH.

The change from the 100 foot setback for the proposed three-story addition to a 97 foot setback substantially complies with the spirit and intent of the Order and is, therefore, permitted as shown on the above referenced red-lined plan now to be included with the zoning case file.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JLL:scj

PRESBYTERIAN HOME OF MD, INC. #88-4-SPH

NW/cor of Georgia Court and Florida Avenue (400 Georgia Court) 9th Election District 4th Councilmanic District

SPH -Expansion of existing convalescent home and amendment to SE granted in Case 36-24-X

| | |
|---|---|
| May 12, 1987 | Petition for Special Hearing by Presbyterian Home of Md., Inc. for expansion of existing convalescent home or expansion of not more than 25% of ground floor area of existing conv. home and amendment to site plan approved in Case No. 3624-X. |
| July 22, 1987 | Order of the Zoning Commissioner that Petition for Special Hearing is GRANTED, subject to restrictions. |
| July 30, 1987 | Amended Order of the Z.C. |
| August 7 | Appeal to C.B. of A. from People's Counsel. |
| August 20 | Appeal to C.B. of A. from Michael Ruby, et al. |
| Sept. 21 | Notice of Dismissal of Appeal by People's Counsel. |
| February 18, 1988 | Hearing before the C.B. of A. |
| March 22 | Order of the Board approving amendment and GRANTING Petition for Special Hearing subject to restrictions. |
| April 19 | Order for Appeal filed in CCt, BCo by Michael Ruby, et al |
| April 28 | Petition to accompany appeal filed in CCt. |
| May 19 | Transcript of testimony filed; record of proceedings filed in CCt, BCo. |
| August 19 | Order of Circuit Court that decision of the CBA is AFFIRMED. (Dana M. Levitz, J.) |
| September 19 | Order for Appeal to C.S.A. filed by Michael P. Tanczyn, Esq. on behalf of Michael Ruby, et al. |
| November 28 | Motion to Dismiss Appeal treated as a Line of Dismissal filed by counsel for appellants. Appeal dismissed in C.S.A. (Leslie D. Gradet, Clerk, C.S.A.) |
| November 29 | Mandate issued. |

APPEAL

Petition for Special Hearing
NW corner of Georgia Court and Florida Avenue (400 Georgia Court)
9th Election District - 4th Councilmanic District
Presbyterian Home of Maryland, Inc. - Petitioner
Case No. 88-4-SPH

- Petition for Special Hearing
- Description of Property
- Certificate 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) Plan 'B' of Property revised 3/2/87
2) Plan 'B' of Property revised 2/28/87
3) Letter dated 6/3/77 from S. Eric DiNenna to Mr. Ralph E. Ensor

Protestant's Exhibits:
1) Signed Petition in Opposition of Project dated July 6, 1987

- Zoning Commissioner's Order dated July 22, 1987
- Correspondence dated July 29, 1987 from John B. Howard, Esquire, attorney for Petitioners to Arnold Jablon
- Zoning Commissioner's Amended Order dated July 30, 1987
- Notice of Appeal received August 7, 1987 from People's Counsel for Baltimore County

John B. Howard, Esquire, Attorney for Petitioner
Cook, Howard, Downes & Tracy
210 Allegheny Avenue, Towson, Md. 21204

Mr. Michael Ruby
7 Florida Avenue
Towson, Md. 21204 } appeal filed 9/20/87

Mr. Carl Wannen
9 Florida Avenue
Towson, Md. 21204

~~Phyllis Cole Friedman, Esquire,~~ Appeal dismissed
~~People's Counsel of Baltimore County~~ 9/21/87
~~Rm. 223, Old Courthouse, Towson, Maryland 21204~~
Arnold Jablon, Esq.
Co. Atty.
Nancy West Asst. Co. Atty.

PETITIONER:
Presbyterian Home of Md., Inc.
Louise K. Cockey, President
400 Georgia Avenue
Towson, MD 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

ZONING CASE NO. 88-4-SPH

**Court of Special Appeals**
Courts of Appeal Building
Annapolis, Md. 21401-1699
(301) 974-3046
WASHINGTON AREA (301) 261-8300

November 29, 1988

Susanne Mensh, Clerk
Circuit Court for Baltimore County
Courthouse
Towson, Maryland 21204

Re: Michael Ruby et al. v. Presbyterian Home of Maryland, Inc.
PHC No. 680, September Term, 1988
Civil No. 88CG1827

Dear Ms. Mensh:

Enclosed find a Motion to Dismiss Appeal treated as a Line of Dismissal that was filed with this Court on November 28, 1988. We are making a copy for our files and sending the original to you for docketing.

Also find enclosed the original mandate of this Court reflecting this dismissal which, together with the Line, should be placed in the record.

Very truly yours,

Leslie D. Gradet
Leslie D. Gradet
Clerk

LDG:cej

Enclosure

cc: Michael P. Tanczyn, Esq.
H. Barritt Peterson, Jr., Esq.
Phyllis Cole Friedman, Esq.
John B. Howard, Esq.

RECEIVED NOV 30 1988

TTY FOR DEAF:
BALTO.-ANNAPOLIS AREA (301) 974-3946
WASHINGTON AREA (301) 565-0450

**MANDATE**
**Court of Special Appeals**

PHC No. 680, September Term, 1988

Michal Ruby et al.
v.
Presbyterian Home of Maryland, Inc.

JUDGMENT: November 28, 1988: Motion to Dismiss Appeal treated as a Line of Dismissal filed by counsel for appellants. Appeal dismissed.

November 29, 1988: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for BALTIMORE COUNTY
88CG1827

RECEIVED NOV 30 1988

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals; in testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this Twenty-Ninth day of November A.D. 19 88

Leslie D. Gradet
Clerk of the Court of Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE.

| | | |
|---|---|---|
| MICHAEL RUBY and CARL WANNEN, JR., Appellants, | • | IN THE CIRCUIT COURT BALTIMORE COUNTY |
| vs. | • | |
| PRESBYTERIAN HOME OF MARYLAND INC., Appellee. | • | Case No. 88CG-1827 |

**ORDER FOR APPEAL**

NOW COMES, Michael Ruby and Carl Wannen, Jr., by their attorney, Michael P. Tanczyn, Esq., Appellants, jointly and individually, and respectfully enter an Appeal from the decision of this Court dated August 19, 1988.

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

I HEREBY CERTIFY that, on this 9th day of September, 1988, a copy of this Order of Appeal was mailed, postage prepaid, to H. Barritt Peterson, Jr., Esq., Cook, Howard, Downes & Tracy, 210 Allegheny Avenue, P. O. Box 5517, Towson, Maryland, 21204, attorney for the Appellee.

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.

P.C. not involved PCF; PMZ

CSA/PHC Form No. 2 Mailed: September 28, 1988

IN THE COURT OF SPECIAL APPEALS

MICHAEL RUBY et al. *
*
vs. * PHC No. 680
* September Term, 1988
PRESBYTERIAN HOME OF MARYLAND, INC. *

**ORDER**

The Court of Special Appeals, pursuant to Maryland Rule 8-206(a)(1), orders and directs that the above captioned appeal proceed without a Prehearing Conference.

BY THE COURT

Alan Z. Kamansky
Judge

Date: September 28, 1988

cc: *Suzanne Mensh, Clerk
Circuit Court for Baltimore County
Phyllis Cole Friedman, Esq.
John B. Howard, Esq.
H. Barritt Peterson, Jr., Esq.
Michael P. Tanczyn, Esq.

*Mr. Clerk: Will you kindly place this Order with the record in this cause (Your 88CG1827). The date of this Order establishes commencement of the 10 day period under Md. Rule 8-411(b) and the 60 day period for transmittal of the record under Md. Rule 8-412(a).

Howard E. Friedman
Howard E. Friedman, Clerk

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

P.C. not involved.

September 26, 1988

Clerk, Court of Special Appeals
Courts of Appeal Building
Annapolis, MD 21401

Re: Ruby & Wannen vs Presbyterian Home
Circuit Court Case No. 88-CG-1827

Dear Sir:

Enclosed please find Civil Appeal Prehearing Information Report filed on behalf of the Appellants, Michael Ruby & Carl Wannen, Jr.

Very truly yours,

Michael P. Tanczyn
Michael P. Tanczyn

MPT/ed
Enclosure

cc: Cook, Howard, Downes & Tracy
Baltimore County People's Counsel
Mr. Michael Ruby
Carl Wannen, Jr., Esq.

COPY

To be filled in by Clerk, Court of Special Appeals
PHC NO. _____

**COURT OF SPECIAL APPEALS**
**OF MARYLAND**
**CIVIL APPEAL PREHEARING INFORMATION REPORT**

NOTICE
Pursuant to Md. Rule 8-205 this form must be completed and sent to Clerk, Court of Special Appeals, Courts of Appeal Bldg., Annapolis, Md. 21401

1. Title of case: Michael Ruby & Carl Wannen, Jr. vs Presbyterian Home of Maryland, Inc.

Which party is Appellant in Court of Special Appeals: Michael Ruby and Carl Wannen, Jr.

2. Names, addresses, and telephone numbers of counsel:

For Appellant: Michael P. Tanczyn, Esq., Suite 106, 606 Baltimore Avenue, Towson, MD 21204 (301) 296-8823

For Appellee: John B. Howard, Esq. & H. Barritt Peterson, Jr., Esq., Cook, Howard, Downes & Tracy, 210 Allegheny Avenue, Towson, MD 21204 (301) 823-4111

3. Trial court:

a. ~~(Orphans'~~ (Circuit) Court for Baltimore County c. Docket No.: 88-CG-1827

b. ~~Jury~~/Non-jury d. Trial Judge: Honorable Dana Levitz

4. Type of case (*e.g.*, automobile negligence, breach of contract, domestic, product liability, property dispute, tax, UCC, zoning, etc.)
Zoning

5. Trial

a. Duration of trail: Argument on Record

b. Number of exhibits in evidence:

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6. Judgment

a. Date of judgment being appealed: (If date is other than that shown on docket, please explain.) August 19, 1988

b. Describe judgment: (Attach copy of any written opinion by the trail court.) Opinion Attached

c. Did judgment finally dispose of all claims by and against all parties? If not, please explain why judgment is appealable. (See Md. Rule 2-602; Courts art., §§12-301, 12-303.)
Yes

d. Was post-judgment motion under Md. Rule 2-532, 2-533 or 2-534 filed? If so, date of disposition:
No

7. Date appeal noted: September 19, 1988. Order for Appeal attached

ATTACH COPY OF NOTICE OF APPEAL TO THIS FORM.

RECEIVED

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

TELEPHONE (301) 823-4111
TELECOPIER (301) 821-0147
DIRECT DIAL NUMBER
494-9169

JAMES H. COOK
JOHN B. HOWARD
DAVID D. DOWNES
DANIEL O'C. TRACY, JR.
JOHN H. ZINK, III
JOSEPH C. WICH, JR.
HENRY B. PECK, JR.
HERBERT R. O'CONOR, III
THOMAS L. HUDSON
C. CAREY DEELEY, JR.
R. KING HILL, III
GEORGE R. REYNOLDS, III
ROBERT A. HOFFMAN
CYNTHIA M. HANN
JUDITH A. ARNOLD
DEBORAH C. DOPKIN
KATHLEEN GALLOGLY COX
KEVIN H. SMITH
J. MICHAEL BRENNAN
H. BARRITT PETERSON, JR.
KATHRYN L. KOTZ
JAMES K. MACALISTER
REGAN J. R. SMITH
JAMES D. C. DOWNES (1908-1978)

June 14, 1988

Ms. Kathy Rushton
Assignment Office
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
P. O. Box 6754
Towson, Maryland 21285-6754

Re: Ruby, et al v. Presbyterian Home of Maryland, Inc.
Case No. 88 CG 1827
Our File No. 7177/19748

Dear Kathy:

I am in receipt of the Court's notice of the Motion's hearing that has been scheduled for Monday, July 25, 1988 at 10:30 a.m. in the above-referenced case as well as the notice of the hearing on the merits that has been scheduled for Wednesday, August 10, 1988 at 9:30 a.m. Only one non-moot Motion is currently pending. I suggest that in the interest of judicial economy the hearing on that open Motion be rescheduled to take place at the same time as the hearing on the merits. I believe this would be particularly appropriate as the Appellants, in their response to Appellee's open Motion, have asserted that the Motion has been filed untimely and should not be heard until after the merits of the appeal have been determined. Accordingly, I would appreciate it if you would reschedule the July 25, 1988 Motion's hearing to take place at the same time as the August 10, 1988 hearing on the merits of this appeal.

Ms. Kathy Rushton
June 14, 1988
Page - Two

Thanking you for your consideration, I am

Very truly yours,

H. Barritt Peterson, Jr.

HBP/bl
cc: John B. Howard, Esquire
Mr. Michael Ruby
Carl Wannen, Jr., Esquire
Administrative Secretary, County Board of Appeals
Mr. Ralph E. Ensor


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


June 17, 1988

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

Re: Ruby & Wannen vs Presbyterian Home
Case Number 55/227/88CG-1827

Gentlemen:

Enclosed herewith please find Memorandum of Law filed on behalf of the Appellants, Michael Ruby and Carl Wannen, Jr., Esq., in the above captioned matter.

Very truly yours,

Michael P. Tanczyn

MPT/ed
Enclosure

cc: John B. Howard, Esq.
H. Barritt Peterson, Jr., Esq.
Phyllis Cole Friedman, Esq.
Mr. Michael Ruby
Carl Wannen, Jr., Esq.


COPY

RECEIVED 6/20/88 CBA 11:15 am


| | | |
|---|---|---|
| MICHAEL RUBY and CARL WANNEN, JR., ESQ., Appellants, | * | IN THE CIRCUIT COURT FOR BALTIMORE COUNTY |
| vs. | * | |
| PRESBYTERIAN HOME OF MARYLAND, INC., Appellee. | * | Case No. 55/227/88CG-1827 |

**SUPPLEMENTAL PETITION TO ACCOMPANY APPEAL**

NOW COMES, Michael Ruby and Carl Wannen, Jr., Esq., Appellants, by their attorney, Michael P. Tanczyn, Esq., and supplement their Petition to Accompany Appeal and for reasons say:

1. That Appellants ask this Court to take judicial notice that Bill No. 36-88 and Bill No. 37-88 of the Baltimore County Council introduced March 21, 1988 and enacted into law has an effective date of June 13, 1988. That it is generally applicable to Petitioners' property which Petition has not been reviewed for compliance with the requirements Bill No. 36-88 and Bill No. 37-88 and provides additional reason to reverse the decision of the County Board of Appeals and remand the case for consideration under Bill No. 36-88 and Bill No. 37-88.

2. That the Board of Appeals' decision approving an addition to the Appellee's present facility was arbitrary and capricious in the following regards:

A. The Board was without power to grant a variance to



the residential transition area requirements of the Baltimore County Zoning Regulations;

B. The Board erroneously found that the use of this facility for domiciliary and resident care to be a church use defined under those facts that it was an exception to the RTA requirements when the use is clearly not a church use but primarily a domiciliary nursing home care and resident care facility;

C. That the Board's approval was illegal in that it had not legal authority to properly find the Presbyterian Home proposed addition to its residence center to be a church use, exempt from RTA and therefore had no authority to exempt from RTA or to grant variances to RTA in the manner done by the Board's Order in this case; and

D. That the Board's decision was arbitrary and capricious in that it went against the weight of the evidence showing the Petitioner's failure to comply with the requirements of Section 502.1. of the Baltimore County Zoning Regulations concerning its use of the property for a Special Exception use and further erroneously confusing the applicant waiting list for this site with a general need for expansion at this site as opposed to other locations where convalescent or adult senior citizen resident care is available for members of the County population to utilize.

WHEREFORE, the Appellants request this Honorable Court, after consideration of the arguments of the parties to:

A. Reverse the decision of the Board of Appeals and



remand the case for further hearing in consideration of Bill No. 36-88 and Bill No. 37-88 as passed;

B. Reverse the decision of the Board of Appeals and deny the Special Hearing Petition of the Petitioner;

C. Remand the case to the Board of Appeals without affirmance or reversal for consideration of the application of Bill No. 36-88 and Bill No. 37-88 to the Petition.

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

I HEREBY CERTIFY that, on this 20th day of June, 1988, a copy of the foregoing was mailed, postage prepaid, to John B. Howard, Esq. and H. Barritt Peterson, Jr., Esq. at Cook, Howard, Downes & Tracy, 210 Allegheny Avenue, Towson, Maryland, 21204, attorneys for the Appellee; and to Phyllis Cole Friedman, Esq., People's Counsel for Baltimore County, Old Courthouse, Room 223, Towson, Maryland, 21204; and to Baltimore County Board of Appeals, Old Courthouse, Room 200, Towson, Maryland, 21204.

MICHAEL P. TANCZYN, ESQ.



| | | |
|---|---|---|
| MICHAEL RUBY and CARL WANNEN, JR., ESQ., Appellants, | * | IN THE CIRCUIT COURT FOR BALTIMORE COUNTY |
| vs. | * | |
| PRESBYTERIAN HOME OF MARYLAND, INC., Appellee. | * | Case No. 55/227/88CG-1827 |

**APPELLANTS' MEMORANDUM OF LAW**

NOW COMES, Michael Ruby and Carl Wannen, Jr., Esq., Appellants, by their attorney, Michael P. Tanczyn, Esq., and submit this Memorandum of Law pursuant to Maryland Rule B12 for consideration by this Honorable Court:

**STATEMENT OF CASE**

The property is a 4.505 acre site zoned DR 5.5 which the present Petition seeks permission to expand an existing convalescent home. The expansion would involve a building to be placed on the eastern end of the existing structure and which would provide, in pertinent part, 27 additional beds to the 100 existing living units already located and in use on the property. The Appellants are adjacent residents on Florida Road whose rear yards are adjacent to or abutt the office complex known as 305 West Chesapeake Avenue.

The issues presented by this Appeal are:



**ISSUE ONE**

**Should the Board of Appeals reconsider the Petitioner's applications under the requirements of Baltimore County Council Bills 36-88 and 37-88, which were passed by the Baltimore County Council, signed by the County Executive and which became law with an effective date of June 13, 1988 to insure the Petitioner's compliance with the requirements of those two laws?**

**ARGUMENT**

The Board of Appeals conducted hearing on this matter on February 18, 1988. The Baltimore County Council thereafter considered Bills 36-88 and 37-88, introduced March 21, 1988. Bill 37-88 generally related to, in part a portion of the requested use for Petitioner's property, dealt with elderly housing facilities and generally effect at least in part provisions proposed by the Petitioner in its Petition to expand the capacity by 27 beds of the Presbyterian Home and by the construction of another large building to accomodate those additional beds. Both of these bills were passed by the Baltimore County Council and signed by the County Executive with an effective date of June 13, 1988.

The Board of Appeals issued its decision in this case on March 28, 1988 and the Appellants did take a timely Appeal from the Board's decision on April 20, 1988.

The Appellants aver that the provisions of these acts apply to this case since the effective date of these bills occurred during the time in which the Appeal was pending, are the



law of the jurisdiction and are to be applied as the law of the case by the reviewing body, whether it be the Zoning Commissioner or the Board of Appeals, to the application of the Petitioner to utilize its property with an expansion whether as a housing or nursing care facility for the elderly. That the Board did not consider either of those bills is clear from the testimony taken at the hearing at T91 through T94.

It is clearly new legislation, however, it was not considered and could not have been considered by the Board of Appeals in rendering its decision and as it indisputably applies to Petitioner's proposed use for the continued and proposed use of the property, we would argue that the Court should take judicial notice of the effective date and applicability of those two Bills as codified in the Zoning Regulations of Baltimore County Code and remand the case for consideration under those two Bills, including whether or not the County departments by comment agree or disagree that the Petitioner's proposed use is in compliance with those regulations.

**ISSUE TWO**

**That the County Board of Appeals acted in an arbitrary and capricious manner when it: (a) determined that RTA did not apply to the residential transition area, requirements did not apply to the subject property; or (b) that the subject property was exempt from residential transition area requirements because it was a church use which was petitioned for by the Petitioner and**

a use exempt from residential transition area requirements.

ARGUMENT

The Baltimore County Zoning Regulations, by Bill No. 100 passed in 1970 and Bill No. 124 passed in 1981, established restrictions on dwelling types or other use restrictions applicable to DR zones. The property in question in this case is DR 5.5 and lies within 300 feet of the Appellants' individual properties as well as the adjacent residential uses on Chesapeake Avenue, Florida Road and Georgia Court. In pertinent part, the RTA requirements would restrict the maximum height of any building to 35 feet or the maximum width or length of any elevation of detached building or group of attached buildings to be 130 feet or require setbacks from the property lines of 75 feet from the front or side and 150 feet from the rear of any proposed building.

If the RTA applies to this property, its addition to existing structure in excess of 400 feet would be prohibited by the residential transition area requirements, not to mention the requirements for front, side and rear yard setbacks under the proposed construction by the Petitioner indicated on Plan A and Plan B of the Petitioner.

RTA regulations are found in Baltimore County Zoning Regulations 1.B.01.1.b. generally and the exceptions to RTA are found in 1.B.01.1.c.

The Petitioners claimed to be exempt under 1.B.01.1.c.4., which states:



"An addition to an existing church or other building for religious worship, including parking areas an driveways, provided all other applicable zoning regulations, including setback, parking, and screening requirements, are maintained. [Bill No. 109, 1982.]"

Susan Duel, called as Petitioner's witness, testified that she was Assistant Administrator at the Presbyterian Home (T25) for 11 years; that the home only services Presbyterian members in Maryland for five years previous to admission (T26); that there were numerous activities and that the parties utilized a dining room where they were fed (T29); and that there were 22 infirmary beds (T32); and that it was a closed housing situation; and that the home had a Certificate of Need from the State of Maryland (T33) for the nursing homes; that three meals a day were provided (T34); and that facilities were available and offered for laundry to be done for them (T34); and that the home employed between 44 and 45 workers (T35); that she considered the building to be a religious building because it had chapel services (T44); and that all registrants had to be Presbyterian in order to qualify for admission (T44). Further, that the home provided both domiciliary services and convalescent care (T45).

Mr. Frederick William Baukhages, an associate of Baukhages and Associates, an architect, next testified as Petitioner's witness. Mr. Baukhages testified (T52) that the existing building is over 400 feet long and this would add an additional 40 or 33 feet to approximate length of 442 feet, not including the width of the property (T52). Mr. Baukhages further



testified that the proposed use was an institutional use (T62).

The Petitioners also produced Ralph Enzor, a member of the Board of Directors and Chairman of the Building and Grounds Committee, who had been active in the home for the time going back to the original special exception hearing in 1955 for the 1957 addition and also the 1957 additions (T75); that he attended the Presbyterian Church located across the street (T81) which had six employees (T82).

The Protestants produced Hillary Richmon, a planner with the Office of Planning and Zoning, who held the opinion that the Presbyterian Home would be an institutional type facility (T87), which would be interpreted to be a nursing home (T88). Nursing Homes, in her opinion, had to conform to RTA (T99) and that nursing homes allow domiciliary or comprehensive care often times, and to her the key thing was that they provide congregate meals and not separate housekeeping units (T99).

The Baltimore County Zoning Regulations, as part of the Baltimore County Code, in Section 1.B.01.B.7. provides that, "The provisions of Section 307 of these regulations are not applicable to the requirements of this sub-subparagraph."

The Board may not grant an exception or variance where a statute or ordinance would be violated (Backus vs County Board of Appeals for Montgomery County, 224 Md 28, 166 A 2d 241 [1961]; Heath vs Mayor and City Council of Baltimore, 187 Md 296, 49 A 2d 799 [1946]) and a prior exception to or variance from a zoning



ordinance granted by a municipality does not control the granting of a subsequent exception or variance. Marino vs City of Baltimore, 215 Md 206, 137 A 2d 198 (1958).

While it is clear that the original construction of the Presbyterian Home and the 1957 additions preceded the imposition of any RTA controls on the County and, in fact the 1977 addition preceded the most recent RTA conditions applied on Baltimore County, the RTA exists to create harmonious development of nonresidential uses in residential areas so that there is an appropriate buffer between residential and nonresidential uses in a DR zone as well as to prevent the nonresidential uses from being so large in scale as to overwhelm the nearby residential units. Thus the restrictions in the RTA provisions setting a maximum height of a building of 35 feet and a maximum width of length of any detached building to be a maximum of 130 feet in an RTA zone in addition to the 75 foot front and side yard setbacks from property lines and the 150 foot rear yard setback, are to allow reasonable development of residential property for nonresidential uses which the County Council specifically provided could not be the subject of a variance under Section 307.

With regard to the Presbyterian Home, while it does have a chapel within the building, its principal use fairly stated would not be as a church but rather reflect what the actual use of the building is, a domiciliary care and convalescent care and life support facility for elderly citizens. That the owners of the



property further restrict applicants to those members of the Presbyterian Church who are of at least 65 years of age and in excellent health, have little to do with the use of the land per se.

The exceptions provided for to the RTA units in pertinent parts, Sections 5 and 6, and clearly are inapplicable to this addition of which no part will be devoted to religious worship but rather will provide 27 additional living units within the facility. Section 4, which describes additions to existing church or other building for religious worship, expressly states that the addition shall be for religious worship and clearly the institutional use here found by the Petitioner's Administrator, architect and Ms. Richmon for the Protestants provides the certainty that the home and its addition are housing facilities, including convalescent care for those who are ill or elderly citizens of Baltimore County of a particular religious denomination. The additions are to a home which provides three meals a day, laundry service, maid service, and living facilities for the elderly resicents, four functions not normally associated with religious worship, per se.

Therefore, a clear reading of the exceptions to RTA will reveal that this property does not fall within one of these stated exceptions and cannot be, in the words of Petitioner's counsel, a non-conforming RTA (T3) since the portion of the property which would antedate the RTA requirements was not the subject of this



Petition except that the length of the overall building to which the addition was proposed to be made would properly be considered to see if it would conform to the RTA requirements for overall length and width of the building.

Once that it done it is clear that any addition to this facility must run afoul of the requirements of RTA for the existing building as well over 400 feet long, not including the width which varies along the length of the structure, depending on which portion of the site plan is reviewed. It is also clear that, without an ability to grant a variance, which was not requested in the Petition, from the requirements of RTA that, once RTA applies to the property, the addition itself, regardless of whether it is under Plan A or Plan B, will yield an overall length and width of the building in excess of those permitted by RTA in the first instance.

Therefore, the Board in approving the plan erred in exempting it from RTA or, in the alternative finding that it met with the requirements of RTA, for the reasons stated.

ISSUE THREE

That the Board was arbitrary and capricious in finding that the provisions of Section 502.1. of the Baltimore County Zoning Regulations relating to special exceptions were met by the Petitioner on the evidence produced.

ARGUMENT

That the facts brought out during the hearing developed



that the present proposed use of the property was by a building which would exceed the requirements of RTA and create a building which was more than 442 feet long and at various widths situated on less than one-half of the acreage of the parcel. The pertinent provisions of Section 502.1. which were not met by the Petitioner had to do with the concentration of population, interfere with adequate light and air, be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the Zoning Regulations.

Faced with the spectre of a multi-story addition immediately across the street from their residential dwellings, the Appellants protested the proposal of the Presbyterian home because it violated, in their opinion, the regulations concerning residential transition areas and represented an overcrowding of the land as well as being inconsistent with the Zoning Regulations generally and the spirit and intent of the Regulations, which call for the harmonious development of nonresidential uses on residential property in a residential zone.

Any applicant must show that the grant of an exception must be in harmony with the general plan, would not have an adverse effect on health or safety and would not be detrimental to adjacent properties in the general neighborhood. Richmond Corp. vs Board of County Commissioners of Prince George's County, 254 Md 244, 255 A 2d 398 (1969). Turner vs Hammond, 270 Md 41, 310 A 2d 543 (1973).



SUMMARY

The Protestants urge this Honorable Court, after consideration of Memoranda and argument of counsel, to reverse the decision of the Board of Appeals of Baltimore County and remand the case for further proceedings consistent with the Court's opinion.

Respectfully Submitted,

Michael P. Tanczyn

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

I HEREBY CERTIFY that, on this 30th day of June, 1988, a copy of the foregoing Appellants' Memorandum of Law was mailed, postage prepaid, to John B. Howard, Esq. and H. Barritt Peterson, Jr., Esq. at Cook, Howard, Downes & Tracy, 210 Allegheny Avenue, Towson, Maryland, 21204, attorneys for the Appellee; and to Phyllis Cole Friedman, Esq., People's Counsel for Baltimore County, Old Courthouse, Room 223, Towson, Maryland, 21204; and to Baltimore County Board of Appeals, Old Courthouse, Room 200, Towson, Maryland, 21204.

Michael P. Tanczyn

MICHAEL P. TANCZYN, ESQ.

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

[illegible]

JUNE 3, 1988

MICHAEL RUBY, P.P.
CARL WANNEN, JR., ESQ.
H. BARRITT PETERSON, JR., ESQ.
County Board of Appeals

RE: NON-JURY - 88CG-1827 - MICHAEL RUBY, ET AL. VS. PRESBYTERIAN HOME OF MD, INC., ET AL.

HEARING DATE: MONDAY, JULY 25, 1988 @ 10:30 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.

Rec'd. 6-6-88 [illegible]

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| | | |
|---|---|---|
| MICHAEL RUBY<br>CARL WANNEN, JR., ESQ.<br>Appellants | : | IN THE CIRCUIT COURT |
| | : | FOR BALTIMORE COUNTY |
| v. | : | AT LAW |
| PRESBYTERIAN HOME OF MD., INC. | : | Docket No. 55 |
| | : | Folio No. 227 |
| Case File No. 88-4-SPH | : | File No. 88-CG-1827 |

: : : : : :

RESPONSE TO MOTION FOR ATTORNEY FEES AND COSTS

Appellants Michael Ruby, et. al., in proper person, respond to Appellee Presbyterian Home of Maryland, Inc.'s request for Order awarding costs and attorney fees, and say:

1. Appellants agree with the facts contained in paragraphs one through 3;

2. Appellants disagree with the allagation in paragraph 4, contending instead that Appellants' actions are designed to prevent the Appellee's construction forever;

3. Appellants disagree with the statements made in paragraph 5, contending instead that the postponement was requested and granted because it was necessary for the preparation of Appellants' case;

4. Appellants disagree with the statements made in paragraph 6 which slanderously accuse the Appellants of acting in bad faith, contending instead that the Appellants [illegible] their [illegible] to appeal an administrative decision [illegible]

court;

5. Appellants again disagree with the charaterization that the appeal is unnecessary and has been taken in bad faith, contenting instead that the County Board of Appeals' decision is arbitrary and capricious.

WHEREFORE, Appellants Michael Ruby, et. al., respectfully submit that the Appellee's Motion for Attorney Fees and Costs be Dismissed because:

The motion has been filed in an untimely manner since no determination has been made that the appeal is unnecessary;

No one who avails himself of the right to seek redress in a Maryland court of law should be threatened or punished merely for exercising that right.

Michael Ruby
7 Florida Road, Towson MD 21204

I HEARBY CERTIFY that on this 31 day of May, 1988, a copy of the foregoing Notice of Appeal was served on the Administrative Secretary, County Board of Appeals, Room 200, Courthouse, Towson, MD 21204; and a copy mailed to H. Barritt Peterson, Jr., Esq. Cook, Howard, Downes & Tracy, 210 Allegheny Ave., Towson, MD 21204.

Michael Ruby

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| | | |
|---|---|---|
| [illegible]<br>Appellants | : | IN THE CIRCUIT COURT |
| | : | FOR BALTIMORE COUNTY |
| v. | : | AT LAW |
| PRESBYTERIAN HOME OF MD., INC. | : | Docket No. 55 |
| | : | Folio No. 227 |
| Case File No. 88-4-SPH | : | File No. 88-CG-1827 |

: : : : : :

ORDER

Appellants Michael Ruby, et. al., in proper person, having satisfactorily answered Appellee's Presbyterian Home of Maryland, Inc.'s request for Order awarding costs and attorney fees, it is this_______day of ____________, 1988

ORDERED that the Appellee's Motion shall be Dismissed for the reasons stated in the Appellants' Response.

Judge

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| | | |
|---|---|---|
| IN THE MATTER OF<br>THE APPLICATION OF<br>PRESBYTERIAN HOME OF MD., INC.<br>FOR SPECIAL HEARING ON PROPERTY<br>LOCATED ON THE NORTHWEST CORNER<br>OF GEORGIA CT. AND FLORIDA AVE.<br>(400 GEORGIA COURT)<br>9th ELECTION DISTRICT<br>4th COUNCILMANIC DISTRICT | : | IN THE<br>CIRCUIT COURT<br>FOR<br>BALTIMORE COUNTY<br>AT LAW |
| MICHAEL RUBY, ET AL, PLAINTIFFS | : | CG Doc. No. 55 |
| ZONING FILE NO. 88-4-SPH | : | Folio No. 227 |
| | : | File No. 88-CG-1827 |

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

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Lawrence E. Schmidt, Henry H. Lewis 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. 88-4-SPH

| | |
|---|---|
| May 12, 1987 | Petition of Presbyterian Home of Md., Inc., for special hearing to approve either (1) the expansion of the existing convalescent home as shown on the plat to accompany this petition as an exception to residential transition pursuant to Sec. 1B01.1C (4); or (2) the expansion of not more than 25% of the ground flr. area of existing convalescent home pursuant to Sec. 104 in that said convalescent home is nonconforming to the Residential Transition Area requirements; and, further, that said expansion as permitted under (1) or (2) above be approved by amending or expanding the special exception granted in Zoning Commissioner of Balto. County Case No. 3624-X. |
| May 12 | Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for July 6,1987, at 11:00 a.m. |



| | |
|---|---|
| June 18, 1987 | Certificate of Publication in newspaper - filed |
| June 19 | Certificate of Posting of property - filed |
| June 8 | Comments of Baltimore County zoning Plans Advisory Committee - filed |
| June 8 | Comments of Baltimore County Director of Planning - filed |
| July 6 | At 11:00 a.m. hearing held on petition by Zoning Commissioner |
| July 22 | Order of Zoning Commissioner that the Petition for Special Hearing is GRANTED, subj. to restrictions. |
| July 30 | Amended Order of the Zoning Commissioner. |
| August 7 | Notice of Appeal to the C.B. of A. from Phyllis C. Friedman, People's Counsel for Balto. County. |
| August 20 | Notice of Appeal to the C.B. of A. from Michael Ruby, et al. |
| September 21 | Notice of Dismissal of Appeal by Phyllis C. Friedman, People's Counsel for Baltimore County. |
| February 18, 1988 | Hearing on appeal before County Board of Appeals |
| March 22 | Order of the Board ordering that the amendment to the site plan in Case No. 3624-X to expand the existing convalescent home be approved and as such, the Petition for Special Hearing is GRANTED, subj. to restrictions. |
| April 19 | Order for Appeal filed in the Circuit Ct. for Baltimore County by Michael Ruby, et al. |
| April 20 | Certificate of Notice sent to interested parties |
| April 28 | Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County. |
| May 19 | Transcript of testimony filed |
| | Petitioner's Exhibit No. 1 - Plan "A", Preferred Plan |
| | " " " 2 - Plan "B" |
| | " " " 3 - F.W. Baukhages Credentials |
| | Appellant's Exhibit No. 1 - Proposed Amendmts. to Balto. Co. Zon. Regs. concerning Housing for the Elderly and Life Care Facilities |
| | " " " 2 - Copy of Bill 19-88, 2/16/88 |
| | " " " 3 - Individual Survey of Owners |
| May 19, 1988 | Record of proceedings filed in the Circuit Ct. 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. However, all tangible material or evidence of an unwieldy or bulky nature will be retained in the Board of Appeals' office, and upon request of the parties or the Court will be transmitted to the Court by whomever institutes the request.

Respectfully submitted,

June Holmen
June Holmen
County Board of Appeals of Baltimore County

cc: John B. Howard, Esq.
Michael Ruby
Arnold Jablon, Esq.

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| | | |
|---|---|---|
| MICHAEL RUBY<br>CARL WANNEN, JR., ESQ.<br>Appellants | : | IN THE CIRCUIT COURT |
| | : | FOR BALTIMORE COUNTY |
| v. | : | AT LAW |
| PRESBYTERIAN HOME OF MD., INC.<br>Appellee | : | Docket No. [illegible] |
| | : | Folio No. [illegible] |
| Zoning Case File No. 88-4-SPH | : | Case No. 88CG [illegible] |

: : : : : :

PETITION ON APPEAL

Now come co-appellants Michael Ruby and Carl Wannen, Jr. in proper person, having heretofore file a Notice of Appeal from the Opinion and Order of the County Board of Appeals dated 22 March, 1988 in the above captioned matter, in compliance with Maryland Rule B-2(a), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. The Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the amendment to the special exception as requested falls within the Residential Transition Area exception for existing church or other building for religious worship as set forth in Section 1B01.1.B.1.c.4 of the Baltimore County Zoning Regulations, and:

2. The Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the amendment to the special exception as requested met the conditions of Section 502.1 or that its grant is in the public interest and consistent with the intent of the Baltimore County Zoning Regulations, and therefore their Order passed herein is illegal, arbitrary and capricious.

WHEREFORE, co-appellants pray that the Order of the County Board of Appeals dated 22 March 1988 be reversed and the amendment to the special exception be denied.

Michael Ruby
7 Florida Road, Towson MD 21204

Carl Wannen, Jr.
[illegible] Florida Road, Towson MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
1988 APR 28 A 11:20

| | | |
|---|---|---|
| MICHAEL RUBY<br>CARL WANNEN, JR., ESQ.<br>Appellants | : | IN THE CIRCUIT COURT<br>FOR BALTIMORE COUNTY |
| v. | : | AT LAW |
| PRESBYTERIAN HOME OF MD., INC.<br>Appellee | : | Docket No. 53 |
| | : | Folio No. 250 |
| Zoning Case File No. 88-4-SPH | : | Case No. 88CG 1050 |

: : : : : :

PETITION ON APPEAL

Now come co-appellants Michael Ruby and Carl Wannen, in proper person, having heretofore file a Notice of Appeal from the Opinion and Order of the County Board of Appeals dated 22 March, 1988 in the above captioned matter, in compliance with Maryland Rule B-2(a), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. The Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the amendment to the special exception as requested falls within the Residential Transition Area exception for existing church or other building for religious worship as set forth in Section 1B01.1.B.1.c.4 of the Baltimore County Zoning Regulations, and:

2. The Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the amendment to the special exception as requested met the conditions of Section 502.1 or that its grant is in the public interest and consistent with the intent of the Baltimore County Zoning Regulations, and therefore their Order passed herein is illegal, arbitrary and capricious.

WHEREFORE, co-appellants pray that the Order of the County Board of Appeals dated 22 March 1988 be reversed and the amendment to the special exception be denied.

Michael Ruby
7 Florida Road, Towson MD 21204

Carl Wannen, Jr.
9 Florida Road, Towson MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
1988 APR 28 A 11: 20

I HEARBY CERTIFY that on this 20 day of April, 1988, a copy of the foregoing Petition on Appeal was served on the Administrative Secretary, County Board of Appeals, Room 200, Courthouse, Towson, MD 21204: and a copy mailed to John B. Howard, Esq. Cook, Howard, Downes & Tracy, 210 Allegheny Ave., Towson, MD 21204.

Michael Ruby

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| | | |
|---|---|---|
| IN THE MATTER OF THE APPLICATION OF PRESBYTERIAN HOME OF MD., INC. FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF GEORGIA COURT AND FLORIDA AVENUE (400 GEORGIA COURT) 9th ELECTION DISTRICT 4th COUNCILMANIC DISTRICT | : | IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW |
| MICHAEL RUBY, ET AL, PLAINTIFFS | : | CG Doc. No. 55 |
| ZONING FILE NO. 88-4-SPH | : | Folio No. 227 |
| | : | File No. 88-CG-1827 |

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

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Lawrence E. Schmidt, Henry H. Lewis 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, John B. Howard, Esq., Cook, Howard, Downes & Tracy, 210 Allegheny Ave., Towson, Md. 21204, Counsel for Petitioner; Michael Ruby, 7 Florida Ave., Towson, Md. 21204, Plaintiff; Carl Wannen, 9 Florida Ave., Towson, Md. 21204; and Arnold Jablon, Esq., Court House, Towson, Md. 21204, County Attorney for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

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

---

Presbyterian Home of Md., Inc.
Case No. 88-4-SPH

2.

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to John B. Howard, Esq., Cook, Howard, Downes & Tracy, 210 Allegheny Ave., Towson, Md. 21204, Counsel for Petitioner; Michael Ruby, 7 Florida Ave., Towson, Md. 21204, Plaintiff; Carl Wannen, 9 Florida Ave., Towson, Md. 21204; and Arnold Jablon, Esq., Court House, Towson, Md. 21204, County Attorney for Baltimore County, on this 20th day of April, 1988.

June Holmes
June Holmes
County Board of Appeals of Baltimore County

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

April 20, 1988

Mr. Michael Ruby
7 Florida Ave.
Towson, Md. 21204

Dear Mr. Ruby:

Re: Case No. 88-4-SPH
Presbyterian Home of Md., Inc.

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 Holmes
June Holmes, Secretary

Enclosure
cc: Carl Wannen
File

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

April 20, 1988

John B. Howard, Esq.
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
Towson, Md. 21204

Dear Mr. Howard:

Re: Case No. 88-4-SPH
Presbyterian Home of Md., Inc.

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 Holmes
June Holmes, Secretary

Encl.
cc: Arnold Jablon, Esq.
P. David Fields
James Hoswell
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Docket Clerk

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| | | |
|---|---|---|
| MICHAEL RUBY<br>CARL WANNEN, JR., ESQ.<br>Appellants | : | IN THE CIRCUIT COURT |
| | : | FOR BALTIMORE COUNTY |
| v. | : | AT LAW |
| PRESBYTERIAN HOME OF MD., INC.<br>Appellee | : | Docket No. 55 |
| Zoning Case File No. 88-4-SPH | : | Folio No. 227 |
| | : | File No. 88-CG-1827 |

: : : : : :

NOTICE OF APPEAL

Please note an appeal from the Opinion and Order of the County Board of Appeals dated 22 March, 1988 in the above captioned matter.

A Petition On Appeal will be filed in this matter within 10 days.

Michael Ruby
7 Florida Road, Towson MD 21204

Carl Wannen, Jr.
Carl Wannen, Jr.
9 Florida Road, Towson MD 21204

I HEARBY CERTIFY that on this 19 day of April, 1988, a copy of the foregoing Notice of Appeal was served on the Administrative Secretary, County Board of Appeals, Room 200, Courthouse, Towson, MD 21204; and a copy mailed to John B. Howard, Esq. Cook, Howard, Downes & Tracy, 210 Allegheny Ave., Towson, MD 21204.

Michael Ruby

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COUNTY BOARD OF APPEALS
1988 APR 19 P 2:31

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11/87

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

HEARING ROOM #218

January 14, 1988

NOTICE OF POSTPONEMENT AND REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). 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. 88-4-SPH

PRESBYTERIAN HOME OF MD., INC.

NW/cor. Georgia Ct. and Florida Avenue
(400 Georgia Court)

9th Election District
4th Councilmanic District

SPH -to amend site plan in Case 3624-X to permit expansion of existing convalescent home

7/22/87 -Z.C. GRANTED Petition for Special Hearing w/restrictions

After consideration of additional correspondence received from the Appellant in this case, the Board will reverse its earlier decision regarding this postponement request and will GRANT THE POSTPONEMENT from the scheduled hearing date of January 26, 1988, and will reschedule this hearing to February 18, 1988.

REASSIGNED FOR: THURSDAY, FEBRUARY 18, 1988 at 12:00 noon

| | | |
|---|---|---|
| cc: | John B. Howard, Esquire | Counsel for Petitioner |
| | Michael Ruby | Appellant/Protestant |
| | Carl Wannen, Esquire | " " |
| | Presbyterian Home of Md., Inc. | Appellee/Petitioner |
| | Phyllis C. Friedman | People's Counsel for Baltimore County |
| | P. David Fields<br>James G. Hoswell<br>J. Robert Haines<br>Ann M. Nastarowicz<br>James E. Dyer<br>Robyn Clark<br>Arnold Jablon, County Attorney | |

Kathleen C. Weidenhammer
Administrative Secretary

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10/16/87 - Following notified of hearing set for Tues. Jan. 26, '88, at 10 a.m.:

John B. Howard, Esq.
Michael Ruby
Carl Wannen
Presbyterian Home of Md., Inc.
Phyllis Friedman
Fields ~~Norman Gerber~~, J. Hoswell
R. Haines, A. Nastarowicz, J. Dyer, ~~B. duBois~~ R. Clark

1/07/88 -Postponement requested 1/06/88 by co-Appellant- Carl Wannen; request denied 1/07/88 by WTH.

1/14/88 -After further consideration of additional correspondence from appellant -POSTPONEMENT granted; rescheduled to February 18, 1988 at 12 noon; above notified w/changes as indicated.

1/13/88

4:05 p.m.

Mr. Hackett:

Rob Hoffman telephoned re Presbyterian Home (1/26/88).

Please call John Howard on Thursday, 1/14/88.

Mr. Howard had received your earlier denial of the postponement. He did not hold anything open and has scheduled something for 2/18/88.

However, if you feel you really must grant the postponement, he will rearrange his schedule to accommodate the Board.

He would like a chance to talk with you, however, prior to your actually postponing the 1/26/88 hearing.

kathi

John Howard - 823-4111

PP granted 1-27-88
Set for 3/4/88 afternoon

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RECEIVED
COUNTY BOARD OF APPEALS
1988 JAN 11 A 8:57

11 January 1988
7 Florida Rd.
Towson, MD 21204

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

RE: Presbyterian Home of Md., Inc.
Case No. 88-4-SPH

Dear Mr. Hackett,

This is to renew the request for a postponement of the Jan. 26 hearing of Presbyterian Home of Md., Inc., Case No. 88-4-SPH.

Mr. Carl Wannen is a co-appellant in this matter not only because his house could be directly impacted but also because he is an attorney, licensed to practice law in Maryland and in good standing with the Clients Security Trust Fund. His legal expertise and insights are invaluable to presenting the neighbors' case.

Mr. Wannen's inability to attend the above mentioned hearing severely hampers appellants' efforts. In essence, the Board would be removing our counsel, forcing us to either obtain another or go without. Neither are viable alternatives and each could be sufficient reason for a postponement of the hearing.

Please reconsider the decision of your Jan. 7 letter denying Mr. Wannen's request for a postponement. In due consideration of the serious matter involved in Case 88-4-SPH, and in light of the needs of ALL parties, a postponement is warranted.

Thank you for your prompt attention to this matter.

Sincerely yours,

Michael Ruby

cc: Carl Wannen, Esq.

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RE: PETITION FOR SPECIAL HEARING
NW/Corner Georgia Ct. & Florida Ave. (400 Georgia Ct.), 9th District
PRESBYTERIAN HOME OF MARYLAND, INC., Petitioner

: BEFORE THE COUNTY BOARD OF APPEALS
: OF BALTIMORE COUNTY
: Case No. 88-4-SPH

: : : : : : :

NOTICE OF DISMISSAL

Please dismiss the appeal filed by the People's Counsel for Baltimore County in the above-entitled case, because it is no longer in the public interest to pursue this appeal.

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 21st day of September, 1987, a copy of the foregoing Notice of Dismissal was mailed to John B. Howard, Esquire, 210 Allegheny Ave., Towson, MD 21204; Mr. and Mrs. Michael Ruby, 7 Florida Rd., Towson, MD 21204; and Mr. and Mrs. Carl Wannen, 9 Florida Rd., Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

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COUNTY BOARD OF APPEALS
1987 SEP 21 A 11:35

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RECEIVED
AUG 20 1987
ZONING OFFICE

20 August 1987
7 Florida Rd.
Towson, MD 21204

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines,

Please enter an appeal from the decision of the zoning commissioner dated July 22, 1986 regarding Case No. 88-4-SPH, Presbyterian Home of Maryland, Inc., Petitioner.

The names and addresses of the appellants are as follows:
Mr. and Mrs. Michael Ruby
7 Florida Rd.
Towson, MD 21204

Mr. and Mrs. Carl Wannen
9 Florida Rd.
Towson, MD 21204

Enclosed please find a check for $105 made payable to Baltimore County, Maryland, which includes the $75 appeal fee and charges for two signs at $15 each. Thank you.

Sincerely,

Michael Ruby

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COUNTY BOARD OF APPEALS
1987 AUG 25 A 11:55

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RE: PETITION FOR SPECIAL HEARING
NW Corner Georgia Ct. and Florida Ave. (400 Georgia Ct.)
9th Election District
PRESBYTERIAN HOME OF MARYLAND, INC., Petitioner

: BEFORE THE ZONING COMMISSIONER
: OF BALTIMORE COUNTY
: Case No. 88-4-SPH

RECEIVED
AUG 7 1987
ZONING OFFICE

: : : : : : :

NOTICE OF APPEAL

Please note an appeal from the Zoning Commissioner's decision dated July 22, 1987, and his Amended Order dated July 30, 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 7th day of August, 1987, a copy of the foregoing Notice of Appeal was mailed to John B. Howard, Esquire, 210 Allegheny Ave., Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

---

# PETITION FOR SPECIAL HEARING

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 either (1) the expansion of the existing convalescent home as shown on the plat to accompany this petition as an exception to residential transition pursuant to Section 1B01.1C (4); or (2) the expansion

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): |
|---|---|
| (Type or Print Name) | Presbyterian Home of Maryland, Inc. (Type or Print Name) |
| Signature | By: Louise K. Cockey, Pres. Signature Louise K. Cockey, President |
| Address | (Type or Print Name) |
| City and State | Signature |
| Attorney for Petitioner: | |
| John B. Howard, Esquire (Type or Print Name) | 400 Georgia Avenue 823-4622 Address Phone No. |
| Signature | Towson, Maryland 21204 City and State |
| 210 Allegheny Avenue Address | Name, address and phone number of legal owner, contract purchaser or representative to be contacted |
| Towson, Maryland 21204 City and State | John B. Howard, Esquire Name |
| Attorney's Telephone No.: 823-4111 | 210 Allegheny Avenue Towson, Maryland 21204 823-4111 Address Phone No. |

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of May, 1987, 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 6th day of July, 1987, at 11:00 o'clock A.M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1 (over)

---

of not more than 25% of the ground floor area of the existing convalescent home pursuant to Section 104 in that said convalescent home is non-conforming to the Residential Transition Area requirements; and, further, that said expansion as permitted under (1) or (2) above be approved by amending or expanding the special exception granted in Zoning Commissioner of Baltimore County Case No. 3624-X.

---

375

ALTERNATE

# PETITION FOR SPECIAL HEARING

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 the expansion of the existing convalescent home by amending or expanding the special exception granted in Zoning Commissioner of Baltimore County Case No. 3624-X.

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

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and 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): |
|---|---|
| (Type or Print Name) | Presbyterian Home of Maryland, Inc. (Type or Print Name) |
| Signature | By: Louise K. Cockey, Pres. Signature Louise K. Cockey, President |
| Address | (Type or Print Name) |
| City and State | Signature |
| Attorney for Petitioner: | |
| John B. Howard, Esquire (Type or Print Name) | 400 Georgia Avenue 823-4622 Address Phone No. |
| Signature | Towson, Maryland 21204 City and State |
| 210 Allegheny Avenue Address | Name, address and phone number of legal owner, contract purchaser or representative to be contacted |
| Towson, Maryland 21204 City and State | John B. Howard, Esquire Name |
| Attorney's Telephone No.: 823-4111 | 210 Allegheny Avenue Towson, Maryland 21204 823-4111 Address Phone No. |

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of May, 1987, 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 6th day of July, 1987, at 11:00 o'clock A.M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1 (over)

COLUMBIA OFFICE
WALTER PARK
Registered Surveyor
PHONE 730-8080

TOWSON OFFICE
HUDKINS ASSOCIATES, INC.
Engineers, Surveyors and Landscape Architects
200 EAST JOPPA ROAD
ROOM 101, SHELL BUILDING
TOWSON, MARYLAND 21204
PHONE: 828-9060

February 10, 1987

DESCRIPTION FOR SPECIAL EXCEPTION:TOWSON PRESBYTERIAN HOME:

Beginning for the same at a point formed by the intersection of the west side of Florida Road with the north side of Georgia Court, thence binding along the north side of said Georgia Court North 78 degrees 09 minutes 00 seconds West 605.88 feet to the east side of Dixie Drive, thence binding thereon North 23 degrees 23 minutes 41 seconds East 356.43 feet thence South 76 degrees 23 minutes 00 seconds East 544.00 feet to a point on the west side of said Florida Road, thence binding thereon South 13 degrees 26 minutes 00 seconds West 332.57 feet to the place of beginning.

Containing 4.505 acres of land more or less and being located in the Ninth Election District of Baltimore County, Maryland.

STATE OF MARYLAND
MALCOLM E. HUDKINS
REGISTERED
LAND SURVEYOR

Malcolm E. Hudkins
Registered Surveyor #5095

IN RE: PETITION SPECIAL HEARING
NW/corner of Georgia Court and Florida Avenue (400 Georgia Court) - 9th Election District

Presbyterian Home of Maryland, Inc.,

Petitioner

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

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 88-4-SPH

AMENDED ORDER

It is ORDERED by the Zoning Commissioner of Baltimore County, this 30th day of July, 1987, that Condition Precedent 2 shall be deleted and in its place the following condition precedent shall be adopted and made a part of the Findings of Fact and Conclusions of Law rendered on July 22, 1987:

2. No further expansion of the convalescent home may be permitted by further amendments to the site plan filed in Case No. 3624-X, and any and all future uses of the subject site may only occur in compliance with the zoning regulations then in effect.

Zoning Commissioner of
Baltimore County

AJ/srl

cc: John B. Howard, Esquire
Mr. Michael Ruby
Mr. Carl Wannen
People's Counsel

ORDER RECEIVED FOR FILING
Date July 30, 1987
By

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

JAMES D. C. DOWNES
(1906-1979)

TELEPHONE
(301) 823-4111

TELECOPIER
(301) 821-0147

July 29, 1987

Arnold E. Jablon
Zoning Commissioner for
Baltimore County
1st Floor, County Office Building
Towson, Maryland 21204

Re: Case No.: 88-4-SPH
Presbyterian Home of Maryland, Inc.

Dear Mr. Jablon:

I am writing to respectfully request reconsideration of the language contained in Paragraph 2 of the restrictions on page 3 of the Order (the "Order") that you passed in the above-captioned matter on July 22, 1987. The pertinent language is as follows:

"2. No further expansion shall be permitted on this site."

The evidence adduced at the time of hearing, and correctly recited in your Findings of Fact indicated that the subject Convalescent Home had been located at its Florida Road location since 1930 and that additions thereto had occurred in 1932, 1940, 1957 and 1977. Thus, the addition approved by the subject Order would be the fifth to occur. It is entirely appropriate, therefore, to restrict against any further expansion of the Presbyterian Home in its present configuration and to preclude any further amendments to the special exceptions. Indeed, the Presbyterian Home has no plans whatsoever for future expansion and certainly does not contemplate any needs beyond those which will be addressed by the proposed addition.

Very serious concern has been expressed, however, that, although the intent to preclude any further expansion of the



special exception is clearly stated and appropriate, the actual wording may unwittingly result in a cloud on the Presbyterian Home's title and a substantial impairment of the value of this most valuable asset of the Presbyterian Church. Conceivably, there might be an interpretation that would preclude any reuse of the subject site for other purposes and, therefore, a sale by the Church at a future date; at some point in the future the center of Towson may shift, thus necessitating redevelopment of the Home as a high-rise facility (not unlike Edenwald, a high-rise life care facility located on property formerly owned by Goucher College). Other examples of problems that could occur may relate to possible modernization or redesign of the facility, refinancing, minor additions to accommodate new medical technology for the elderly, etc.

It is most respectfully requested therefore, that the restriction be modified in a manner that would address the concerns expressed by the neighboring property owners and in keeping with your intent to preclude any further expansion of the existing facility.

One suggestion would be the following:

"2. No further expansion of the Convalescent Home may be permitted by further amendments to the site plan filed in Case No. 3624-X; and any and all future uses of the subject site may only occur in compliance with the zoning regulations then in effect."

Thank you very much for your careful consideration.

Kind regards.

Sincerely,

John B. Howard

JBH/ddr

cc: Mr. Michael Ruby
Mr. Carl Wannen
People's Counsel

IN RE: PETITION SPECIAL HEARING
NW/corner of Georgia Court and Florida Avenue (400 Georgia Court) - 9th Election District

Presbyterian Home of Maryland, Inc.,

Petitioner

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

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 88-4-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests an amendment to the site plan filed in Case No. 3624-X in order to expand the existing convalescent home, as more particularly described on Petitioner's Exhibit 2.

The Petitioner, by Ralph Ensor, Chairman of the Building Committee, appeared and was represented by Counsel. Mr. and Mrs. Michael Ruby and Carl Wannen, nearby property owners, appeared in opposition to the location of the proposed addition and not to the expansion itself.

Testimony indicated that the subject property, presently zoned D.R.5.5 and located at the intersection of Florida Road, Dixie Court, and Georgia Court, has been improved with a convalescent home since 1930. Additions to the home occurred in 1932, 1940, 1957, and 1977. See Petitioner's Exhibit 3. The expansion in 1957 necessitated the request for and subsequent approval of a special exception (Case No. 3624-X).

The Petitioner now wishes to expand from 100 to 127 domiciliary beds. There is a waiting list of 93 individuals, and the need for the additional beds has become paramount. The Petitioner holds regular Sunday services in its chapel, which is affiliated with and recognized by the Presbyterian Church as a formal church entity.

The protestants support the proposed addition, but object to it being located at the east end of the addition constructed in 1977, i.e., 100 feet

ORDER RECEIVED FOR FILING
Date July 22, 1987
By

from the north property line, 75 feet from the east property line, and 138 feet from the south property line. They expressed concern that the open space and aesthetic comfort which presently exists as they view the site from their homes directly across Florida Road would be destroyed if the addition were constructed where proposed. They believe their concerns would be met if the wing were relocated 50 feet closer to the north property line.

The Petitioner's architect testified that an existing parking lot would have to be removed in order to move the building as suggested by the protestants, which would not be cost effective.

The Petitioner noted that although the residential transition area (R.T.A.) requirements dictate a rear yard setback of 150 feet in contrast to the proposed 100 feet, it believes that the site is an exception by way of Section 1B01.1.B.1.c.4, BCZR, as an addition to a building for religious worship, or that the site was developed prior to the adoption of the R.T.A. legislation and is therefore nonconforming.

Inasmuch as the convalescent home and parking areas have been in continuous use since prior to 1970, the first year the R.T.A. requirements were enacted, the use is nonconforming as to the R.T.A. requirements. The intent of the R.T.A. legislation was to protect uses existing as of right or by special exception in residential zones from proposed changes to the neighborhood, a protection from new and different uses which would cause an adverse impact on the existing uses. This is not the case here. The proposed addition, notwithstanding the above conclusion, would at any rate fall within the exception to the R.T.A. requirements, Section 1B01.1.B.1.c.4.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested amendment should be granted.



ORDER RECEIVED FOR FILING
Date July 22, 1987
By

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 22nd day of July, 1987, that the amendment to the site plan filed in Case No. 3624-X to expand the existing convalescent home be approved and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner's Exhibit 2 shall be adopted in its entirety and made a part of this Order.

2. No further expansion shall be permitted on this site.

Zoning Commissioner of
Baltimore County

AJ/srl

cc: John B. Howard, Esquire
Mr. Michael Ruby
Mr. Carl Wannen
People's Counsel

ORDER RECEIVED FOR FILING
Date July 22, 1987
By



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

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

June 30, 1987

John B. Howard, Esquire
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING
NW/cor. Georgia Ct. and Florida Ave. (400 Georgia Ct.)
9th Election District - 4th Councilmanic District
Presbyterian Home of Maryland, Inc. - Petitioner
Case No. 88-4-SPH

Dear Mr. Howard:

This is to advise you that $131.50 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.

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

No. 35956

DATE 7/6/87 ACCOUNT R-01-615-000

SIGNS & POSTS RETURNED.

AMOUNT $ 131.50

RECEIVED FROM: Cook, Howard, Downes & Tracy, 210 Allegheny Ave., P.O. Box 5517, Towson, Md. 21204

FOR: ADVERTISING & POSTING RE CASE #88-4-SPH

B 8059*****131.50*****

VALIDATION OR SIGNATURE OF CASHIER

RE: PETITION FOR SPECIAL HEARING
NW/Corner Georgia Ct. & Florida Ave. (400 Georgia Ct.), 9th District
PRESBYTERIAN HOME OF MARYLAND, INC., Petitioner

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY

Case No. 88-4-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
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 12th day of June, 1987, a copy of the foregoing Entry of Appearance was mailed to John B. Howard, Esquire, 210 Allegheny Ave., Towson, MD 21204, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

John B. Howard, Esquire
210 Allegheny Avenue
Towson, Maryland 21204

May 21, 1987

**NOTICE OF HEARING**

RE: PETITIONS FOR SPECIAL HEARING
NW/cor. Georgia Ct. and Florida Ave.
(400 Georgia Ct.)
9th Election District - 4th Councilmanic District
Presbyterian Home of Maryland, Inc.
- Petitioner
Case No. 88-4-SPH

**TIME:** 11:00 a.m.

**DATE:** Monday, July 6, 1987

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

Zoning Commissioner
of Baltimore County

AJ:med

c.

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

No. 32464

DATE 6/23/87 ACCOUNT 01-615
AMOUNT $ 200.00
RECEIVED FROM: Cook Hudson Downes & Tracy
FOR: Filing Fee for Sp. Hearing Item 375
B B157****20000:a 0248F
Presbyterian Home of Maryland, Inc.
VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 494-3351

S. ERIC DINENNA
ZONING COMMISSIONER

PETITIONER'S EXHIBIT 3

June 3, 1977

Mr. Ralph E. Essor
Chairman of the Building Committee
Presbyterian Home of Maryland, Inc.
Georgia Court and Dixie Drive
Towson, Maryland 21204

RE: Presbyterian Home of Maryland, Inc.
Georgia Court and Dixie Drive -
9th Election District

Dear Mr. Essor:

Reference is made to your correspondence dated May 25, 1977, in which you request permission to construct a two story addition to the existing Presbyterian Home. Your letter indicates that the existing home contains 38,487 square feet of floor area and that the proposed addition would contain 12,311 square feet.

Inasmuch as the original building was constructed as a result of the granting of a Special Exception, our policy would not normally permit the proposed expansion since it does represent expansion greater than 25 percent. However, in consideration of the use, the need for the use, the building area as related to the overall property ownership, and, most importantly, the fact that the use has existed for many years in close harmony with its residential surroundings, this office will waive our policy and approve the expansion without the necessity of an additional hearing.

If you have any additional questions or if we can be of any further assistance in this matter, please do not hesitate to contact this office.

Very truly yours,

S. ERIC DI NENNA
Zoning Commissioner

SED/JED/scw
cc: Mr. George J. Martinak, Deputy Zoning Commissioner
Mr. James E. Dyer, Zoning Supervisor

**CERTIFICATE OF POSTING**
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

88-4-SPH

District 9th Date of Posting June 19, 1987
Posted for: Special Hearing
Petitioner: Presbyterian Home of Maryland, Inc.
Location of property: NW/cor. Georgia Ct. and Florida Ave. (400 Georgia Ct.)
Location of Signs: One sign NW. cor. Georgia Ct. & Florida Ave. and one sign NE. corner Georgia Ct. and Dixie Drive
Remarks:
Posted by S. J. Crates Signature Date of return June 22, 1987
Number of Signs: 2

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., June 17, 19 87

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 June 17, 19 87.

TOWSON TIMES,
Susan Studen Obrecht
Publisher

59.67

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., June 18, 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 June 18, 19 87.

THE JEFFERSONIAN,
Susan Studen Obrecht
Publisher

41.83

PROTESTANT'S EXHIBIT 1

6 July 1987

TO: Mr. Arnold Jablon
Baltimore County Zoning Commissioner

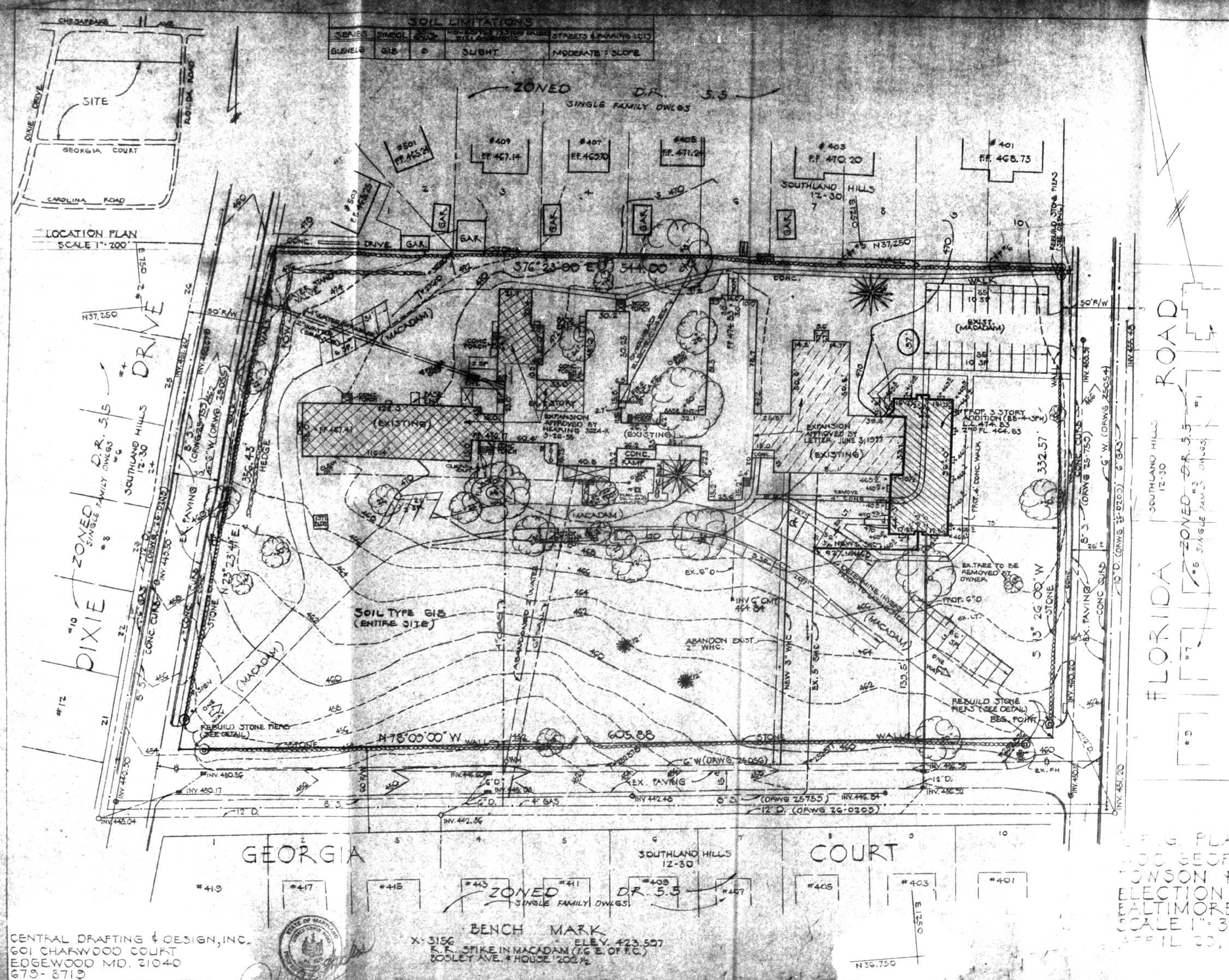
RE: Case # 88-4-SPH
Presbyterian Home of Maryland, Inc.

We, the undersigned neighbors of the Presbyterian Home, are opposed to any expansion as shown on plans A & B submitted by the petitioner.

Instead, we are in favor of having the proposed 96' x 40' new wing located no more than 50 feet from the rear property line, conforming with the existing setbacks of the addition approved by letter dated June 3, 1977 and thereby preserving the Home's architectural appearance and the general ambiance of the community.

Also, we request that all screening comply with the requirements defined in the Baltimore County Landscape Manual and any exterior lighting should be of a nature so as to minimize any impact upon the surrounding properties.

| | Name | Address |
|---|---|---|
| 1. | Georgia Chantales-Ruby | 7 Florida Rd 6-28-87 |
| 2. | [illegible] | 7 Florida Ct 6-28-87 |
| 3. | Barbara Tawney | 5 Florida Road 6-28-87 |
| 4. | Boyle C. Tawney | 5 Florida Road 6-28-87 |
| 5. | Walter Kopolka | 11 Florida Rd. 6/28/87 |
| 6. | Julie Cotter-Adams | 11 Florida Rd. 6/28/87 |
| 7. | Ruth M. Kennedy | 13 Florida Road 6/28/87 |
| 8. | Grace M. McCoy | 13 Florida Road 6/28/87 |
| 9. | Bob & Klara Bond | 21 Florida Rd |
| 10. | Dana O'Williams | 20 Florida Rd 6-28-87 |
| 11 | Alexandra Williams | 20 Florida Rd 6-28-87 |
| 12. | Earl L. Warner Jr | 9 Florida Rd |
| 13. | Anne K. Warner | 9 Florida Rd. |
| 14. | Joyce Nuttall | 409 Georgia Ct |
| 15. | Ed Crawford & Laura Wisler | 419 Georgia Ct. |
| 16. | Ralph Uhrell | 19 Dixie Dr. |
| 17. | [illegible] | 16 Dixie Dr. |
| 18. | [illegible] | 16 Dixie Drive |
| 19. | [illegible] | 14 Dixie Dr. |
| 20. | Marie C. Ward | " " |
| 21. | Walter A. Ward | " " |
| 22. | [illegible] | 12 Dixie Drive |
| 23. | Theodore T. Amos | 405 Georgia Ct. |
| 24. | Clarence R. Amos | 405 Georgia Ct. |
| 25. | Mrs. C. R. Amos | 405 Georgia Ct. |
| 26. | [illegible] | 407 Georgia Ct |
| 27. | E. B. Nuttall | 409 Georgia Ct. |
| 28. | [illegible] | 401 Georgia Court |



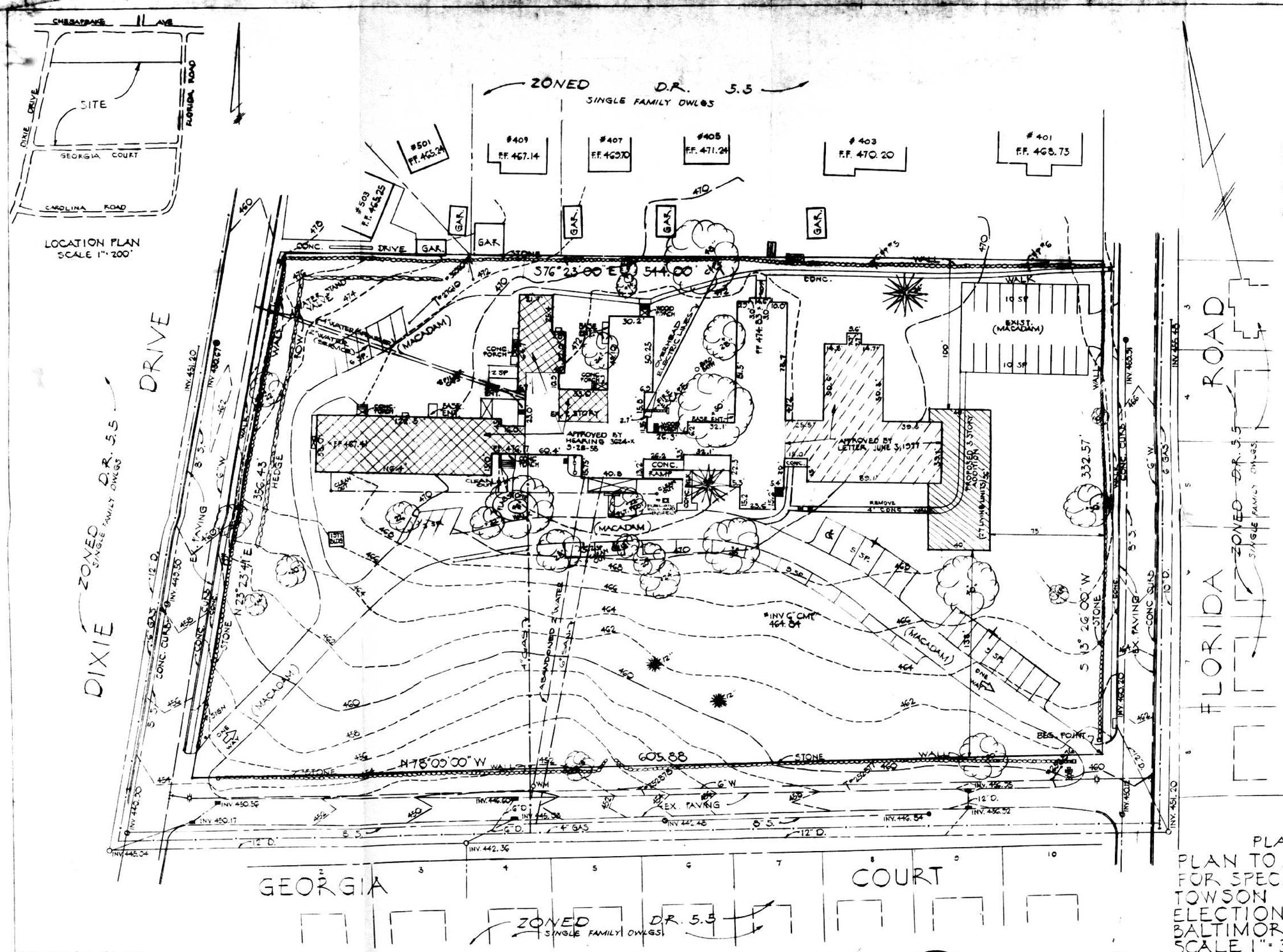

NOTES:

1. EXISTING ZONING: D.R. 5.5 WITH SPECIAL EXCEPTION FOR CONVALESCENT HOME (ZONING CASES 0-24-X AND BR-4-SPH).
2. GROSS AREA = 4.505 ACRES
3. BUILDING AREA:
   EXISTING.....70,572 S.F. (3 STORIES)
   PROPOSED.....10,783 S.F. (3 STORIES)
   TOTAL.....81,355 S.F. (3 STORIES)
4. PARKING REQUIRED = 127 UNITS @ 1 SP./2 UNITS = 64 SPACES
   PARKING PROVIDED = 54 SPACES (EXISTING)
5. OWNER:
   PRESBYTERIAN HOME OF MARYLAND, INC.
   400 GEORGIA COURT
   TOWSON, MARYLAND 2[illegible]
   [illegible]
   [illegible]
   [illegible]
6. [illegible]
7. CENSUS TRACT [illegible]
8. NO 25 % SLOPES, WOODED AREAS, STREAMS, SPRINGS, FLOOD PLAINS, HISTORIC BUILDINGS, WETLANDS, CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT OR HAZARDOUS MATERIALS SITES EXIST.
9. A.I.C.P. = 127 X 2.5 = [illegible]
10. WATERSHED - 23
    SUBWATERSHED - 55
11. WAIVER FROM C.P.&B. MEETING BRANTLEY 3-19-[illegible]
12. EXEMPTION FROM STORM WATER MANAGEMENT STANDARDS [illegible]

CASE # 88-4-SPH
RED LINED
PLAN SUBMITTED FOR
APPROVAL OF 97' SETBACK
JAP for JRH. SEE LETTER
DATED JUNE, 20/1989.

CENTRAL DRAFTING & DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD MD. 21040
679-8719

SITE PLAN
400 GEORGIA COURT
TOWSON PRESBYTERIAN HOME
ELECTION DISTRICT NINE
BALTIMORE COUNTY, MARYLAND
SCALE 1" = 30'
APRIL 20, 1988




## GENERAL NOTES:

1. ELEVATIONS SHOWN HEREON ARE BASED ON THOSE ESTABLISHED BY THE BALTIMORE COUNTY METROPOLITAN DISTRICT.
2. THE LOCATION OF UTILITIES SHOWN HEREON IS APPROXIMATE ONLY AND WAS OBTAINED FROM THE BEST INFORMATION AVAILABLE.
3. DEED REF. 660 - 454

## LEGEND

STORM DRAINS
SANITARY SEWER
WATER MAINS
GAS MAINS
TELEPHONE & ELECTRIC POLES

## NOTES

1. EX. ZONING: D.R. 5.5
2. AREA = 4.505 AC. ±
3. NO. EX. LIVING UNITS = 100
   NO. PROP. LIVING UNITS = 27
   TOTAL NO. UNITS = 127
4. PARKING REQUIRED = 127/10 = 13 SPACES
5. PARKING EXISTING = 54 SPACES

PREPARED BY
HUDKINS ASSOC., INC
101 SHELL BUILDING
200 E. JOPPA ROAD
TOWSON, MARYLAND 21204
828-9060

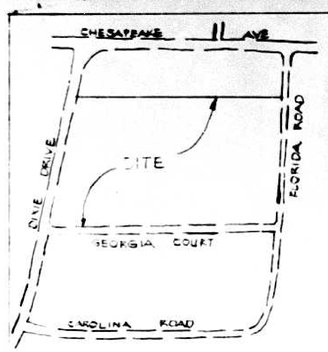
BENCH MARK
X-3156 ELEV. 423.597
R.R. SPIKE IN MACADAM (1.6' E. OF P.C.)
BOSLEY AVE. • HOUSE #202½

375
SE-4-SPH

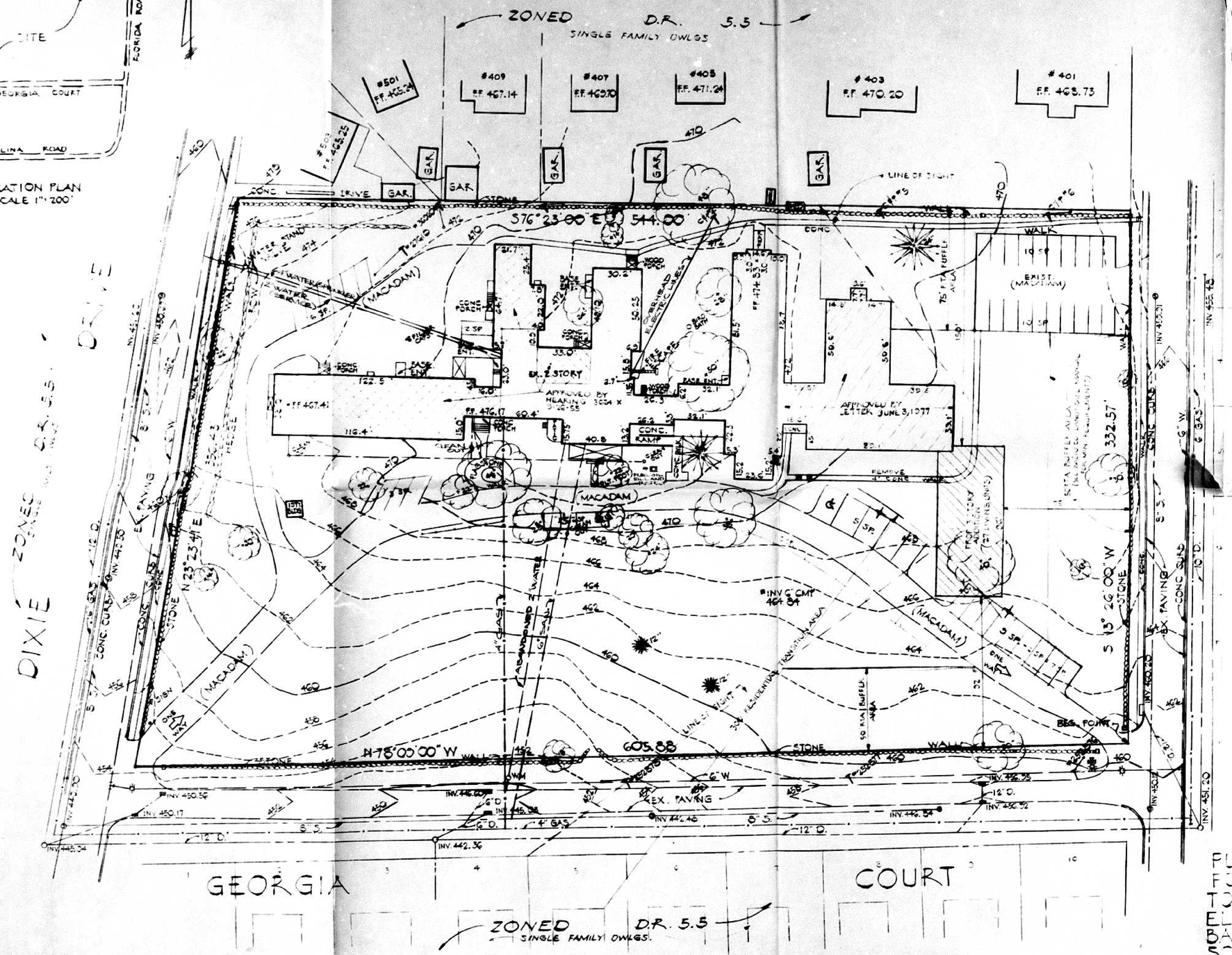
PLAN "A"

PLAN TO ACCOMPANY APPLICATION
FOR SPECIAL EXCEPTION
TOWSON PRESBYTERIAN HOME
ELECTION DISTRICT NINE
BALTIMORE COUNTY, MARYLAND
SCALE 1" = 30'
JANUARY 2, 1987

REV.: FEB. 10, 1987
FEB. 17, 1987
FEB. 28, 1987 (SHOW ADJACENT DWLGS. & PREVIOUS CASE NOS.)




LOCATION PLAN
SCALE 1" = 200'




GENERAL NOTES:

1. ELEVATIONS SHOWN HEREON ARE BASED ON THOSE ESTABLISHED BY THE BALTIMORE COUNTY METROPOLITAN DISTRICT.
2. THE LOCATION OF UTILITIES SHOWN HEREON IS APPROXIMATE ONLY AND WAS OBTAINED FROM THE BEST INFORMATION AVAILABLE.
3. DEED REF. 660-454

LEGEND

STORM DRAIN
SANITARY SEWER
WATER MAINS
GAS MAINS
TELEPHONE & ELECTRIC CABLES

NOTES:

1. EX. ZONING: D.R. 5.5
2. AREA: 4.505 AC±
3. NO. EX. LIVING UNITS: 100
   NO. PROP. LIVING UNITS: 27
   TOTAL NO. UNITS: 127
4. PARKING REQUIRED: 127 SPACES
5. PARKING EXISTING: 90 SPACES

PLAN B

PLAN TO ACCOMPANY APPLICATION FOR SPECIAL EXCEPTION
TOWSON PRESBYTERIAN HOME
ELECTION DISTRICT NINE
BALTIMORE COUNTY, MARYLAND
SCALE 1" = 30'
JANUARY 2, 1987

325
88-4-SPH

REV.: FEB. 10, 1987
FEB. 17, 1987
FEB. 23, 1987 (SHOW ADJACENT DWLGS., PREVIOUS CASE NO'S AND RTA BUFFER AREAS)
MARCH 20, 1987 REVISE LINE OF SIGHT AND BUFFER

PREPARED BY
HUDKINS ASSOC., INC
101 SHELL BUILDING
200 E. JOPPA ROAD
TOWSON, MARYLAND 21204
828-9060

BENCH MARK
X-3156 ELEV. 423.507
R.R. SPIKE IN MACADAM (1.6' E. OF F.C.)
BOSLEY AVE. @ HOUSE #202½