

#89-62-SPH Edward K. Ruppert et ux
10/12/90 -CCT AFFIRMED CBoFA.

RECEIVED
COUNTY BOARD OF APPEALS

90 OCT 17 AM 8:53

IN THE MATTER OF
THE APPLICATION OF
EDWARD K. RUPPERT, ET UX

v.

BALTIMORE COUNTY, MD.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No. 90CG638

RECEIVED
OCT 23 1990

ZONING OFFICE

* * * * *

OPINION

This case is an appeal from a decision of the County Board of Appeals of Baltimore County concerning the Opinion and Order of the Board on January 10, 1990 in which petitioners, Edward K. Ruppert, et ux, petition and amended petition were dismissed at the petitioners' request.

On September 11, 1990, counsel for the parties were heard in open court and after reading the transcripts and legal memoranda and reviewing the conclusion reached by the Board upon the facts in this case, the Court cannot find that the Board was erroneous in the interpretation and finding of fact, and the conclusion from the facts, nor the application of the law to facts, as it had before it evidence legally sufficient to support its decision.

Therefore, the County Board of Appeals of Baltimore County is AFFIRMED.

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

10/12/90

Copies to:

S. Eric DiNenna, Esquire

Myron J. Ashman, Esquire

Arnold C. Taragin, Esquire

Arnold G. Foreman, Esquire

IN THE MATTER OF
THE APPLICATION OF
EDWARD K. RUPPERT, ET UX.
* * * * *
* * * * *

ANSWER TO PETITION FOR PERMANENT INJUNCTION

Edward K. Ruppert and Evelyn K. Ruppert, the Defendants, by their attorneys, S. Eric DiNenna, and DiNenna, Mann and Breschi, answer Plaintiff's Petition for Permanent Injunction and Show Cause Order and state:

1. The Defendants are not the owners of the premises located at 4719 and 4727 Old Court Road.
2. Maryland Rule BB77 provides that a Court at any stage of an action, on application of any party thereto, or party in interest, by Petition, or of its own motion, grant an injunction.
3. The Plaintiff, J. Robert Haines, the Zoning Commissioner of Baltimore County, has filed this Petition as part of case number 90CG638, Appellants/Defendants appeal from the Opinion and Order of the County Board of Appeals of Baltimore County dated January 17, 1990. J. Robert Haines was not a party to this action, nor did his interest in the action appear from the record of that proceeding.
4. If the Plaintiff wishes to file for an injunction in the Circuit Court for Baltimore County he may do so pursuant to 4-402(D)(2) of the Courts and Judicial Proceedings article as a

- 1 -

new action. Plaintiff has no standing to request an injunction as part of this proceeding.
WHEREFORE, the Defendants, respectfully requests this Honorable Court to dismiss Plaintiffs' Petition for Permanent Injunction.

POINTS AND AUTHORITIES

1. Maryland Rule 4-402(D)(2) Courts and Judicial Proceedings Article
2. Maryland Rule BB77

S. ERIC DINENNA
DINENNA, MANN & BRESCHI
409 Washington Avenue, Suite 600
Towson, Maryland 21204
(301) 296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this _____ day of _____, 1990, a copy of the foregoing Answer to Petition for Permanent Injunction was mailed, postage prepaid, to Myron J. Ashman, Esquire, Suite 1220, Court Square Building, 200 E. Lexington Street, Baltimore, Maryland 21202; Arnold C. Taragin, Esquire, Suite 501 Title Building, 110 St. Paul Street, Baltimore, Maryland 21202, Co-Counsel for Protestants; and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Building, Towson, Maryland 21204.

S. ERIC DINENNA

- 2 -

J. ROBERT HAINES
ZONING COMMISSIONER
Plaintiff
* * * * *
EDWARD K. RUPPERT and
EVELYN L. RUPPERT
Defendants
* * * * *

MOTION TO STRIKE BALTIMORE COUNTY'S
ANSWER TO PETITION ON APPEAL

NOW COMES Edward K. Ruppert, et ux., Petitioners/Appellants, by and through their attorneys, S. Eric DiNenna and DiNenna, Mann & Breschi, and moves this Honorable Court to strike Baltimore County's Answer to the Petition on Appeal. The grounds of the Motion are as follows:

1. On January 10, 1989, the parties to this action appeared before the County Board of Appeals of Baltimore County on Appeal from the decision of the Zoning Commissioner dated February 28, 1989, denying Petitioner's request for a special hearing to approve a nonconforming use of the subject property for storage and repair of hauling trucks and equipment.
2. The parties proceeding before the Board consisted of the Petitioners, Mr. and Mrs. Edward K. Ruppert, and numerous residents who appeared as protestants. Neither Baltimore County nor the People's Counsel were present or represented before the Board.
3. Pursuant to Petitioners/Appellants Motion, the County Board of Appeals of Baltimore County by Opinion and Order dated January 17, 1990, dismissed Petitioner's Appeal and affirmed the

- 1 -

decision of the Zoning Commissioner. The Board further ordered that the trucks and all associated equipment be removed from the site within 45 days from the date of the Order.

4. That on February 16, 1990, pursuant to the 8 Rules of the Maryland Rules of Procedure, Petitioners/Appellants filed an Order for Appeal from the Decision and Order of the County Board of Appeals of Baltimore County.

5. Baltimore County filed an Answer to the Petition on Appeal requesting affirmative relief and an injunction against the Appellants, ordering Appellants to bring the property into compliance with the Baltimore County Zoning Regulations.

6. That Baltimore County was not a party to the proceedings before the Board of Appeals and has no standing to file an answer and request affirmative relief.

THEREFORE, Petitioners/Appellants request that Baltimore County's Answer be stricken.

Points & Authorities

1. Maryland Rule 2-322(e)
2. McKim v. Mason, 3 Maryland Ch. 186 (1852), one not a party or privy to the record cannot appeal, allege error or bring exception.

S. ERIC DINENNA
DINENNA, MANN & BRESCHI
409 Washington Avenue, Suite 600
Towson, Maryland 21204
(301) 296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of April, 1990, a copy of the foregoing Motion to Strike Baltimore County's Answer to Petition on Appeal was mailed,

- 2 -

postage prepaid, to Myron J. Ashman, Esquire, Suite 1220, Court Square Building, 200 E. Lexington Street, Baltimore, Maryland 21202; Arnold C. Taragin, Esquire, Suite 501 Title Building, 110 St. Paul Street, Baltimore, Maryland 21202, Co-Counsel for Protestants; and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Building, Towson, Maryland 21204.

S. ERIC DINENNA

IN THE MATTER OF THE APPLICATION OF
EDWARD K. RUPPERT, ET UX FOR A SPECIAL
HEARING ON PROPERTY LOCATED ON THE
SOUTH SIDE OF OLD COURT ROAD, 97.37'
NORTHWEST OF FAIRFIELD ROAD (4719 AND
4727 OLD COURT ROAD)
2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
EDWARD K. RUPPERT, ET UX, PLAINTIFFS
ZONING CASE NO. 89-62-SFH
* * * * *

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:
And now come William T. Hackett, John G. Disney, and Michael B. Sauer, 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 Commissioner and the Board of Appeals of Baltimore County:

- No. 89-62-SFH
- June 29, 1988 Petition for Special Hearing to approve storage and repair of hauling trucks and equipment - nonconforming use (msp).
 - September 8 Comments of Baltimore County Zoning Plans Advisory Committee.
 - November 2 & 3 Publications in newspapers.
 - November 4 Certificate of Posting of property.
 - November 23 Hearing held on Petition by Zoning Commissioner.
 - February 28, 1989 Order of the Zoning Commissioner DENYING Petition.
 - March 17 Notice of appeal received from Anthony J. DiPaula, Esquire on behalf of the Petitioners.
 - December 6 Amended Petition for Special Hearing filed by Anthony J. DiPaula, Esquire for nonconforming use of a hauling and sanitation business, including the storage and repair of hauling trucks and related equipment in a D.R.5.5 zone.
 - January 10, 1990 Hearing on appeal before the County Board of Appeals.
 - January 17 Opinion and Order of the Board DISMISSING original Petition and Amended Petition pursuant to Motion to Dismiss entered at the hearing thereby AFFIRMING the Zoning Commissioner's Order and FURTHER ordering that trucks and all associated equipment be removed from the site within 45 days from the date of the Order.

Edward K. Ruppert, et ux, File No. 90-CG-638
Zoning Case No. 89-62-SFH
February 16, 1990 Order for Appeal filed in the Circuit Court for Baltimore County by S. Eric DiNenna, Esquire on behalf of Petitioners; Petition to accompany appeal also filed.
February 20 Certificate of Notice sent to all interested parties.
March 19 Transcript of testimony filed.
March 19 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court.

Respectfully submitted,

Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul, Legal Secretary
County Board of Appeals of Baltimore County

cc: S. Eric DiNenna, Esquire
Mr. and Mrs. Edward K. Ruppert
Myron J. Ashman, Esquire
Arnold C. Taragin, Esquire

IN THE MATTER OF
THE APPLICATION OF
EDWARD K. RUPPERT, ET UX.
* * * * *
* * * * *

ANSWER TO PETITION ON APPEAL

Now Comes Baltimore County, by and through its undersigned counsel Answers the Petition on Appeal filed by the Appellant herein as follows:

1. The truth of the allegations contained in paragraph 1 is admitted.
2. The truth of the allegations contained in paragraph 2 is admitted.
3. The County is in agreement with Appellant that the Board of Appeals should not have Ordered the removal of the trucks and associated equipment from the property within 45 days from the date of their Order. (See copy of the Board of Appeal's Order marked as Exhibit A, page 2)
4. The County denies that the Board of Appeals Opinion and Order of January 17, 1990 is erroneous in its entirety and that only the portion of the Order which mandates the removal of the trucks and associated equipment within 45 days is the subject of this Appeal.
5. Further answering, the County states that the Appellants themselves voluntarily dismissed their Appeal before the Board of Appeals, which dismissal was granted by the Board, which in effect affirmed the decision and Order of the Zoning Commissioner dated February 28, 1989.

6. That the Order of the Zoning Commissioner which was appealed to the Board of Appeals, required the herein Appellants to cease all commercial operations on the subject property by no later than June 1, 1989. (See copy of Zoning Commissioner's Order attached as Exhibit B, page 7.)

7. That by taking an Appeal of the Zoning Commissioners Order the herein Appellants were able to stall, and continue their commercial operations past the June 1, 1989 deadline imposed by the Zoning Commissioner, and then dismissed their Appeal for no apparent reason before the Board of Appeals on January 17, 1990.

8. That by dismissing their Appeal before the Board of Appeals, the Appellants subject themselves to the original decision of the Zoning Commissioner which required them to cease commercial operations some 8 months prior to their dismissal of their appeal before the Board of Appeals.

Wherefore, the County Prays:

A. That the Appeal pending before this Honorable Court be restricted only to the part of the Board of Appeals Order which requires the removal of trucks and associated equipment.

B. That this Honorable Court affirm the decision of the Zoning Commissioner dated the 28th day of February, 1989.

C. That this Honorable Court issue an injunction against the herein Appellants, Ordering the Appellants to bring their property into compliance with the Baltimore County Zoning Regulations.

D. For such other and further relief as the nature of this cause may require.

Timothy M. Kotroch
Timothy M. Kotroch
Assistant County Attorney

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14th day of March, 1990, a copy of the foregoing Answer to Petition on Appeal was mailed postage prepaid to the County Board of Appeals for Baltimore County, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Myron J. Ashman, Esquire, 200 E. Lexington Street, Suite 1220-CT Square Building, Baltimore, Maryland 21202; Arnold C. Taragin, Esquire, 11 E. Lexington Street, 5th Floor, Baltimore, Maryland 21202; Edward C. Covahey, Esquire, 614 Bosley Avenue, Towson, Maryland 21204; and S. Eric DiNenna, DiNenna, Mann & Breschi, P.O. Box 10508, Towson, Maryland 21285-0508.

Timothy M. Kotroch
Timothy M. Kotroch
Assistant County Attorney
Courthouse, 2nd floor
Towson, Maryland 21204
887-5657

IN THE MATTER OF
THE APPLICATION OF
EDWARD K. RUPPERT, et ux.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CASE NO.: 90CG638 77/238

REQUEST FOR HEARING

Petitioners/Appellants, Edward K. Ruppert, et ux. by their attorneys, S. Eric DiNenna, and DiNenna, Mann and Breschi respectfully request a hearing on the Motion to Stay the Order of the County Board of Appeals of Baltimore County.

S. Eric DiNenna
S. ERIC DINENNA
DiNenna, Mann and Breschi
409 Washington Avenue, Suite 600
P.O. Box 10508
Towson, Maryland 21285-0508
Attorney for Petitioners/
Appellants

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 6th day of March, 1990, a copy of the foregoing Request for Hearing, was mailed, postage prepaid to Myron J. Ashman, Esquire Suite 1220, Court Square Building, 200 E. Lexington Street, Baltimore, Maryland 21202; Arnold C. Taragin, Esquire, Suite 501, Title Building, 110 St. Paul Street, Baltimore, Maryland 21202, Co-Counsel for Protestants; and, Arnold G. Foreman, Esquire c/o County Board of Appeals, Room 315, County Office Building, Towson, Maryland 21204.

S. Eric DiNenna
S. ERIC DINENNA
- 1 -

IN THE MATTER OF
THE APPLICATION OF
EDWARD K. RUPPERT, et ux.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No. 90CG638 77/238

MOTION TO STAY ORDER OF COUNTY BOARD OF APPEALS

Petitioners/Appellants, EDWARD K. RUPPERT, et ux., by and through their attorneys, S. ERIC DINENNA and DiNenna, Mann & Breschi, pursuant to Maryland Rule B-6 moves this Honorable Court to Stay the Order of the County Board of Appeals of Baltimore County issued on January 17, 1990. The grounds of the Motion are as follows:

1. On January 10, 1989, the parties to this action appeared before the County Board of Appeals of Baltimore County on Appeal from the decision of the Zoning Commissioner dated February 28, 1989, denying Petitioners' Request for Special Hearing to approve the nonconforming use of the subject property for the storage and repair of hauling trucks and equipment.

2. Upon the Board's opening of the hearing for evidence and testimony, the Petitioners/Appellants moved to dismiss the Appeal.

3. The Board dismissed the Appeal and by Opinion and Order dated January 17, 1990, and affirmed the Order of the Zoning Commissioner.

4. The Board further ordered that the trucks and all associated equipment on the property be removed from the site

- 1 -

within forty-five (45) days from the date of the Board's Order.

5. The grounds of Petitioners/Appellants Appeal before this Honorable Court is that the Board's requirement of the removal of the trucks and associated equipment within the forty-five (45) days from the date of the Order is an arbitrary, capricious and illegal act by the Board.

6. The Board of Appeals derives its power from the Baltimore County Charter and has no power rights or duties outside of those conferred upon it by the applicable law. The Baltimore County Charter mandates that "all decisions by the County Board of Appeals shall be made after notice and opportunity for hearing de novo upon the issues before said board." The removal of the trucks and associated equipment from the site was not an issue before the Board. Baltimore County Charter, revised 1968, Article VI, Section 603.

7. The Board's finding was unsupported by any evidence and is beyond the Board's power as an administrative agency and constitutes a denial of due process of law. Johnstown Coal and Coke Co. v. Dishong, 198 Md. 467, 84 A2d. 847 (1951).

8. The Board's determination that the trucks and other equipment needed to be removed from the site was not based upon any evidence or support and therefore was arbitrary and capricious. Mayor and City Council of Baltimore v. Foster and Kleiser, 46 Md. App. 163 (1980).

9. The Board's restriction on the Petitioners/Appellants use of their property constitutes a deprivation of their property rights without due process of law.

- 2 -

10. The required removal of the trucks and equipment from the site prior to this Court hearing the appeal will cause the Petitioners/Appellants undue hardship, prejudice and irreparable harm.

WHEREFORE, Petitioners/Appellants respectfully request that this Honorable Court stay the Order of the Board of Appeals requiring the removal of trucks and associated equipment from the site pending the disposition of this appeal.

S. Eric DiNenna
S. ERIC DINENNA
DINENNA, MANN & BRESCHI
P.O. Box 10508
Towson, Maryland 21285-0508
(301) 296-6820
Attorney for Petitioners/
Appellants

POINTS AND AUTHORITIES

1. Maryland Rule B-6
2. Baltimore County Charter, revised 1968, Article VI, Section 603.
3. Johnstown Coal and Coke Co. v. Dishong, 198 Md. 467, (1951)
4. Mayor and City Council of Baltimore v. Foster and Kleiser, 46 Md. 163 (1980).

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of March, 1990, a copy of the foregoing Motion to Stay was mailed, postage prepaid, to Myron J. Ashman, Esquire, Suite 1220, Court Square Building, 200 E. Lexington Street, Baltimore, Maryland 21202; Arnold C. Taragin, Esquire, Suite 501 Title Building, 110 St. Paul Street, Baltimore, Maryland 21202, Co-Counsel for

- 3 -

Protestants; and, Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Building, Towson, Maryland 21204.

S. Eric DiNenna
S. ERIC DINENNA

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BOWLING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508
SUITE 600
MERCANTILE TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

March 6, 1990

(301) 296-6820
TELEFAX (301) 296-6884

Clerk
Circuit Court for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

RE: Case No.: 90CG638 77/238
In The Matter Of The Application
Of Edward K. Ruppert, et ux.

Madam Clerk:

Enclosed herewith for filing please find a Motion to Stay Order, Request for Hearing and proposed Order regarding the above referenced matter.

Very truly yours,

Geraldine A. Klauber
GERALDINE A. KLAUBER

GA:gak
Enclosures
cc: Myron J. Ashman
Arnold C. Taragin
Arnold G. Foreman

RECORDED

- 4 -

IN THE MATTER OF * IN THE
THE APPLICATION OF * CIRCUIT COURT
EDWARD K. RUPPERT, ET UX. *
* FOR
* BALTIMORE COUNTY

PETITION ON APPEAL

EDWARD K. RUPPERT, et ux., Petitioner, below and Appellant herein, in compliance with Maryland Rule B-2(e), file this Petition on Appeal setting forth the grounds upon which the Appeal is taken, viz:

1. This case comes before the Board on appeal from the Decision of the Zoning Commissioner denying the Petition for Special Hearing.
2. Upon the Motion of counsel for Appellants/Petitioners to Dismiss the Appeal, the Board granted the Motion to Dismiss and further ordered that trucks and associated equipment be removed from the site within forty-five (45) days from the date of the Order of the Board.
3. That the Decision of the County Board of Appeals of Baltimore County ordering the removal of the trucks and associated equipment without the benefit of a hearing or any evidence before it was arbitrary and capricious and not based upon substantial evidence and was beyond the Board's authority.
4. That the County Board of Appeals of Baltimore County's Opinion and Order of January 17, 1990, is erroneous as a matter of law.

- 1 -

WHEREFORE, Appellants pray that the Order of the County Board of Appeals of Baltimore County dated January 17, 1990, be revised.

151
S. ERIC DINENNA
DINENNA, MANN & BRESCHI
P.O. Box 10508
Towson, Maryland 21285-0508
(301) 296-6820

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of February, 1990, a copy of the foregoing Order for Appeal was hand delivered to the County Board of Appeals for Baltimore County, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, prior to the filing hereof and a copy of the foregoing Order for Appeal was mailed postage prepaid to Myron J. Ashman, Esquire, 200 E. Lexington Street, Suite 1220-CT Square Building, Baltimore, Maryland 21202; Arnold C. Taragin, Esquire, 11 E. Lexington Street, 5th Floor, Baltimore, Maryland 21202 and Edward C. Covahey, Esquire, 614 Bosley Avenue, Towson, Maryland 21204.

151
S. ERIC DINENNA

MICROFILMED

- 2 -

IN THE MATTER OF * IN THE
THE APPLICATION OF * CIRCUIT COURT
EDWARD K. RUPPERT, ET UX. *
* FOR
* BALTIMORE COUNTY

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal on behalf of Edward K. Rupert, et ux., Petitioner below and Appellant herein, to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals of Baltimore County under date of January 17, 1990, denying the Petition for Special Hearing and further ordering the removal of trucks and associated equipment from the site within 45 days from the date of the Order.

151
S. ERIC DINENNA
DINENNA, MANN & BRESCHI
P.O. Box 10508
Towson, Maryland 21285-0508
(301) 296-6820

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of February, 1990, a copy of the foregoing Order for Appeal was hand delivered to the County Board of Appeals for Baltimore County, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, prior to the filing hereof and a copy of the foregoing Order for Appeal was mailed postage prepaid to Myron J. Ashman, Esquire, 200 E. Lexington Street, Suite 1220-CT Square Building, Baltimore, Maryland 21202; Arnold C. Taragin, Esquire, 11 E. Lexington Street, 5th Floor, Baltimore, Maryland 21202 and Edward C. Covahey, Esquire, 614 Bosley Avenue, Towson, Maryland 21204.

- 1 -

Lexington Street, 5th Floor, Baltimore, Maryland 21202 and Edward C. Covahey, Esquire, 614 Bosley Avenue, Towson, Maryland 21204.

151
S. ERIC DINENNA

- 2 -

IN THE MATTER OF THE APPLICATION OF * IN THE
EDWARD K. RUPPERT, ET UX FOR A SPECIAL * CIRCUIT COURT
HEARING ON PROPERTY LOCATED ON THE *
SOUTH SIDE OF OLD COURT ROAD, 37.37' * FOR
NORTHWEST OF PARKFIELD ROAD (4719 AND *
4727 OLD COURT ROAD) * BALTIMORE COUNTY
2ND ELECTION DISTRICT *
2ND COUNCILMANIC DISTRICT *
EDWARD K. RUPPERT, ET UX, PLAINTIFFS *
ZONING CASE NO. 89-62-SPH * CG Doc. No. 77
* Folio No. 238
* File No. 90-CG-638

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, John G. Disney, and Michael B. Sauer, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, S. Eric Dinenna, Esquire, P.O. Box 10508, Towson, MD 21285-0508, Counsel for Plaintiffs; Mr. & Mrs. Edward K. Rupert, 5400 Deer Park Road, Box 318, Owings Mills, MD 21117, Plaintiffs; Myron J. Ashman, Esquire, 1220 Court Square Building, 200 E. Lexington Street, Baltimore, MD 21202 and Arnold C. Taragin, Esquire, Suite 501, Title Bldg., 110 St. Paul Street, Baltimore, MD 21202, Co-Counsel for Protestants; and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Bldg., Towson, MD 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary
County Board of Appeals of Baltimore County
Room 315, County Office Bldg., 111 W.
Chesapeake Ave., Towson, MD 21204
(301) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to S. Eric Dinenna, Esquire, P.O. Box 10508, Towson, MD 21285-0508, Counsel for Plaintiffs; Mr. & Mrs. Edward K. Rupert, 5400 Deer Park Road, Box 318, Owings Mills, MD 21117, Plaintiffs; Myron J. Ashman, Esquire, 1220 Court

Edward K. Rupert, et ux, File No. 2.
Case No. 89-62-SPH
Square Building, 200 E. Lexington Street, Baltimore, MD 21202 and Arnold C. Taragin, Esquire, Suite 501, Title Bldg., 110 St. Paul Street, Baltimore, MD 21202, Co-Counsel for Protestants and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Building, Towson, MD 21204 on this 20th day of February, 1990.

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180
February 20, 1990

S. Eric Dinenna, Esquire
Dinenna, Mann & Breschi
P.O. Box 10508
Towson, Maryland 21285-0508

Re: Case No. 89-62-SPH (Edward K. Rupert, et ux)

Dear Mr. Dinenna:

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. In addition, the cost incurred for 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,

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Encl.
cc: Mr. and Mrs. Edward K. Rupert



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180
February 20, 1990

Myron J. Ashman, Esquire
1220 Court Square Building
200 E. Lexington Street
Baltimore, Maryland 21202

Arnold C. Taragin, Esquire
Suite 501, Title Bldg.
110 St. Paul Street
Baltimore, Maryland 21202

Re: Case No. 89-62-SPH (Edward K. Rupert, et ux)

Dear Messrs. Ashman and Taragin:

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,

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Encl.

cc: Mr. and Mrs. Wyatt Coger
Ms. Myra Gertz
Ms. Jeannette Feldman
Mr. Shayne Thatcher
Mr. Gary Caplan
Mr. and Mrs. Mark Wertow
Ms. Leslie Smin
F. David Fields
Fat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

MICROFILMED

IN THE MATTER OF : BEFORE THE
THE APPLICATION OF : COUNTY BOARD OF APPEALS
EDWARD K. RUPPERT, ET UX :
FOR A SPECIAL HEARING ON PROPERTY : OF
LOCATED ON THE SOUTH SIDE OF OLD :
COURT ROAD, 97.37' NORTHWEST OF : BALTIMORE COUNTY
PARKFIELD ROAD (4719 AND 4727 OLD :
COURT ROAD) : CASE NO. 89-62-SPH
2nd ELECTION DISTRICT :
2nd COUNCILMANIC DISTRICT :

OPINION

This case comes before this Board on appeal from a decision of the Zoning Commissioner denying the Petition for Special Hearing.

A pre-trial conference was held in the Board's chambers regarding the Amended Petition. It was agreed by all parties that the amendment was proposed at the Zoning Commissioner's level and that testimony and evidence on both the original Petition and the Amended Petition were received. Upon this agreement by all parties, the Board will now consider both petitions in this case.

When the hearing was opened for testimony and evidence, Counsel for the Appellants /Petitioners made a Motion to dismiss his appeal. Council for Appellees /Protestants made no objection to this Motion. The Board will therefore grant the Motion and dismiss the appeal taken from the Zoning Commissioner's Order which in effect affirms the Zoning Commissioner's Order.

ORDER

It is therefore this 17th day of January, 1990 by the County Board of Appeals of Baltimore County ORDERED that the appeal taken from the original Petition for Special Hearing and the Amended Petition for Special

Case No. 89-62-SPH
Edward K. Ruppert, et ux

Hearing be and the same is DISMISSED and the Order of the Zoning Commissioner dated February 28, 1989 be and the same is AFFIRMED; and
IT IS FURTHER ORDERED that the trucks and all associated equipment be removed from the site within forty-five (45) days from the date of this ORDER.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

John G. Disney
John G. Disney

Michael J. Sauer
Michael J. Sauer



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

January 17, 1990

Edward C. Covahey, Jr., Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Case No. 89-62-SPH
Edward K. Ruppert, et ux

Dear Mr. Covahey:

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

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Mr. & Mrs. Edward K. Ruppert
Anthony J. DiPaula, Esquire
Myron J. Ashman, Esquire
Arnold C. Taragin, Esquire
Shayne Thatcher
Mr. & Mrs. Wyatt Cogger
Myra Gertz
Jeannette Feldman
Gary Caplan
Mr. & Mrs. Mark Wartow
Leslie Smith
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, County Attorney

09-01-89:D75.cb:10285-8-ecc:

RECEIVED
COUNTY BOARD OF APPEALS
89 SEP -8 PM 2:13

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
S/S Old Court Road, 97.37' * BALTIMORE COUNTY
NW of Parkfield Road * BOARD OF APPEALS
(4719 & 4727 Old Court Road) *
2nd Election District * Case No.: 89-62-SPH
2nd Councilmanic District *
Edward K. Ruppert, et ux. *
Petitioners *

MOTION FOR POSTPONEMENT

Edward K. Ruppert, et ux., Petitioners, by Edward C. Covahey, Jr., Anthony J. DiPaula, and Covahey & Boozer, P.A., their attorneys, move pursuant to Board of Appeals Rule 2 for a postponement of the hearing on this matter now scheduled for September 15, 1989, and as reasons in support, state:

1. That the purpose of this hearing is to establish a non-conforming use of the subject property.
2. That in order to establish a non-conforming use, it is necessary that the Petitioners produce testimony and evidence of the use of the property dating back to before zoning in Baltimore County, that is prior to 1945.
3. That Edward K. Ruppert, Sr., not only the principal party to this appeal, but also the key witness with respect to the use of the property and the duration thereof has been extremely ill and is presently bedridden under doctor's care. Mr. Ruppert is scheduled to be admitted to St. Joseph's Hospital on September 11, 1989.

09-01-89:D75.cb:10285-8-ecc:

4. That attached hereto is a letter from the doctor confirming that in fact Mr. Ruppert is under his care and is unable to appear for the trial of this matter.

5. In that because Mr. Ruppert is an indispensable witness, especially since he can testify as to the use of the property dating back to his childhood which predates the first zoning ordinance in Baltimore County, and because the case cannot properly proceed in his absence because of his indispensability as a witness and because he is a principal party, a postponement is therefore respectfully requested.

6. That without question, the petitioners are willing to pay for the re-advertisement of the property at such time as this matter is rescheduled for hearing.

Edward C. Covahey, Jr.
Edward C. Covahey, Jr.

Anthony J. DiPaula
Anthony J. DiPaula
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441

MEMORANDUM OF AUTHORITIES

Board of Appeals Rule 2.

Anthony J. DiPaula
Anthony J. DiPaula

09-01-89:D75.cb:10285-8-ecc:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 8 day of September, 1989, a copy of the foregoing Motion for Postponement was mailed, first class, postage prepaid to:

Myron J. Ashman, Esquire
Suite 1220-Court Square Building
200 E. Lexington Street
Baltimore, Maryland 21202

Arnold C. Taragin, Esquire
5th Floor
11 E. Lexington Street
Baltimore, Maryland 21202

Mr. and Mrs. Wyatt Cogger
4720 Bonnie Brae Road
Baltimore, Maryland 21208

Ms. Myra Gertz
3736 Parkfield Road
Baltimore, Maryland 21208

Ms. Jeannette Feldman
4722 Old Court Road
Baltimore, Maryland 21208

Mr. Gary Caplan
3735 Parkfield Road
Baltimore, Maryland 21208

Mr. and Mrs. Mark Wartow
4720 Old Court Road
Baltimore, Maryland 21208

Anthony J. DiPaula
Anthony J. DiPaula



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 11, 1989

Anthony J. DiPaula, Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Case No. 89-62-SPH
Edward K. Ruppert, et ux

Dear Mr. DiPaula:

The Board has received your Motion for Postponement of the above-referenced matter from the hearing presently scheduled for September 15, 1989.

In that this is the first request for postponement and in view of the reason for your request, the Board is inclined to grant your Motion. However, under Board Rule 2(c), postponements cannot be granted off the record within 15 days from the date of hearing. The purpose of this rule is to avoid the difficulties in notifying all parties which often arise with last minute postponements.

Therefore, it would be appreciated if you or other counsel from your office would appear on the morning of September 15, 1989, at 10:00 a.m. to formally request the postponement on the record, and to confirm calendars so that another hearing date can be scheduled.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt
County Board of Appeals

LES:kcw

cc: Mr. & Mrs. Edward K. Ruppert
Edward C. Covahey, Jr., Esquire
Myron J. Ashman, Esquire
Arnold C. Taragin, Esquire
Mr. & Mrs. Wyatt Cogger
Ms. Myra Gertz
Ms. Jeannette Feldman
Mr. Gary Caplan
Mr. & Mrs. Mark Wartow
Shayne Thatcher
Ms. Leslie Smith

P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning
W. Carl Richards, Jr.
Arnold Jablon, County Attorney

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
S/S Old Court Road, 97.37' * ZONING COMMISSIONER
NW of Parkfield Road * OF BALTIMORE COUNTY
(4719 & 4727 Old Court Road) *
2nd Election District * Case No. 89-62-SPH
2nd Councilmanic District *
Edward K. Ruppert, et ux. *
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property for the storage and repair of hauling trucks and equipment, in accordance with Petitioner's Exhibit 1.

The Petitioners, by Edward K. Ruppert, appeared, testified and were represented by Anthony J. DiPaula, Esquire. Also appearing on behalf of the Petition were Shayne Thatcher and William Gray. Numerous residents of the area appeared in opposition and were represented by Myron J. Ashman, Esquire and Arnold C. Taragin, Esquire.

At the request of the Zoning Commissioner, Petitioner submitted a revised site plan, marked Petitioner's Exhibit A, which clearly outlines the original area of the nonconforming use.

Testimony indicated that the subject property, known as 4719 and 4727 Old Court Road, consists of 4.2435 acres more or less zoned D.R. 5.5 and is improved with an existing two story office/residential building, a storage building, a wood frame repair shop, a metal storage shed, and another building as shown in Petitioner's Exhibit A. Counsel for the Petitioner testified the subject property has been in the family since the 1940s. Testimony indicated the land surrounding the subject site was all farmland until the late 1950s when the property to the north was developed into a large housing development. Thereafter, in the 1960s, the eastern

ORDERED FOR FILING
D:3
L: Little

and southern boundaries of the subject property were developed with residential communities and the Old Court Junior High School. Mr. Rupert testified his father ran a trash hauling business from the subject property and farmed the remaining portion of the site in the 1930s. Testimony indicated that during the 1960s, Edward, his brother Naylor, and their father operated separate trash hauling businesses from the subject property. Mr. Rupert testified that some time in the 1970s his father ceased the operation of his trash hauling business and discontinued farming the remaining portion of the site. The Petitioner continued to run his trash hauling business from the site and expanded his operation to include the entire property. In addition, the original dwelling unit was razed and a large parking area installed.

Naylor Rupert's testimony contradicts that of his brother. Mr. Rupert testified his father did not go into the trash hauling business until 1952 and that the property was all farmland and not used for the storage and repair of hauling trucks and equipment as it exists today. Petitioner's brother testified he ceased his trash hauling operation from the subject site some time in the 1960s and relocated his business to a site in Owings Mills.

Testimony presented by the Protestants indicates that they had no complaints as to the way the subject property was used from the 1950s through the 1960s. Testimony indicated the trash hauling business was conducted from the site quietly and did not interfere with the enjoyment of their respective properties. The Protestants testified that at such time as the Petitioner took over the entire property for the trash hauling business and expanded his operation to include the storage and maintenance of vehicles used in the business, such expanded use adversely affected the

neighboring property owners. The Protestants indicated a portion of the site was being used as a landfill and that junk cars and disabled vehicles were being stored on the site. Further testimony indicated that a foul odor has developed as a result of such landfill use.

Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations (Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945. See Kahl v. Cons. Gas Elec. Light. and Pwr. Co., 191 Md. 249, 254, 60 A.2d 754 (1948); Calhoun v. County Board of Appeals, 262 Md. 265, 277 A.2d 589 (1971).

Section II of those regulations created seven zones, four being residential, one commercial, and two industrial. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

Those original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different nonconforming use or any discontinuance of such nonconforming use for a period of one year, or in case a nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75%) percent of its value, the right to continue to resume such

nonconforming use shall terminate, provided, however, that any such lawful nonconforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

Baltimore County adopted a new set of comprehensive zoning regulations on March 30, 1955. The issue of nonconforming uses are dealt with in Section 104 of those regulations. The Section then read:

"104.1 - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

Section 104.1 was changed to its current language on March 15, 1976 by Bill No. 18-76. The current effective regulation reads as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)"

On August 4, 1980, the current language found in Section 104.2 was added to the B.C.Z.R. by Bill No. 167-80. This regulation placed an

MICROFILMED

exception upon the general nonconforming rule for Special Exception office buildings. The second reads as follows:

"Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. (Bill No. 167, 1980)"

As with all nonconforming use cases, the first task is to determine what lawful nonconforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or

Does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

After due consideration of the testimony and evidence presented, it is clear a nonconforming use of the subject property for the storage and repair of hauling trucks and equipment does not exist. Testimony by the Petitioner and his Counsel indicated the senior Mr. Rupert's trash hauling business started in the 1930s. However, upon cross examination by the Zoning Commissioner, Petitioner testified the trash hauling business was started by his father in 1949 and that he began his own trash hauling business in 1963. Further, it is clear the use of the subject property for a landfill operation and the storage of dump trucks and/or delivery trucks as set forth in photographs identified as Protestant's Exhibit 5 is not nonconforming and such use is not permitted in the D.R. 5.5 zone by right. In the opinion of the Zoning Commissioner, the trash hauling business and storage and repair of hauling trucks and equipment was not established prior to the zoning regulations taking effect in 1945.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 28th day of February, 1989 that the Petition for Special Hearing to approve the nonconforming use of the subject property for the storage and repair of hauling trucks and equipment, in accordance with Petitioner's Exhibit A, be and is hereby DENIED and subject to the following restrictions:

- 1) Petitioners shall cease all commercial operations on the subject property by no later than June 1, 1989.
- 2) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

JRH:bjs

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 897-6333
J. Robert Haines
Zoning Commissioner

February 28, 1989



Anthony J. DiPaula, Esquire
614 Bosley Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
S/S Old Court Road, 97.37' NW of Parkfield Road
(4719 and 4727 Old Court Road)
2nd Election District - 2nd Councilmanic District
Edward K. Rupert, et ux - Petitioners
Case No. 89-62-SPH

Dear Mr. DiPaula:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: All Protestants
People's Counsel
File

1/31/89:32.cbr10285.8

RECEIVED
FEB 3 1989

ZONING OFFICE

IN RE: * BEFORE THE
PETITION FOR SPECIAL HEARING * ZONING COMMISSIONER
SS OLD COURT ROAD * OF
97.37' NW Parkfield Road * BALTIMORE COUNTY
(4727 OLD COURT ROAD) *
2ND ELECTION DISTRICT - *
2ND COUNCILMANIC DISTRICT *
EDWARD K. RUPPERT, ET UX. * Case No. 89-62-SPH
Petitioners *

ANSWER TO MOTION TO REOPEN

Petitioners, by their undersigned counsel, in Answer to the Motion to Reopen filed by the protestants, state:

1. That the Motion fails to set forth any legally cognizable ground for reopening this matter.
2. That despite the fact that whatever "new" evidence protestants has found could have been discovered prior to the original hearing, none of the evidence as outlined in the Motion would be dispositive of the issues before the Zoning Commissioner.
3. That regardless of whether there was a sale of assets, or whether one business succeeded the other, the issue with respect to a nonconforming use is whether that use has continued since before the effective date of the Zoning regulations, without any interruption of one year or more. As the Zoning Commissioner well knows, the issue is use, and not who is using it.

MICROFILMED

4. That the motion should therefore be denied.

Anthony J. DiPaula
Anthony J. DiPaula
Covahey & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 1st day of February, 1989, a copy of the foregoing Petitioners' Memorandum of Law was mailed, postage prepaid to Myron J. Ashman, Esquire, Suite 1220-Court Square Building, 200 E. Lexington Street, Baltimore, Maryland 21202, Arnold Taragin, Esquire, 110 St. Paul Street, Baltimore, Maryland 21202, and Mr. David Stein, Liberty Communities Development Corporation, Inc., 3820 Fernside Road, Randallstown, Maryland 21133.

Anthony J. DiPaula
Anthony J. DiPaula

MICROFILMED

- 2 -

IN RE:

PETITION FOR SPECIAL HEARING

SS OLD COURT ROAD
97.37' NW Parkfield Road
(4727 OLD COURT ROAD)
2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
EDWARD K. RUPPERT, ET UX.

Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No: 89-62-SPH

MOTION TO REOPEN

The Protestants in the above referred case by the joint application of their attorneys, Myron J. Ashman and Arnold C. Taragin, respectfully request that the Zoning Board reopen the hearing to allow in additional testimony. The grounds of this Motion are as follows:

1. Protestants have located evidence indicating that Garrison Hauling, Inc. (the business operated by Petitioner) has sold its commercial business, effective September 30, 1987 (See Exhibit A attached hereto and incorporated herein by reference).

2. The Petitioners incorporated Garrison Hauling to perform garbage collection services on January 19, 1967.

3. All garbage services performed prior to that date belonged to Naylor W. Ruppert, Sr. and Virgie Ruppert, trading as Ruppert Sanitation, Inc. That Naylor W. Ruppert, Sr. passed

ARNOLD C. TARAGIN

away on June 19, 1986. That on April 124, 1987, Virgie Ruppert, surviving widow of Naylor W. Ruppert, Sr. transferred all of her interest in Ruppert Sanitation, Inc. unto her son, Naylor W. Ruppert, Jr. (See Exhibit B & C attached hereto and incorporated herein by reference).

4. That Ruppert Sanitation, Inc. is the only legitimate successor to the business that was owned and operated at the address in question.

5. That Ruppert Sanitation, Inc. has moved its entire operation to 74 Gwynns Mill Court, Owings Mills, Maryland.

6. That what is presently operating at 4727 Old Court Road is presumably a business trading as Garrison Hauling, Inc. (which was sold on September 30, 1987). That this business is in fact a new and different business than that of Naylor W. Ruppert, Sr., which was trading as Ruppert Sanitation, Inc. and has since moved its location.

WHEREFORE, the Protestants through counsel respectfully request that the hearing be reopened for the limited purposes set forth in this Motion.

Myron J. Ashman
MYRON J. ASHMAN, ESQ.
1220 Court Square Bldg.
200 E. Lexington St.
Baltimore, Md. 21202
539-1708

Arnold C. Taragin
ARNOLD C. TARAGIN
110 St. Paul St., Ste 501
Baltimore, Md. 21202

ARNOLD C. TARAGIN

I HEREBY CERTIFY, that on this 1st

day of January, 1989, a copy of the within Motion to Reopen was mailed to Edward C. Covahey, Jr., Esq. and Anthony J. DiPaula, Esq., attorneys for the Petitioners at 614 Bosley Avenue, Towson, Maryland, 21204.

Arnold C. Taragin
ARNOLD C. TARAGIN, ATTY.

ARNOLD C. TARAGIN

ARNOLD C. TARAGIN

ATTORNEY AT LAW
SUITE 501, TITLE BUILDING
110 ST. PAUL STREET
BALTIMORE, MD 21202
(301) 752-1716
FAX (301) 539-2602

January 25, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland, 21204

Re: In the Matter of Ruppert Zoning-Special Hearing
Case No: 89-62SPH

Dear Mr. Haines:

Enclosed herewith please find the protestants' Motion to Reopen. We have recently discovered new evidence which we believe to be significant concerning the nature and extent of the business which allegedly has continually been operated from the subject property.

We would request the opportunity to present no more than 45 minutes of additional testimony on these issues, which only came to light as a result of the testimony of the Petitioner and the recently discovered evidence.

Thank you for your cooperation.

Very truly yours,

Arnold C. Taragin
ARNOLD C. TARAGIN

ACT:ee

CC: Myron J. Ashman, Esq.
CC: Anthony J. DiPaula

RECEIVED
JAN 26 1989

ZONING OFFICE

1/03/89:1279.cb:10285.8

IN RE:

PETITION FOR SPECIAL HEARING

SS OLD COURT ROAD
97.37' NW Parkfield Road
(4727 OLD COURT ROAD)
2ND ELECTION DISTRICT -
2ND COUNCILMANIC DISTRICT
EDWARD K. RUPPERT, ET UX.
Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 89-62-SPH

PETITIONERS' MEMORANDUM OF LAW

Edward K. Ruppert and Evelyn Ruppert, Petitioners, by Edward C. Covahey, Jr., Anthony J. DiPaula, and Covahey & Boozer, P.A., their attorneys, hereby submit this Memorandum of Law as requested at the conclusion of the hearing held before the Zoning Commissioner of Baltimore County on November 23, 1988.

SUMMARY OF THE FACTS/TESTIMONY

Three (3) witnesses were called to testify on behalf of the Petitioners, namely, a registered land surveyor; William Gray, a factual witness; and Edward Ruppert. The first witness, Shane Thatcher, testified that he has been a registered land surveyor for almost twelve (12) years. He identified Petitioner's Exhibit 1, the site plan, as having been prepared under his direct supervision. He offered expert testimony that the site plan was prepared in accordance with the requirements of the Baltimore County Zoning Regulations, and stated that the site plan showed all permanent structures on the site as supported by his visits to the property. Mr. Thatcher was subject to

1/03/89:1279.cb:10285.8

extensive cross-examination by counsel for the protestants, most of which bore little or no relevance to the issues before the Commissioner. Worthy of note, however, was his opinion that the site was not excessively noisy nor noxious smelling, and that he felt comfortable at the site.

Edward K. Ruppert then testified as to his ownership of the site, comprised of two (2) separate parcels of approximately 4.2 acres of land in all. Mr. Ruppert testified that since being a small boy he had worked for his father, at the subject site, who operated a garbage and general hauling business. By separate deeds he later acquired the subject property, with his wife owning an interest with him in one of the parcels. His testimony was that at least back to the 1930's when he was a boy (he is now 60) he worked for his father who hauled garbage and refuse, and did general hauling for his regular customers. In 1963, Edward Ruppert formed his own company, Garrison Hauling, operating from the site along with the on-going family-run business, Ruppert Sanitation, which was later acquired by his brother, Naylor Wilbert Ruppert who testified along with his wife, Peggy Joan, as protestants. Garrison Hauling has, since its inception, continuously operated from that site and done hauling and trash removal for customers privately, pursuant to contract with Baltimore County, and commercially, servicing many businesses in the western county. To the extent it is all relevant to the

- 2 -

MICROFILMED

1/03/89:1279.cb:10285.8

issues before the Commissioner, Mr. Ruppert testified that whatever problems with noises and odors the neighbors were experiencing could be attributed to his brother. The further complaints regarding aesthetics caused by the removal of some bushes and natural screening were in the process of being remedied by Petitioners. Most importantly, Mr. Ruppert testified that whether used by his father, his brother, himself, or in combination, the subject site has enjoyed a continuous-uninterrupted nonconforming use as a garbage and general hauling business, with some small residential use by tenants who are usually employees of the business. Also worthy of note was Mr. Ruppert's testimony that the business cannot grow any more beyond its present size as there is no additional area to serve.

Probably the most unbiased, disinterested and credible witness of all was William V. Gray who testified for the Petitioners. Mr. Gray testified that he was eight-four (84) years old, and knew this site well. He had worked for Mr. Ruppert's father since "before the war", and his activities gradually slowed until now he just visits the site. Up until two (2) years ago Mr. Gray was still very active in the business, working as a driver for Garrison Hauling. Before that, he "threw cans" for many years, working for Garrison Hauling and Ruppert

1. World War II commenced in this Country on December 7, 1941 with the Japanese attack on Pearl Harbor.

- 3 -

MICROFILMED

Sanitation before that. He did say that the business has grown over the years, not in physical yard space, but in the number of trucks and amount of business handled. When shown the site plan (Petitioner's Exhibit 1), he testified that he remembered the house being built, but that otherwise all else was where it had always been, including the driveway.

The remainder of the case consisted of testimony by the various protestants, most of which did not address the issues in the case. To the extent it was relevant, all of the protestants, but for Petitioners' feuding relatives, testified that up until two to three years ago, Petitioners' use of the site was totally unobtrusive. The things that bothered them now were unknowns such as why bulldozers were brought in, along with truck loads of fill dirt, and that to a certain degree the site had recently become a mini-junk yard. The Petitioner explained his actions in grading the rear agricultural portion of the site, and expressed his intent to remedy the unsightliness of the property which was occasioned by his temporary absences due to illness.

ISSUE PRESENTED

WHETHER THE PROPERTY OF THE PETITIONERS ENJOYS A NONCONFORMING USE, AND IF SO, AS WHAT AND TO WHAT EXTENT?

- 4 -

ARGUMENT

The original petition in this case, prepared by former counsel for the Petitioners, requested a special hearing to approve the subject site as nonconforming for the "storage and repair of hauling trucks and equipment". It was clear at the hearing that the actual use of the property and the nature of the request goes much further, and involves all facets of a hauling and sanitation business, part of which involves that which was originally requested.

Based upon the testimony presented, there is little question that the nonconforming use which the subject property has enjoyed consists of a garbage and general hauling business, with accessory parking, storage and repair of garbage trucks, equipment and containers. The real questions are how much of the property enjoys this status, and whether all of the growth of the business constitutes intensification, enlargement, or expansion, some of which is permissible.

The language of BCZR, Section 104.1 specifically prohibits extension of a use by more than twenty-five percent (25%) of ground floor area. It should be noted that as required by the Commissioner at the conclusion of the hearing, a revised site plan has been submitted outlining the area presently used and which Petitioners have shown has always been used in the business. A new description was also submitted, both of which

- 5 -

were to be treated as after-acquired exhibits. It was brought out at the hearing that the initial site plan was intended to be a boundary survey, and the testimony of Petitioners' own witnesses identified the real area of concern. As revised, the site plan correctly identifies the area which has historically been used in the business.

As stated by the Commissioner at the conclusion of the hearing, there is no question that this property enjoys a nonconforming use. What must be addressed is whether the current use(s) fall within the lawful nonconforming use. The real issue is whether the business has changed or merely intensified.

In the case of McKemy v. Baltimore County, 39 Md. App. 257, 269-70, (1978), the Court of Special Appeals identified four (4) factors to be used in making this determination. Those factors are as follows:

- (1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;
- (2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;
- (3) does the current use have a substantially different effect upon the neighborhood;
- (4) is the current use a "drastic enlargement or extension" of the original non-conforming use.

- 6 -

When applied to the facts of the instant case, the current use reflects the same nature and purpose of the nonconforming use proven to exist. It does not constitute a use different in character, nature, or kind from the original. If not for the aesthetic changes to the site (e.g., bushes removed, etc.), the effect upon the neighborhood would be the same as always, namely, the neighbors would not know it existed! Until two to three years ago, the neighbors and the Petitioners enjoyed a very good relationship. The use that exists at present, especially the volume thereof, has existed since before two or three years ago, and the effect upon the neighbors, as evidenced by the complaints, cannot be attributed to the lawful nonconforming use. The sudden negative effect and complaints are the result of Petitioners' activities unrelated to the lawful nonconforming use and which, it is recognized, must cease or be conducted properly. The present use does not constitute a "drastic enlargement or extension of the original nonconforming use." On this last issue, it is Petitioners' position that the growth of lawful nonconforming use, as defined herein, constitutes nothing more than permissible intensification.

The question of expansion or intensification is a factual one with each case turning on its own facts. Phillips v. Zoning Commissioner, 225 Md. 102, 109 (1961). The Courts of Maryland have been called upon to decide the question of

- 7 -

enlargement versus intensification on several occasions, and have laid down basic definitional guidelines. In the case of Prince George's County v. F.L. Gardner, Inc., 47 Md. App. 471 (1981), the Court of Special Appeals stated:

A distinction is to be drawn between the enlargement or extension of non-conforming uses and intensification of such lawful uses. An increase in floor space either arising from an addition to an existing building or in a separate building; an increase in the area of a lot used for non-conforming uses; or a change in business methods or the provision of new accessory facilities with the resulting extension of the use involved have all been held to be proposals for the enlargement of a non-conforming use. Conversely, an increase in the volume of an existing business is usually referred to as an intensification rather than enlargement and such an intensification has been permitted under a valid non-conforming use.

Id. at 76 (Emphasis added).

Under that definition, purchasing and using additional trucks in the business constitute mere intensification. The increase in the number of trucks did not alter the use in any way. It constituted an increase in volume only.

In the case of Nyberg v. Solmsion, 205 Md. 150 (1954), the Court of Appeals reached a similar conclusion in deciding whether a property owner who had an undisputed

- 8 -

non-conforming use for the storage of ten cars, and the parking and washing of motor vehicles in general, had unlawfully enlarged his non-conforming use by storing thirty to fifty cars and increasing the volume of his operation. The Court found that the acts of the property owner constituted "... not an extension but merely an intensification of a long continued non-conforming use". *Id.* at 161. Similarly, in the case of Feldstein v. Zoning Board, 246 Md. 204 (1967), the Court found that the increase in height of junk and scrap metal in a junkyard, without enlarging the lot size upon which the junk was stored, and in no way changing the character and nature of the operation, constituted an intensification and not an expansion or extension. *Id.* at 211.

CONCLUSION

For all of the above reasons, the property as shown on the revised site plan and as described on the revised description should be granted status as a nonconforming use for a garbage and general hauling business, with accessory parking, storage and repair of garbage and hauling trucks, equipment and containers. Any increase in the volume of the business over the fifty or so

- 9 -

years it has operated from the subject site constitutes mere intensification. The character of the use has never changed, and it has existed continuously since before there was zoning in Baltimore County.

Respectfully submitted,

Edward A. Covahay, Jr.
Edward A. Covahay, Jr.
Anthony J. DiPaola
Covahay & Boozer, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 4 day of January, 1989, a copy of the foregoing Petitioners' Memorandum of Law was mailed, postage prepaid to Myron J. Ashman, Esquire, Suite 1220-Court Square Building, 200 E. Lexington Street, Baltimore, Maryland 21202, Arnold Taragin, Esquire, 110 St. Paul Street, Baltimore, Maryland 21202, and Mr. David Stein, Liberty Communities Development Corporation, Inc., 3820 Fernside Road, Randallstown, Maryland 21133.

Anthony J. DiPaola
Anthony J. DiPaola

- 10 -

COVAHEY & BOOZER, P.A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301
828-9441

FAX 301-298-2131

EDWARD C. COVAHEY JR.
F. VERNON BOOZER
MARK S. DEWALL
ANTHONY J. DI PAOLA
THOMAS R. DORE

DEVELOP TO:
ANNEX OFFICE
SUITE 101
606 BALTIMORE AVE.
TOWSON, MD 21204
AREA CODE 301
828-5526

January 4, 1989

HAND DELIVERED

J. Robert Haines
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: In the Matter of Ruppert
Zoning-Special Hearing
Case No.: 89-62SPH

Dear Mr. Haines:

Enclosed please find Petitioners' Memorandum of Law with respect to the above-referenced case.

Very truly yours,

Anthony J. DiPaola
Anthony J. DiPaola

AJD/cab
cc: Myron J. Ashman, Esquire
Arnold Taragin, Esquire
Mr. David Stein
Enclosure

RECEIVED
JAN 4 1989
ZONING OFFICE

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 2nd Date of Posting 8-22-89
Posted for: Edward K. Ruppert, et ux
Petitioner: Edward K. Ruppert, et ux
Location of property: S/S of Old Court Road, 97-37 NW of
142 York Road, 4727 Old Court Road
Location of Signs: South side of Old Court Road in front of
subject property
Remarks: reported 8/15/89
Posted by: J. Robert Haines Date of return: 8/22-89
Number of Signs: 1

89-62-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this
day of , 1989.

Petitioner: Edward K. Ruppert, et ux
Petitioner's Attorney: Robert P. Mann
Received by: J. Robert Haines
Chairman, Zoning Plans Advisory Committee

CIRCUIT COURT FOR BALTIMORE COUNTY

Irene Summers - 887-2660
Civil Assignment Commissioner

COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
March 13, 1990

Beverly Karmasek - 887-2661
Motion Assignment Clerk

TO: S. Eric Diaanna, Esq.
County Board of Appeals

RE: 90-CC-638 In the Matter of Edward K. Ruppert

HEARING DATE: Monday, April 30, 1990, @ 11:30 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.

TIME ALLOTTED: No more than (1/2) hour is allotted for the hearing on "MOTION DAYS." If motions will take more than (1/2) hour, contact the Assignment Office immediately.

COURT REPORTERS: A court reporter will not be present unless specifically requested. Court reporters will not be present on "MOTION DAYS." Request for reporters should be directed to the Assignment Office upon receipt of this notice.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Civil Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved.

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

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 085901
DATE 2/28/89 ACCOUNT R-01-615-000
AMOUNT \$ 162.16
RECEIVED FROM: Anthony De Paula (Res Ruppert)
FOR: SPH 89-62-SPH
MICROFILMED
VALIDATION OR SIGNATURE OF CARRIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 52634
DATE 6-17-89 ACCOUNT R-01-615-000
AMOUNT \$ 100.00
RECEIVED FROM: Mann & Clark P.A.
FOR: Special Hearing From #455
VALIDATION OR SIGNATURE OF CARRIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 085998
DATE 3-20-89 ACCOUNT 01-615-000
AMOUNT \$ 105.00
RECEIVED FROM: ANTHONY J. DI PAULA
FOR: APPEAL FILING - CASE NO. 89-62-SPH
EDWARD K. RUPPERT, ET UX - PETITIONER
VALIDATION OR SIGNATURE OF CARRIER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333
J. Robert Haines
Zoning Commissioner

July 18, 1988

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER: 89-62-SPH
S/S Old Court Road, 97.37' NW Parkway Road
(4727 Old Court Road)
2nd Election District - 2nd Councilmanic
Petitioner(s): Edward K. Ruppert, et ux
HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 14, 1988 at 9:00 a.m.

Special Hearings To approve storage and repair of hauling trucks and equipment- non-conforming use.

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

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Edward K. Ruppert, et ux
Robert Paul Mann, Esq.
File

County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3333
June 12, 1989

NOTICE OF ASSIGNMENT

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

CASE NO. 89-62-SPH EDWARD K. RUPPERT, ET UX
S/S Old Court Road, 97.37' NW of Parkway Road
(4719 & 4727 Old Court Road)
2nd Election District
2nd Councilmanic District
SPH - nonconforming use for storage and repair of hauling trucks and equipment.

02/28/89 - Z.C. Order DENYING Petition for Special Hearing to approve nonconforming use.

ASSIGNED FOR: FRIDAY, SEPTEMBER 15, 1989 at 10:00 a.m.

cc: Mr. and Mrs. Edward K. Ruppert Appellant/Petitioner
Anthony J. DiPaola, Esquire Counsel for Appellant/Petitioner
Edward C. Conway, Esq. " " "
Myron J. Aschman, Esq. Counsel for Appellee/Protestants
Arnold C. Tarsan, Esq. " " "
Mr. and Mrs. Wyatt Cogger " " "
Mr. Myron G. Gorman " " "
Mr. Kenneth Feldman " " "
Mr. Harry Kaplan " " "
Mr. and Mrs. Mark Martow " " "
P. David Peltier " " "
Pat Keller " " "
J. Robert Haines " " "
Ann M. Masterson " " "
James E. Zyer " " "
Docket Clerk - Zoning " " "
Arnold Geller, County Attorney " " "
Shayne Hatcher " " "
Linda Lee M. Kuszmaul Legal Secretary

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333
J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

Robert Paul Mann, Esq.
142 York Road
Lutherville, MD 21093

Re: POSTPONEMENT REQUEST

Dear Sir:

This to acknowledge receipt of your postponement request regarding the following petition:

Case number: 89-62-SPH
Petitioner(s): Edward K. Ruppert
Location: 4727 Old Court Rd.

Please be advised that your request [] will [] will not be granted, and as such, the case [] will [] will not proceed on the assigned date of September 14, 1988.

Where applicable, you will be timely notified of the new hearing date.

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH:gs

cc: Mr. & Mrs. Ruppert

ROBERT PAUL MANN
BRENDA A. CLARK
AND ASSOCIATES

August 18, 1988

J. Robert Haines, Esquire
Zoning Commissioner
Baltimore County
Office of Planning & Zoning
Towson, Maryland 21204

Re: Case No. 89-62-SPH
Petitioner: Edward K. Ruppert

Dear Mr. Haines:

Thank you so much for your letter of August 12, which I received yesterday postponing the above matter which was scheduled for a hearing before you on September 14, 1988.

Because of our busy trial schedule for the next several months or so, I suggested to Mr. Ruppert that he obtain the services of another attorney for this hearing. I am certain that he will do so. The new attorney will be in contact with you shortly concerning his representation of Mr. Ruppert in the above case.

Thank you.

Very truly yours,
MANN & CLARK, P.A.
Robert Paul Mann
Robert Paul Mann

RPM/LE

cc: Mr. & Mrs. Edward Ruppert

ROBERT PAUL MANN
BRENDA A. CLARK
AND ASSOCIATES

July 21, 1988

Baltimore County Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case Number: 89-62-SPH

Gentlemen:

I received a Notice of Hearing today scheduling the above matter on Wednesday, September 14, 1988 at 9:00 a.m. I must respectfully request a postponement due to a conflict concerning a case in the Circuit Court for Baltimore County entitled Murphy v. Murphy.

I called your office and you suggested I send this letter to you. Also, you indicated that we would be able to have the case re-scheduled during the early part of October, 1988.

May I hear from you at your earliest convenience? Please do not hesitate to contact me.

Thank you.

Very truly yours,
MANN & CLARK, P.A.
Robert Paul Mann
Robert Paul Mann

RPM/W

cc: Mr. & Mrs. Edward K. Ruppert



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 311
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 11, 1989

Anthony J. DiPaula, Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Case No. 89-62-SPH
Edward K. Ruppert, et ux

Dear Mr. DiPaula:

The Board has received your Motion for Postponement of the above-referenced matter from the hearing presently scheduled for September 15, 1989.

In that this is the first request for postponement and in view of the reason for your request, the Board is inclined to grant your Motion. However, under Board Rule 2(c), postponements cannot be granted off the record within 15 days from the date of hearing. The purpose of this rule is to avoid the difficulties in notifying all parties which often arise with last minute postponements.

Therefore, it would be appreciated if you or other counsel from your office would appear on the morning of September 15, 1989, at 10:00 a.m. to formally request the postponement on the record, and to confirm calendars so that another hearing date can be scheduled.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt, Jr.
County Board of Appeals

LES:KCN

cc: Mr. & Mrs. Edward K. Ruppert
Edward C. Covahay, Jr., Esquire
Myron J. Ashman, Esquire
Arnold C. Taragin, Esquire
Mr. & Mrs. Wyatt Coger
Ms. Myra Gertz
Ms. Jeannette Feldman
Mr. Gary Caplan
Mr. & Mrs. Mark Wartow
Shayne Thatcher
Ms. Leslie Smith

F. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk - Zoning
W. Carl Richards, Jr.
Arnold Jablon, County Attorney

ROBERTO O. FERRER, M.D., P.A.

FELLOW, AMERICAN COLLEGE OF SURGEONS
DIPLOMATE, AMERICAN BOARD OF SURGERY

7600 OSLER DRIVE, SUITE 304
TOWSON, MARYLAND 21204
(301) 296-3092

September 7, 1989

Mr. Anthony J. DiPaula
Covahay & Booser, P.A.
614 Bosley Avenue
Towson, MD 21204

Re: Edward K. Ruppert, Sr.

Dear Mr. DiPaula:

Mr. Ruppert is under my care for abdominal pain and severe malnutrition. The patient is scheduled to be admitted to St. Joseph Hospital on September 11, 1989, for diagnostic tests and initiation of nasogastric tube feeding. Once the tube feeding is established, it will be continued at home.

It will be about a month before the patient is strong enough to resume normal activities.

Very truly yours,

Roberto Ferrer

Roberto O. Ferrer, M.D., F.A.C.S.

ROF:mjl



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM -
Room 301, County Office Building

September 18, 1989

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. 89-62-SPH

EDWARD K. RUPPERT, ET UX

S/S Old Court Road, 97.37' NW of Parkfield Road:
(4719 and 4727 Old Court Road)

2nd Election District; 2nd Councilmanic District

SPH - Nonconforming use /storage & repair of
hauling trucks and equipment

2/28/89 - Z.C. Order that: Petition for Special
Hearing is DENIED

which had been scheduled for hearing on September 15, 1989 was POSTPONED on the record and in open hearing at the request of Counsel for Petitioner and has been REASSIGNED FOR: WEDNESDAY, JANUARY 10, 1990 at 10:00 a.m.

cc: Mr. & Mrs. Edward K. Ruppert

Appellants /Petitioners

Anthony J. DiPaula, Esquire

Counsel for Appellants /Petitioners

Edward C. Covahay, Esquire

" " " "

Myron J. Ashman, Esquire

Counsel for Appellees /Protestants

Arnold C. Taragin, Esquire

" " " "

Mr. & Mrs. Wyatt Coger

Ms. Myra Gertz

Ms. Jeannette Feldman

Mr. Gary Caplan

Mr. & Mrs. Mark Wartow

Shayne Thatcher

F. David Fields

Pat Keller

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

Docket Clerk - Zoning

W. Carl Richards, Jr.

Arnold Jablon, County Attorney

Ms. Leslie Smith

Kathleen C. Weidenhammer
Administrative Assistant

D. R. H.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

October 10, 1989

NOTICE OF HEARING

(POSTPONEMENT WILL BE GRANTED ONLY IN THE CASE OF SNOW)

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER: 89-62-SPH
S/S Old Court Road, 97.37' NW of Parkfield Road
(4727 Old Court Road)
2nd Election District - 2nd Councilmanic
District
Petitioner(s): Edward K. Ruppert, et ux
HEARING SCHEDULED: WEDNESDAY, NOVEMBER 23, 1989 at 9:00 a.m.

Special Hearing: Storage and repair of hauling trucks and equipment - Nonconforming use.

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

NOTES

IF PHASE II OF THE SNOW EMERGENCY PLAN IS IN EFFECT IN BALTIMORE COUNTY BY 8:30 a.m. ON THE DATE OF THE ABOVE HEARING, SUCH HEARING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, DECEMBER 22, 1989. PLEASE TELEPHONE DOCKET CLERK AT 494-3331 TO CONFIRM DATE.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Edward K. Ruppert, et ux
Edward C. Covahay, Jr., Esq.
Gary Caplan
Emily Wolfson
David Stern
Barbara Paresy

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 8, 1988

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

000

Robert P. Mann, Esquire
Mann & Clark, P.A.
1142 York Road
Lutherville, Maryland 21093

RE: Item No. 455 - Case No. 89-62-SPH
Petitioner: Edward K. Ruppert, et ux
Petition for Special Hearing

Dear Mr. & Mrs. Ruppert:

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
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

CEH:dt

cc: Greenbome & O'Mara, Inc.
113 West Road, Suite 208
Baltimore, Maryland 21204

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Building, Suite 408
Towson, Maryland 21204
494-3354

July 18, 1988

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

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number

391, 413, 438, 439, 442, 443, 444, 446, 447, 448, 450, 451, 452, 453, 454, 455, 456, and 457.

Very truly yours,

Stephen E. Weber
Stephen E. Weber, P.E.
Assistant Traffic Engineer

SEW/EP/cps

Dennis F. Rasmussen
County Executive

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

Date: July 26, 1988

FROM: P. David Fields, Director
Office of Planning and Zoning

SUBJECT: Zoning Petitions: 89-58-Sph / 89-62-Sph
89-67-Sph

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

P. David Fields
P. David Fields, Director
Office of Planning and Zoning

PDF/jat
cc: Shirley Hess, People's Counsel
G. G. Howell
Zoning File

MICROFILMED

RECEIVED
JUL 28 1988

ZONING OFFICE

CPS-008

Baltimore County
Fire Department
Towson, Maryland 21204-2386
494-4300

Paul H. Reincke

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

Re: Property Owner: Edward K. Ruppert, et ux

Location: SS Old Court Rd, 97.37 fr. NW of Parkfield Rd.

Item No.: #455

Zoning Agenda: Meeting of June 28, 1988

Gentlemen:

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

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of ___ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neill*
Planning Group
Special Inspection Division

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

/s/

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

Zoning Item 1455, Zoning Advisory Committee Meeting of July 25, 1988
Property Owner: Edward K. Ruppert
Location: 85 Old Court Rd. District 2
Water Supply meter Sewage Disposal meter

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, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 494-3775, to obtain requirements for such installation before work begins.
- () A permit to construct from the Bureau of Air Quality Management 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 Bureau of Air Quality Management 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 amusements pertaining to health and safety, two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Recreational Hygiene Section, Bureau of Regional Community Services, 494-3811.
- () 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 the State Department of the Environment.
- () Prior to razing of existing structure/s, petitioner must contact the Division of Waste Management at 494-3766, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 494-3775.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of 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 Water and Sewer 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 () 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 probability 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 _____

Nana M. Mennig
BUREAU OF WATER QUALITY AND RESOURCE
MANAGEMENT

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines
TO: Zoning Commissioner

Date: October 27, 1988

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

Edward K. Ruppert
SUBJECT: Zoning Petition No. 89-62-SPH

On July 26, 1988 the Office of Planning and Zoning submitted a memo of no comment on this application. Since that time the office has received inquiries from area residents regarding this project. Staff has visited this site and subsequently offers revised comments regarding the applicant's request. The applicant is requesting a special hearing to establish a nonconforming use for the storage and repair of hauling trucks and equipment. In reference to this request, staff provides the following information:

Land Use - The site plan as submitted by the applicant dated 1/8/88 does not accurately reflect existing conditions on the site. The actual uses on the site include but are not limited to 1) sanitation trucks; 2) automotive vehicles, truck storage and repair; 3) commercial trash container storage; 4) buildings in various states of use ranging from collapsed to office and storage; 5) above-ground storage of miscellaneous items such as underground gasoline tanks (10,000 gallons approx.), mulching, fencing, etc. These uses should be clearly enumerated and specified and not allowed to expand or proliferate.

Landscaping - There is mature landscaping and fencing around the perimeter of the parcel. There are several locations along the perimeter which should be reinforced with supplemental landscaping and/or fencing. The parcel should be effectively screened and buffered due to the industrial nature of the uses on site.

Health, Safety, Environment - It appears that there may be several conditions existing on the site that may pose health, safety or environmental problems. The storage of large gasoline tanks, the dispensing of fuel from underground storage, a collapsed building, etc. should be evaluated to determine if these conditions pose any unnecessary impact, and if so should be mitigated by the applicant.

Community Impact - The applicant has been and is providing a desired and necessary service in reference to sanitation services for the County. The use is heavy industrial in nature and therefore has a much greater impact on the surrounding residential community. Adequate buffers and controls need to be set on this parcel in order to avoid the proliferation of non-sanitation service uses.

Based upon the information provided and analysis conducted, staff recommends approval of the applicant's request subject to all of the conditions noted being addressed prior to approval of this request. The staff recommends that:

- the applicant shall clearly designate the portion of the parcel that is labeled "unused portion" is not subject to the nonconforming use designation and will in fact remain unused; and

- the applicant shall revise the submitted site plan to clearly show all existing uses and conditions on the parcel (e.g., storage and repair of 14 garbage trucks); and

- the uses shall be limited to the service, storage and operation of sanitation vehicles and commercial sanitation containers; and

- the applicant shall clearly enumerate (use, location, number, size) of all areas and uses that are subject to the nonconforming provisions; and

- additional landscaping shall be provided around the perimeter of the site to buffer adjacent residential uses and shall be reviewed and approved by the County Landscape Planner prior to final approval; and

- any unsafe conditions (fuel tanks, collapsed buildings, etc.) shall be investigated by the appropriate agencies (DEPRM, Health Dept., Zoning Office, etc.) and any violations will be mitigated by the applicant; and

- any noise, odors, dust, trash will not exceed levels typically generated by single-family uses; and

- all provisions noted above shall be reviewed and approved by the Office of Planning and Zoning and appropriate agencies prior to approval.

FZ/sf

cc: Edward C. Covahay, Jr., Esq.
10-25-88

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

March 21, 1989



Dennis F. Hannon
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing
S/S Old Court Road, 97.37' NW of Parkfield Road
(4719 & 4727 Old Court Road)
2nd Election District, 2nd Councilmanic District
EDWARD K. RUPPERT, ET UX - Petitioner
Case No. 89-62-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on March 17, 1989 by Anthony J. DiPaola, Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

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

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. Edward K. Ruppert, 5400 Deer Park Road,
Box 318, Owings Mills, Maryland 21204

Anthony J. DiPaola, 614 Bosley Avenue, Towson, Md. 21204

Shayne Thatcher, 113 West Road, Towson, Md. 21204

Myron J. Ashman, 1220 Court Square Building
200 E. Lexington Street, Baltimore, Md. 21202

Arnold C. Taragin, Suite 501, Title Building
110 St. Paul Street, Baltimore, Md. 21202

People's Counsel Rm. 304, County Office Bldg. Towson, Md. 21204

APPEAL

Petition for Special Hearing
S/S Old Court Road, 97.37' NW of Parkfield Road
(4719 & 4727 Old Court Road)
2nd Election District - 2nd Councilmanic District
EDWARD K. RUPPERT, ET UX - Petitioner
Case No. 89-62-SPH

Petition for Special Hearing ✓

Description of Property ✓

Certificate of Posting ✓

Certificate of Publication ✓

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments ✓

Director of Planning & Zoning Comments ✓

Petitioner's Exhibits: A) & 1) Plans for Special Hearing ✓

Protestant's Exhibits: 1) Petition signed by residents of Valleybrook in opposition of the Petition ✓

2) Two (2) 3" x 5" photographs of location ✓

3) Eight (8) Polaroid photographs of location ✓

4) One (1) Polaroid photograph of location ✓

5) Various photographs of locations ✓

6) Minutes of LCDC Board of Director's Meeting ✓

7) Minutes of Courtmar Association's Meeting ✓

8) Plat for Special Hearing ✓

Zoning Commissioner's Order dated February 28, 1989 (Denied)

Notice of Appeal received March 17, 1989 from Anthony J. DiPaola, Attorney on behalf of the Petitioner.

Appeal - Case No. 89-62-SPH
March 21, 1989
Page 2

Mr. & Mrs. Wyatt Cogger, 4720 Bonnie Bue Rd. 21208
Mr. Myra Gertz, 3736 Parkfield Rd. 21208
Ms. Jeannette Feldman, 4722 Old Court Rd. 21208

cc: Mr. & Mrs. Edward K. Ruppert, 5400 Deer Park Road,
Box 318, Owings Mills, Maryland 21204

*Anthony J. DiPaola, 614 Bosley Avenue, Towson, Md. 21204
Edward C. Covahay, Jr., Esq.
Shayne Thatcher, 113 West Road, Towson, Md. 21204

Mr. Myron J. Ashman, 1220 Court Square Building
200 E. Lexington Street, Baltimore, Md. 21202

Mr. Arnold C. Taragin, Suite 501, Title Building
110 St. Paul Street, Baltimore, Md. 21202

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk

Mr. Gary Caplan
3735 Parkfield Rd. 21208

Mr. & Mrs. Mark Wartow
4720 Old Court Rd. 21208

Ms. Leslie Smith, 4769 Bonnie Bue Rd. 21208

Following notified of hearing set for Friday, September 15, 1989 at 10:00 a.m.:

Mr. and Mrs. Ruppert
Anthony J. DiPaola, Esq.
Edward C. Covahay, Esq.
Myron J. Ashman, Esq.
Arnold C. Taragin, Esq.
Mr. and Mrs. Wyatt Cogger
Ms. Myra Gertz
Ms. Jeannette Feldman
Mr. Gary Caplan
Mr. and Mrs. Mark Wartow
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk - Zoning
Arnold Jablon, County Attorney
Shayne Thatcher

9/08/89 - Motion for PP filed by E. Covahay and A. DiPaola, Counsel for Petitioner.
Reason: Critical illness of principal party, E. Ruppert, Sr..

9/11/89 - Letter to A. DiPaola and all parties in file and certified in Motion
re: Board is inclined to grant Motion; however, must be done on record on September 15 at 10:00 a.m.

9/15/89 - Postponed on the record as indicated above; cannot be reset until after 12/15/89. Will reset to hearing day after that date.

9/18/89 - Notice of PP and Reassignment sent to above; hearing rescheduled to Wednesday, January 10, 1990 at 10:00 a.m.
Added: W. Carl Richards, Jr.
Ms. Leslie Smith

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301
828-1941
FAX 301-298-2131

December 16, 1988

EDWARD C. COVAHEY JR.
F. VERNON BOOZER
MARK S. DEW
ANTHONY J. DIPOLA
THOMAS R. DORE

REPLY TO:
ANNEX OFFICE
SUITE 101
606 BALTIMORE AVE
TOWSON MD 21204
AREA CODE 301
828-5525

J. Robert Haines
Zoning Commissioners for
Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: In the Matter of Ruppert
Zoning-Special Hearing
Case No. 89-62SPH

Dear Mr. Haines:

Enclosed please find a copy of the revised Site Plan and description as requested at the conclusion of the hearing of the above-matter on November 23, 1988. As ordered, copies have been disseminated to the other parties present at the hearing.

Very truly yours,
Anthony J. DiPaola
Anthony J. DiPaola

AJD/cab
Enclosure
16 cb.9

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301
828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER
MARK S. DEWAN
ANTHONY J. DIPAULA
THOMAS R. DORE

FAX 301-296-2131

D REPLY TO:
ANNEX OFFICE
SUITE 101
608 BALTIMORE AVE
TOWSON, MD 21204
AREA CODE 301
828-5525

December 19, 1988

Myron J. Ashman, Esquire
Suite 1220-Court Square Building
200 E. Lexington Street
Baltimore, Maryland 21202

Arnold Taragin, Esquire
110 St. Paul Street
Baltimore, Maryland 21202

Mr. David Stein
Liberty Communities Development
Corporation, Inc.
3820 Fernside Road
Randallstown, Maryland 21133

RE: In the Matter of Ruppert
Zoning-Special Hearing
Case No. 89-62SPH

Gentlemen:

Enclosed please find copy of the revised Site Plan showing the area which will be designated as having the benefit of the nonconforming use, and a revised metes and bounds description thereof. Two (2) copies of the Plan and description are being sent to Mr. Ashman in light of the fact that he represented several groups at the hearing. By separate letter, and simultaneously herewith, copy of the revised Plat and description is being forwarded to the Zoning Office for filing.

Very truly yours,

Anthony J. DiPaula

AJD/cab
cc: J. Robert Haines
Enclosures
16 cb.8

RECEIVED
DEC 23 1988

ZONING OFFICE

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301
828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER
MARK S. DEWAN
ANTHONY J. DIPAULA
THOMAS R. DORE

FAX 301-296-2131

D REPLY TO:
ANNEX OFFICE
SUITE 101
608 BALTIMORE AVE
TOWSON, MD 21204
AREA CODE 301
828-5525

March 17, 1989

HAND DELIVERY

Mr. J. Robert Haines
Baltimore County Zoning Commissioner
County Court Building
Towson, Maryland 21204

RE: SPECIAL HEARING - CASE NO. 89-62-SPH
PETITIONERS: EDWARD K. RUPPERT, ET UX.
4719 AND 4727 OLD COURT ROAD

Dear Mr. Haines:

Please enter an Appeal to the Board of Appeals from the decision rendered on 28th day of February, 1989. Enclosed is a check to cover the cost of same.

Very truly yours,

Anthony J. DiPaula

AJD/cab
cc: Arnold Taragin, Esquire
Mr. David Stein
Myron J. Ashman, Esquire
Enclosure
17 cb.6

RECEIVED
MAR 17 1989

ZONING OFFICE

(O.K.-aw)

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301
828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER
MARK S. DEWAN
ANTHONY J. DIPAULA
THOMAS R. DORE

FAX 301-296-2131

D REPLY TO:
ANNEX OFFICE
SUITE 101
608 BALTIMORE AVE
TOWSON, MD 21204
AREA CODE 301
828-5525

December 6, 1989

HAND DELIVERY

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

RE: PETITION FOR SPECIAL HEARING
CASE NO. 89-62-SP
EDWARD K. RUPPERT, et ux.
S/S OLD COURT ROAD,
97.37' NW OF PARKFIELD ROAD
(4719 & 4727 OLD COURT ROAD)
2ND ELECTION DISTRICT;
2ND COUNCILMANIC DISTRICT

Gentlemen:

Enclosed please find three (3) signed Amended Petitions for Special Hearing to be filed in the above case. This amendment was originally made orally at the hearing before the Zoning Commissioner, and the file was supposed to have been noted at that time prior to the taking of testimony and the introduction of other evidence. No mention was made in the opinion rendered, and the matter is presently pending before the County Board of Appeals.

Please accept the Amended Petition for filing and forward same to the Board of Appeals in the normal course. Enclosed is a check in the amount of \$75.00 to cover the cost of same. By copy of this letter, a copy of the Petition is being forwarded to the Board for its information.

NOTE: 1/10/90 Above-referenced check in the amount of \$75.00 returned to Edward Covahay this date per W. Hackett.

Baltimore County Zoning Office
December 6, 1989
Page 2

Should you have any questions with respect to this matter, please contact the undersigned.

Very truly yours,

Anthony J. DiPaula

AJD/jab
6 jlb.8

enclosures

cc: Arnold C. Taragin, Esq.
Myron J. Ashman, Esq.
Board of Appeals

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

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

HAND DELIVERY

Patricia M. Donaho
6600 Deer Park Road
Reisterstown, MD 21136

November 9, 1988

J. Robert Haines, Esq.
Zoning Commissioner
Baltimore County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Commissioner Haines:

I would appreciate receiving from your office of copy of the decision on these two hearings:

- * 1. # 64 - Special Exception: heard 11/1/88
A synagogue and school building;
NW Corner Deer Park Road and Berryman's Lane
2. # 62 - Special Exception: to be heard 11/23/88
Storage and repair of hauling trucks
4727 Old Court Road

Thank you for your help in this matter.

Sincerely,

Patricia M. Donaho

RECEIVED
NOV 14 1988
ZONING OFFICE

Commissioner Haines
Baltimore County Zoning Board
Towson, Maryland

Dear Commissioner Haines:

Since the hearing on the Ruppert property (89-62-SPH) on November 23, an incident has occurred which I feel you should be informed about.

On December 5, at 7:30 a.m., huge excavating trucks filled with dirt began roaring into the property every 3 to 5 minutes until about 4:30 p.m. (These trucks belonged to the C.J. Miller Excavating Co., which I was told is based in Hampstead). The dust and noise was unceasing and incredible and the cars and streets were covered with a thick layer of dirt in minutes.

I had no idea what was happening and waited until the next day to see if it continued. Sure enough, at 7:30 on December 6, the nightmare began again. By that time, the neighbors and I were going crazy from the vibrations and the dirt, so for the first time since I moved there almost 25 years ago, I called the police. The officer called to tell me they had a permit to dump there. I asked who issued it and he said he didn't know because he didn't see it, but they told him they had it. I asked him to get the information. I received a message some minutes later saying he had seen the papers and they were in order. I again asked the same question and was told he didn't remember who issued it. He said he would call back, but he never did.

Finally, after a number of calls, I was given the Sediment Control Office. A Mr. Morfield told me he had already received a call about it and that any papers for such activity would have had to be issued by his office and that had not been done. He assured me that it was being checked out and there would be a stop since the Rupperts were not permitted that kind of activity on the property. By 9:30, mercifully the trucks ceased the dumping. All this time a bulldozer was constantly grinding and beeping in the grading of this excavation material. I don't wish that kind of noise on anyone for 8 hours straight in one day and then into the next.

At 4:30, two more huge trucks arrived bringing bales of hay and an automatic blower to distribute the hay over the dirt. For the next half hour or so the air was filled with huge dust clouds and flying particles of hay all over Old Court Rd. It was so heavy at times, it seemed to be snowing!

This is only one more example of Mr. Ruppert's disregard for anything or anybody. Every time you turn around he is into still another project over there that is totally foreign to the original use of the property.

Commissioner Haines, we are living in a nightmare here and he just goes on and on with whatever he chooses to do. There seems to be no way to stop him. However, I must commend the Sediment Control people for following up. At least we got temporary relief--and I have no doubt that it is only temporary.

I am writing this letter to keep you informed. In my original statement I said I respected his right to conduct his business as it originally was. Now it is evident that he doesn't respect his neighbors nor does he respect the law.

The entire situation has gotten out of hand. We have a very nice residential neighborhood, and he is doing his best (or his worst) to make it an abomination of noise, an abomination to the eye, and any other abomination that he can think of.

I trust this information will give you more insight into our predicament here. We need help desperately. We are on edge here every day not knowing what will happen next and it is nerve-racking. If Mr. Ruppert wants that, after all the years of respect we have shown him, I don't know what kind of a person he can be. But certainly if that is what he wants to do to the neighborhood, he is succeeding.

Thank you for your patience and your understanding. I realize you have a job to do, but we have lives to live and he is turning them into a nerve-racking day-to-day worry. We shouldn't have to live like that.

Sincerely,

Jeanette Feldman
4722 Old Court Rd.
Baltimore, Md. 21208

January 10, 1990

Re: 89-62-SPH

Mr. Hackett
Chairman, Zoning Commissioner
111 Chesapeake Ave.
Towson, Maryland 21204

Dear Sir:

As one of the protesters of Edward K. Ruppert for his petition of non-conforming use of a hauling and sanitation business and a hearing which was held and dismissed on January 10, 1990, I implore you and your committee for your consideration to only allow the petitioner 30-45 days to completely cease and desist any and all types of operation at that location and to completely clean and clear the area of all matters pertaining to same.

Any further leniency only allows this defiant and arrogant resident time to start something new and undesirable for even a longer time.

As a close neighbor and relative I know him better than anyone and feel that the time I request is reasonable and in the best interest of the residents of Old Court Road.

After the hearing everyone that present expressed the same feelings. He has been stalling long enough and granted enough time to do so.

Sincerely,

Peggy Ann Ruppert
4739 Old Court Rd.
21208

RECEIVED
JAN 16 1990

*Mailed 11/20/88

Neighbors • call business noisy, dirty

Complaints about hauling firm arise during zoning hearing

By BAXTER SMITH
Staff writer

About 30 of Edward Ruppert's neighbors attended a zoning hearing Nov. 23 to complain that his sanitation and hauling business is noisy, dirty and disrupting the tranquility of the neighborhood.

The lot is dirty and rat infested," said Myra Gertz, whose home is behind the 4727 Old Court Road property on which Ruppert operates. "The dust, the dirt, the noise and the unsightly condition of this lot made it impossible for us to enjoy our home this past summer."

Gertz and other neighbors complained that the business deteriorated in the past couple of years after Ruppert began using his property for business other than what it was originally intended.

Ruppert has branched out with his business and now stores and repairs hauling trucks on his property. For some 40 years, Ruppert had run a family-owned and operated trash removal business.

Ruppert's property is zoned residential, even though there is a business on it. Exceptions like this are called "nonconforming use," because they do not conform to the use for which the surrounding land has been zoned.

Ruppert petitioned for the hearing so he could get a special exception for the use of the property, said a clerk at the Baltimore County Office of Planning and Zoning.

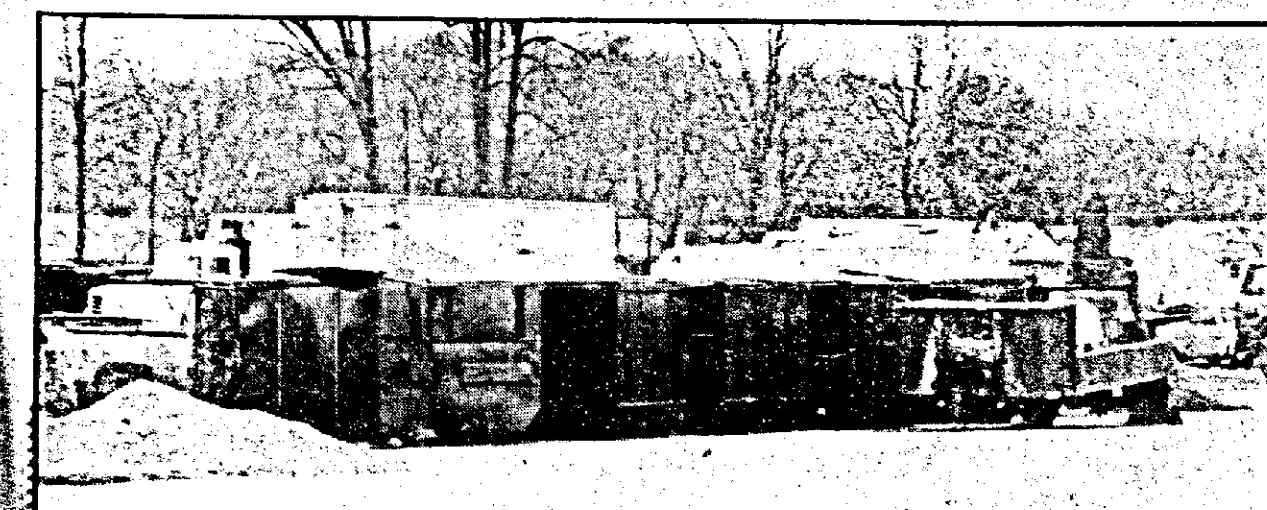
Naylor Ruppert Jr., Edward Ruppert's brother, was among the neighbors protesting the manner in which the business and property have evolved. He charged that his brother allowed the property to deteriorate after their father died.

"It's not what it was meant to be when it started," Naylor said. "The place was kept up, we had a garden in the back and now it's just a dumping ground. They dump anything they can get away with."

Edward Ruppert objected to neighbors' complaints, stating he had "cleaned up everything and beautified the whole place."

Ruppert's property is zoned residential, even though there is a business on it. Exceptions like this are called "nonconforming use," because they do not conform to the use for which the surrounding land has been zoned.

AP-Randallstown News-Wednesday, November 30, 1988



Edward Ruppert's property off of Old Court Road was the subject of neighbors' complaints at a zoning hearing last week.

Residents testify against hauling firm

From RESIDENTS, Page A1

But one neighbor testified at the hearing to seeing trash and debris being dumped on the property and covered with ill dirt. Another complained that a line of tall trees that acted as a buffering screen had been chopped down, creating an eyesore by exposing the lot.

Still other neighbors reported that dump trucks, flatbed trucks, vans and catering trucks are constantly driving on and off the property, creating noise and dust.

Numerous dumpsters and abandoned vehicles have also been seen on the property.

Gary Caplan, president of the Kimberleigh Development Association, wrote in a statement distributed at the hearing, "From the time of its inception during the 1950's until the death of Petitioner's father (N. Wilbert Ruppert Sr.) on or about June 19, 1986, the family owned and operated sanitation truck depot was kept in apparent good order, and in any event there was good support among us."

Haines declined to issue an opinion until additional briefs are submitted by the attorneys. That will be several weeks, he said.

REGAL SAVINGS BANK, F.S.B.
10123 Heisterstown Road
Owings Mills, MD 21117

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Plaintiff
vs
Defendants

EDWARD K. RUPPERT, SR.
4727 Old Court Road
Pikesville, MD 21208
EVELYN L. RUPPERT
4727 Old Court Road
Pikesville, MD 21208

CASE NO.: 52/46/89 C4P836

PETITION FOR FORECLOSURE

The petition of the plaintiff respectfully represent

1. On the 17th day of June 1988, the defendant executed and delivered to Regal Savings Bank, F.S.B. a mortgage upon certain real property in Baltimore County, therein described, to secure the payment of the mortgage debt of \$ 350,000.00 and interest as therein mentioned, wherein said defendant assented to the passage of a decree for the sale of said mortgaged property, to take place at any time after any default in any covenant or condition of said mortgage; all which will appear from said mortgage, marked "Plaintiff's Exhibit No. 1," and filed herewith as part of this petition.

2. Defendant has defaulted in the performance of the terms, and covenants of the mortgage

G-5-1

FILED MAR 16 1989

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM — as tenants in common
TEN ENT — as tenants by the entireties
JT TEN — as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT — Uniform Gifts to Minors Act
Custodian (Minor) — under Uniform Gifts to Minors Act
Att (State) — (State)

Additional abbreviations may also be used though not in the above list.

For value received, hereby sell, assign and transfer unto
214-26-7311 NAYLOR W. RUPPERT, JR.

represented by the within Certificate, and do hereby irrevocably constitute and appoint MARK T. WILSON'S SON RUPPERT, JR. Attorney to transfer the said shares on the books of the within-named Corporation with full power of substitution in the premises.

Dated, 4-24-87
In presence of
219.8

ASSIGNMENT

I HEREBY GIVE AND ASSIGN, unto my son, Naylor W. Ruppert, Jr., One Thousand (1000) common shares of the Corporation, Inc., represented by the attached certificate, and hereby appoint SON RUPPERT, JR. Secretary of Ruppert Sanitation, Inc. to have such shares transferred on the books of Ruppert Sanitation, Inc.

IN WITNESS WHEREOF, this instrument has been executed this 21st day of April, 1987.

Witness
NAYLOR W. RUPPERT
VIRGIE RUPPERT

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
David H. Stier for EAC	3820 Fernside Rd. Randallstown MD
Emily Wilfong-Courtney	8506 Church Lane Randallstown 11133
Peggy Ann Ruppert	4733 Old Court Rd.
William C. Ruppert	4720 Bonnie Brae Rd. 21208
James F. Fullman	4722 Old Court Rd. 21208
William C. Ruppert	4743 Byron Rd. 21208
Dorothy R. Caplan	3737 Parkfield Rd. 21208
Darryl D. Caplan	3730 Parkfield Rd. 21208
James W. Winters	4720 Old Court Rd. 21208
Lyndie Ann	4732 Old Ct Rd 21208

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
JOSEPH FRIEDENBERG	4778 BYRON RD. BALTIMORE MD 21208
Edward E. Salas	4781 Byron Rd BALT 21208
Harry H. Weinstock	4729 Byron Rd BALT 21208
SYLVIA STREIMER	4786 BYRON RD BALT 21208
Arleen Grossman	4702 Parkfield Ct BALT 21208
Rose Falek	3712 Pinelea Rd 21208
L. Heston	3708 PINELEA RD 21208
CHARLES HECHT	8 PINELEA CT 21208
ROBERT PUBATSKY	4 PINELEA COURT 21208
Maya Hest	3736 Parkfield Rd 21208

Garrison Hauling, Inc.

Garbage Collection and Light Hauling
FOR SERVICE CALL 685-6321
4727 OLD COURT ROAD PIKESVILLE, MD. 21208

September 30, 1987

Dear Customer:

On October 1, 1987, Eastern Waste Industries, Inc. has purchased the containers and equipment of Garrison Hauling, Inc.

Eastern Waste Industries is capable of serving all your waste removal needs. They perform residential, commercial and industrial waste removal. Containers, compactors, hand pick-ups or toters, Eastern Waste is there with 10 locations to serve you.

You will be receiving your statement for October services from Eastern Waste. For service please call their office at 301-833-8334.

Garrison Hauling, Inc. appreciates the relationship we have shared in the past and hope this relationship will continue with Eastern Waste Industries. If you have any questions or concerns, feel free to call me.

Sincerely yours,

Edward Ruppert
Edward Ruppert, President
Garrison Hauling, Inc.

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Anthony J. Salas Esq.	417 Bessie Ave. - Towson MD 21204
1 SHARVE TILNER RPLS	113 W. READ TOWSON 21204
2 Edward K. Ruppert	5100 New Park Road Bay 315 Owings Mills Md 21117
3 William May	Randallstown Md.



ORIGINAL

IN THE MATTER OF: * BEFORE THE
EDWARD K. RUPPERT, et ux * BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No. 89-62-SPH
* September 15, 1989

The above-entitled matter came on for hearing
before the Baltimore County Board of Liquor License
Commissioners at the County Office Building, Towson,
Maryland 21204 at 10 o'clock a.m., September 15, 1989.

APPEARANCES:

THOMAS P. DORE, Esquire
On behalf of Appellant/Petitioner

MYRON J. ASHMAN, Esquire
On behalf of Appellee/Protestants

Reported by:
C.E. Peatt

BOARD OF APPEALS

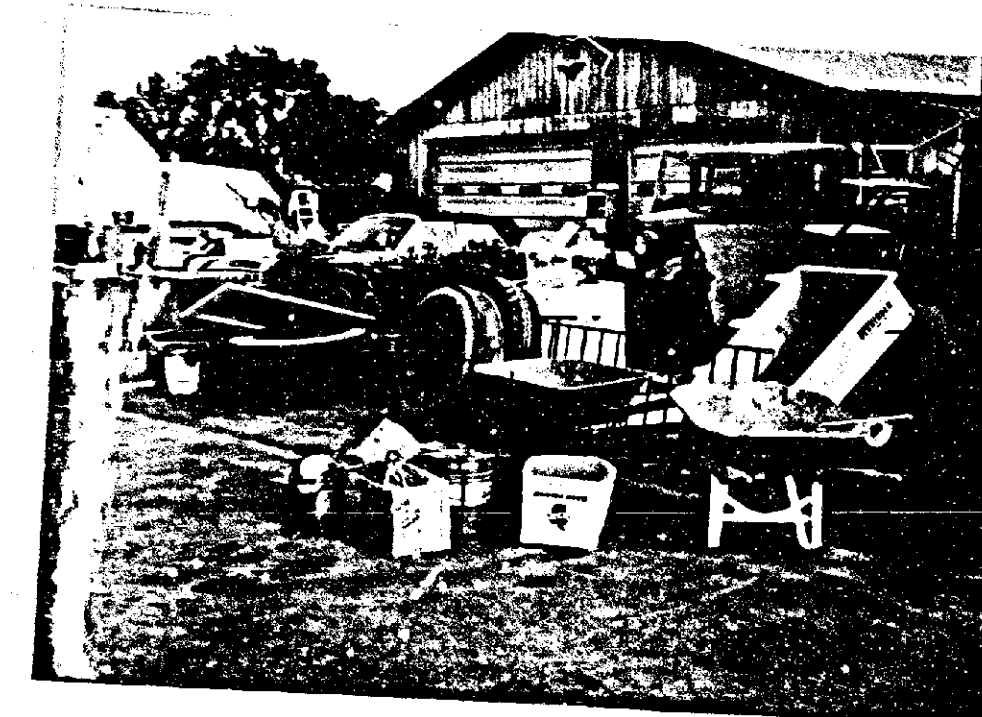
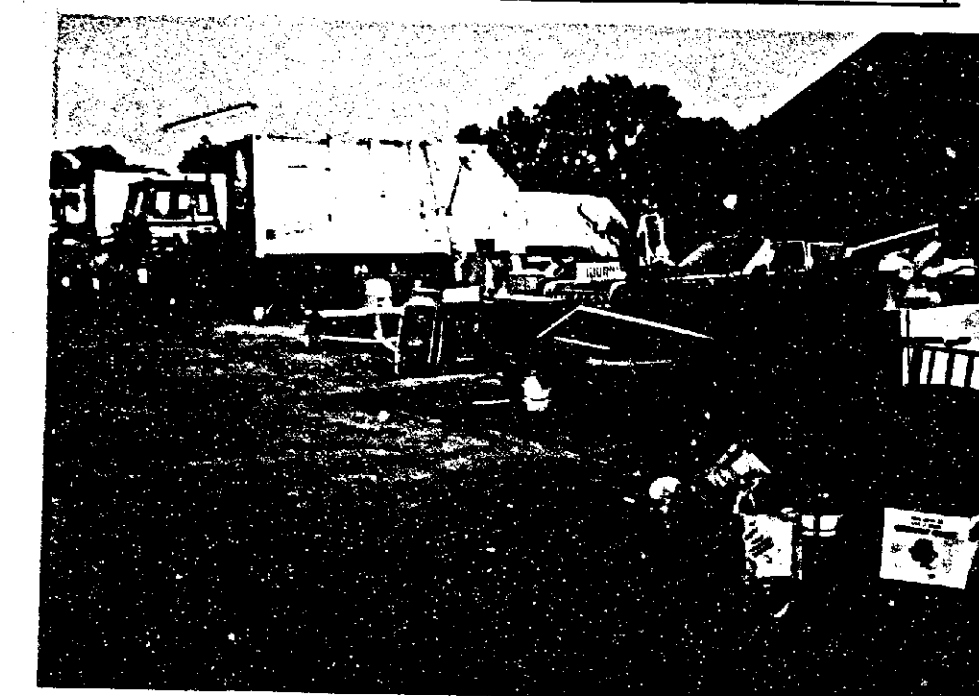
PROTESTANT'S EXHIBIT 1

WE, THE UNDERSIGNED, AS RESIDENTS OF VALLEYBROOK, HERewith PROTEST PETITION
NUMBER 89-62-SPH (STORAGE AND REPAIR OF HAULING TRUCKS AND EQUIPMENT -
NON-CONFORMING USE) BECAUSE WE ARE A RESIDENTIAL AREA.

THE PROPERTY IN QUESTION REPRESENTS HEALTH, SAFETY, AND ENVIRONMENTAL HAZARDS
IN IT'S PRESENT STATE AND CHANGE OF ZONING CAN ONLY WORSEN THESE CONDITIONS.

NAME	ADDRESS
<i>Lenora Hudson</i>	<i>8408 Winands Rd 21208</i>
<i>Bruce E. Johnson</i>	<i>8408 Winands Rd 21208</i>
<i>Pat Cohen</i>	<i>8410 Winands Rd</i>
<i>Norman Pones</i>	<i>8416 Winands Rd 21208</i>
<i>Mae D. Jones</i>	<i>8416 Winands Rd 21208</i>
<i>Ed. G. Grier</i>	<i>8416 Winands Rd 21208</i>
<i>Pauline G. Grier</i>	<i>8406 Winands Rd 21208</i>
<i>Robert G. Grier</i>	<i>8412 Winands Rd 21208</i>
<i>David Walker</i>	<i>8412 Winands Rd 21208</i>
<i>Ed Cohen</i>	<i>8410 Winands Rd 21208</i>
<i>Jim Yarns</i>	<i>8402 Winands Rd 21208</i>
<i>Chella Turner</i>	<i>8402 Winands Rd 21208</i>

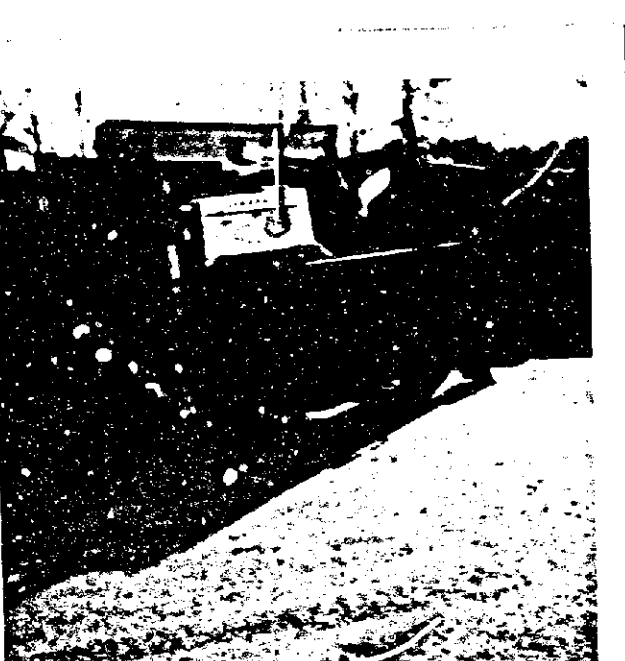
PROTESTANT(S) EXHIBIT (2)



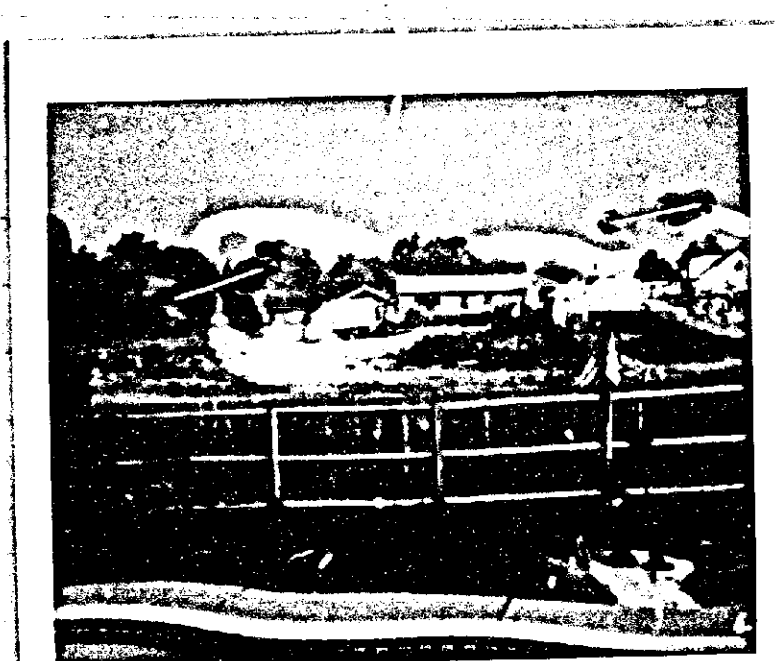
PROTESTANT(S) EXHIBIT (3)



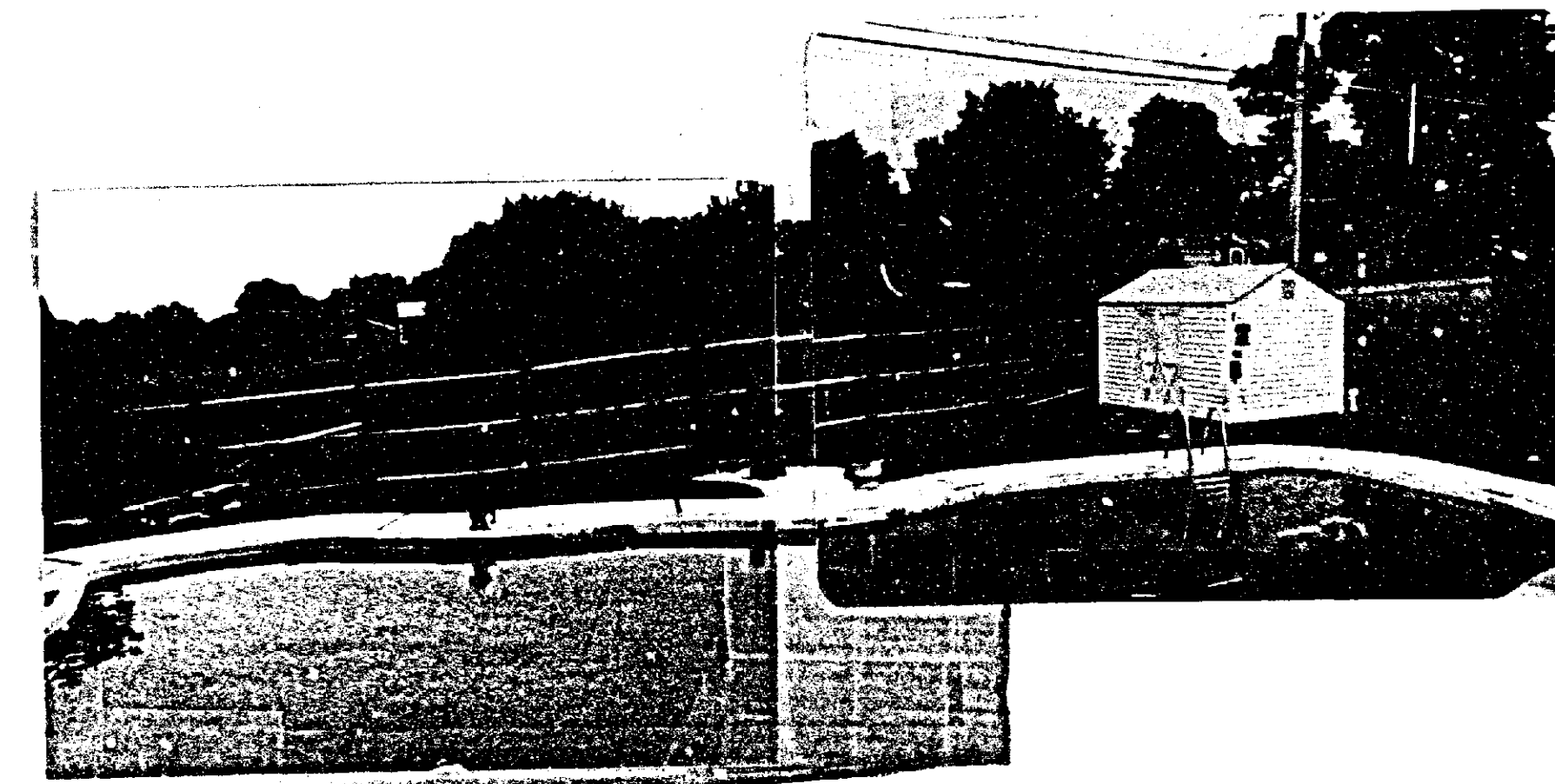
Protestants Exhibit #3



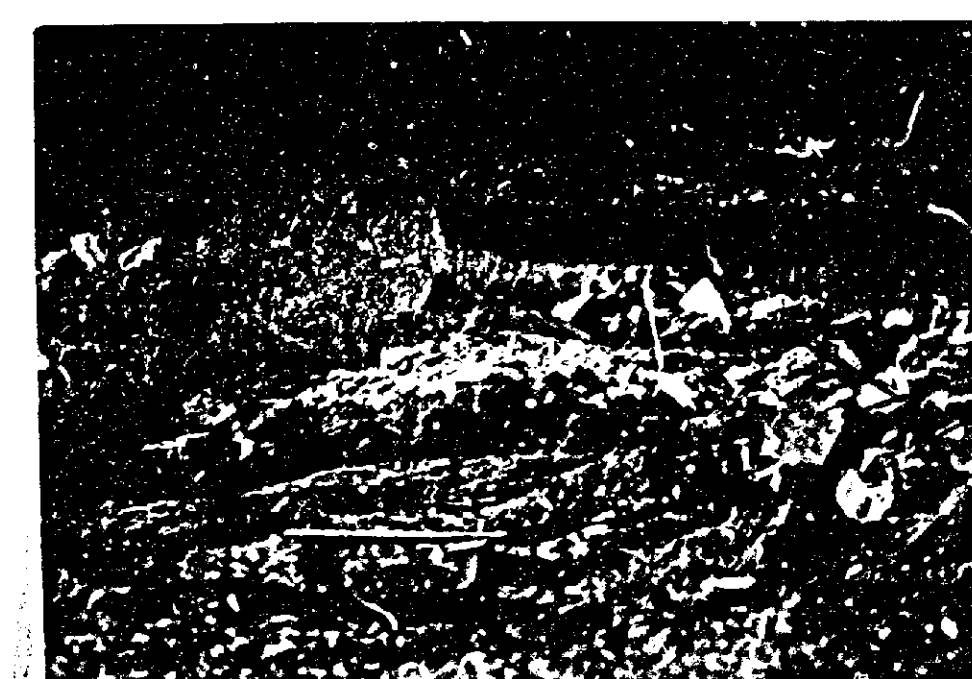
Protestant Exhibit #4

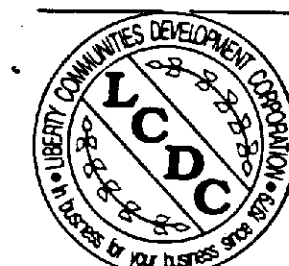
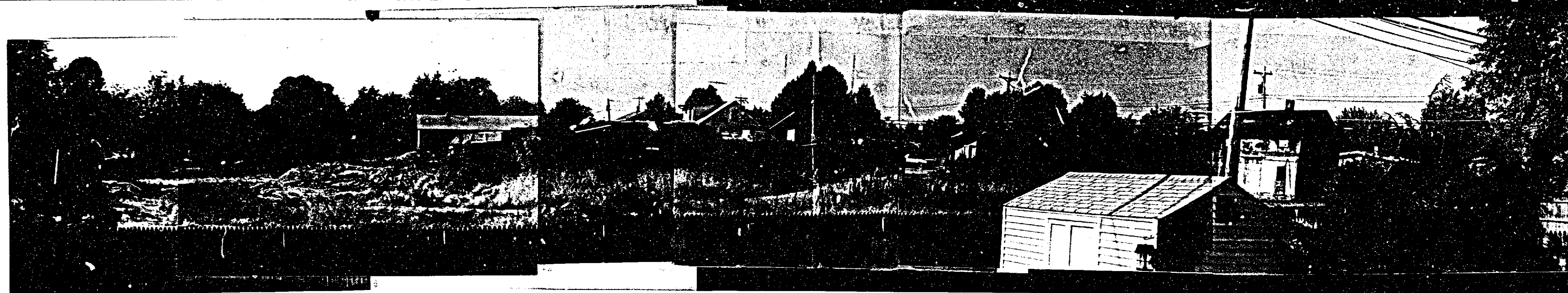


PROTESTANT(S) EXHIBIT (5)



PROTESTANT(S) EXHIBIT (5)





LIBERTY COMMUNITIES DEVELOPMENT CORPORATION, INC.
3820 Fernside Road • Randallstown, MD 21133 • (301) 655-7766

PROTESTANT'S EXHIBIT 6

Present: Joseph Lepski, Gene Hamilton, Lucille Whittingham, Bob Houck, Pete Christ, Alan Kaplan, Ray Kipnes, Pat Nickel, Ben Seaman and Dr. Al Sherry.
Guests: Baxter Smith (Randallstown News), Terry & Marvin Abrams (YMCA), Officer Pat Wright, Alyssa Gabbay (Jewish Times), Steve Osborne (Owings Mills Times), Dave Stein and Jim Janas.

Joseph Lepski called the meeting to order at 7:05 pm.

The minutes were approved as written.

The Treasurer submitted a financial report which showed a total of \$343.43 in the County account and \$1,320.71 in the private account.

The President then modified the agenda and introduced the owners of the Professional Pharmacy in Bradlees Plaza, Dr. and Mrs. Abrams. They explained that they were in the process of making an application for a liquor license. They explained that they had been in business for 25 years and the idea of selling liquor was designed to benefit their customers. Joseph Lepski questioned if there was adequate space in the store. Mrs. Abrams stated that the store was really larger than it appeared because there were two large rooms in the back which could be used. Alan Kaplan asked if the license would be limited to beer and wine or would it also include liquor. It would be a beer, wine and liquor license. It was also pointed out that no one else in this shopping center had a license. The Abrams also stated that they would sell liquor six days a week during store hours. The President then thanked them and invited them to stay and observe the Board if they wished. The Board would later vote on the application once they left. When this item was brought up at the end of the agenda Alan Kaplan made a motion that LCDC support the application, Ben Seaman seconded the motion which passed.

Membership Report Alan Kaplan reported that four new businesses had joined: Edrich Lumber, Professional Pharmacy, Chapman Gardens and Durkee Woodworks. We now had 167 members. Dave Stein explained that we were targeting another 75 potential members.

2

Advertising Committee: Pat Nickel reported that the November ad was sold out and 45 of the 56 spaces in the special December ad were sold. She thanked all of those businesses which participated. She also explained that all LCDC members should be receiving copies of the Randallstown News, if they were not they should inform her.

Fund Raising: Jack Kiner the Chairman of the committee was not able to attend the meeting so Alan Kaplan made the report in his absence. The Committee had met and had decided that they would continue to examine the feasibility of publishing a coupon book as a fund raiser. The project was still in the early working stage and the committee would come back before the Board with more information.

Jim Janas and Gene Hamilton reported that they along with Rufus Stephens had met with the County Executive last week in order to attempt to straighten out the County funding/contract situation. Janas explained that the organization had still not received any funds from the \$27,000 Community Development Block Grant funds. This was part of our total County funding of \$43,000. During the meeting we asked the Executive to convene the Dept. of Community Development and the Economic Development staff in order to work this out, we also stressed that given our cash flow problems that time was of the essence. The Executive said that he recognized our problems and would act upon them.

Zoning: Dave Stein report that he had followed up on earlier Board instructions and had been in touch with Edward Ruppert, his attorney and County staff regarding Zoning case #89-52-SPH. He was recommending that LCDC support the continuance of the nonconforming use of the property owned by Edward Ruppert, Sr. under the following conditions which would be incorporated into an order by the County:

- 1) the storage and repair of hauling trucks must be limited to those vehicles directly related to the garbage and trash hauling business of Edward Ruppert, Sr. and the number of hauling trucks must be specified.
- 2) all unrelated trucks, cars and vehicles that are not related directly related to the garbage and trash hauling business of Edward Ruppert, Sr. must be removed.
- 3) the property must be additionally screened and buffered from Old Court Road and surrounding residential areas.
- 4) dumpsters which are stored on the property must be limited to a specific number and must be screened and buffered from Old Court Road and surrounding residential areas.
- 5) the diesel fuel tank must be buried with appropriate environmental and fire safety regulations.

MICROFILMED

3

Joseph Lepski then asked for a motion; Ben Seaman moved that we accept the draft proposal, second by Bob Houck. There was then a discussion regarding the feasibility of actually placing numbers on the truck and dumpster restrictions, the Board eventually chose to have the petitioner and the County establish the actual number. The questioned was called and the motion to support the motion passed unanimously.

Jim Janas then reported that we had been approached by the agent for the Fink's Gallery at Liberty and Greens Lane. He had a potential buyer who was interested in putting a used car lot on the site. Both the buyer and the agent had been invited to the Board meeting but had not come. The used car lot would require a zoning variance. After a brief discussion Alan Kaplan made a motion that we would not support a variance, second by Pete Christ and the motion passed unanimously.

Based upon a previous Board request the staff presented a written copy of draft policies regarding zoning exceptions and variances which would allow for the combination of convenience stations and liquor licenses, convenience food stores or car washes. Bob Houck questioned the thrust of the policy, Joseph Pat Nickel felt that while existing convenience stores should be protected that there were problems with this proposal. She pointed out that she was in the auto servicing business but a customer could go to K Mart or Rite Aid and purchase anti-freeze, oil, etc. second by Pat Nickel and passed.

County Master Plan: Jim Janas suggested that the County had not yet established a process for the new Master Plan which was to be adopted in November, 1989. He suggested that LCDC begin to work on the issue at a later date.

Other Business: There was no progress to report on the CIP Deer Streetscape project.

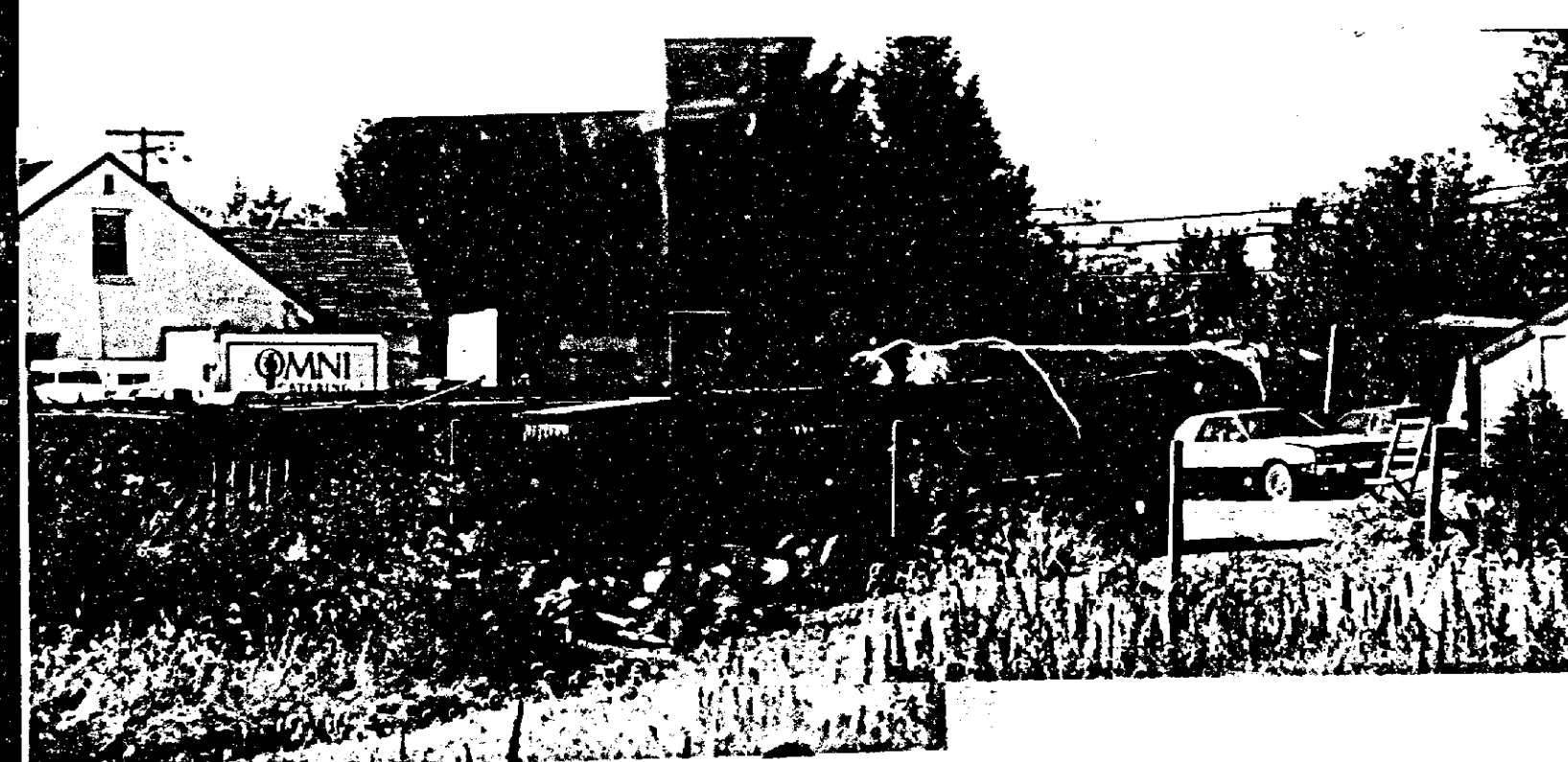
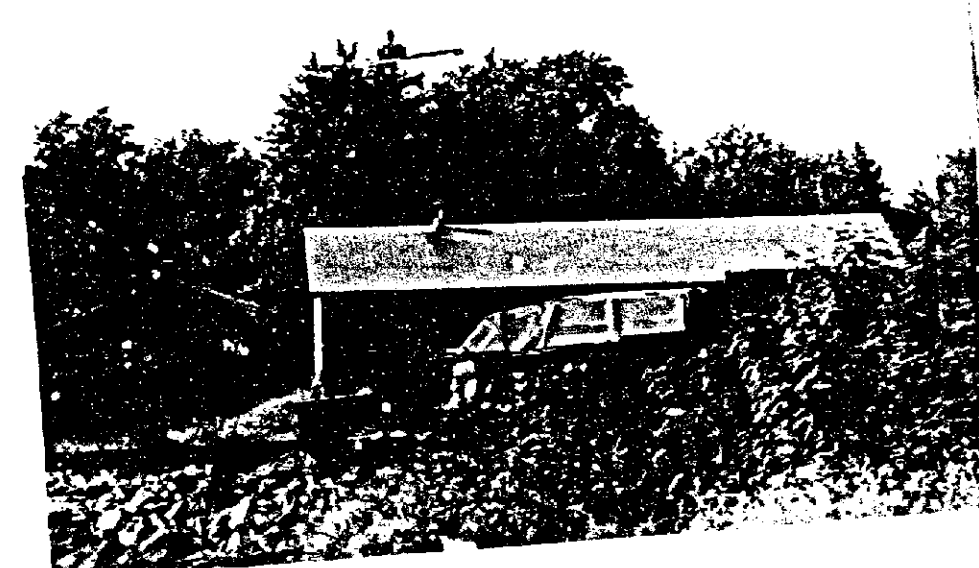
A date had not yet been established for the opening of the new County garage at Liberty and Old Court Roads.

Mr. Dick Lyons of the Catonsville YMCA then made a brief presentation of their current and future activities along Liberty Road.

The meeting was adjourned at 9:05 pm.

PROTESTANT'S EXHIBIT 6

PROTESTANT(S) EXHIBIT (5)



COURTMAR ASSOCIATION

J. Robert Haines
Zoning Commissioner of
Baltimore County

Dear Mr. Haines:

The Courtmar Association is made up of 400 families. Our boundaries are Hilmar Road bounded by Liberty Road and Old Court Roads and ends at Old Court Road and Downey Dale. As of this date we have eighty five paid members. Our meetings are held monthly, September through June. The Courtmar Association has been in existence since July 1982.

Mrs. Emily Wolfson has Courtmar's authorization to represent our association at the Ruppert special zoning hearing.

Very truly yours,

Vivian Noonan
Vivian Noonan
President
3674 Cliffmar Road
Baltimore 21207
Home 922-8122
Work 521-5977

PROTESTANT'S EXHIBIT 7

COURTMAR ASSOCIATION MINUTES

Mrs. Noonan, President, called the Courtmar Association meeting to order at 7:35 P.M. on September 27, 1988, in the Church Lane elementary school library.

Because of time constraints the secretary and treasurer did not report.

Mrs. Wolfson brought up for discussion the Ruppert property on Old Court Road and their request for a special zoning hearing for the storage and repair of hauling trucks and equipment - non-conforming use. Members discussed this issue.

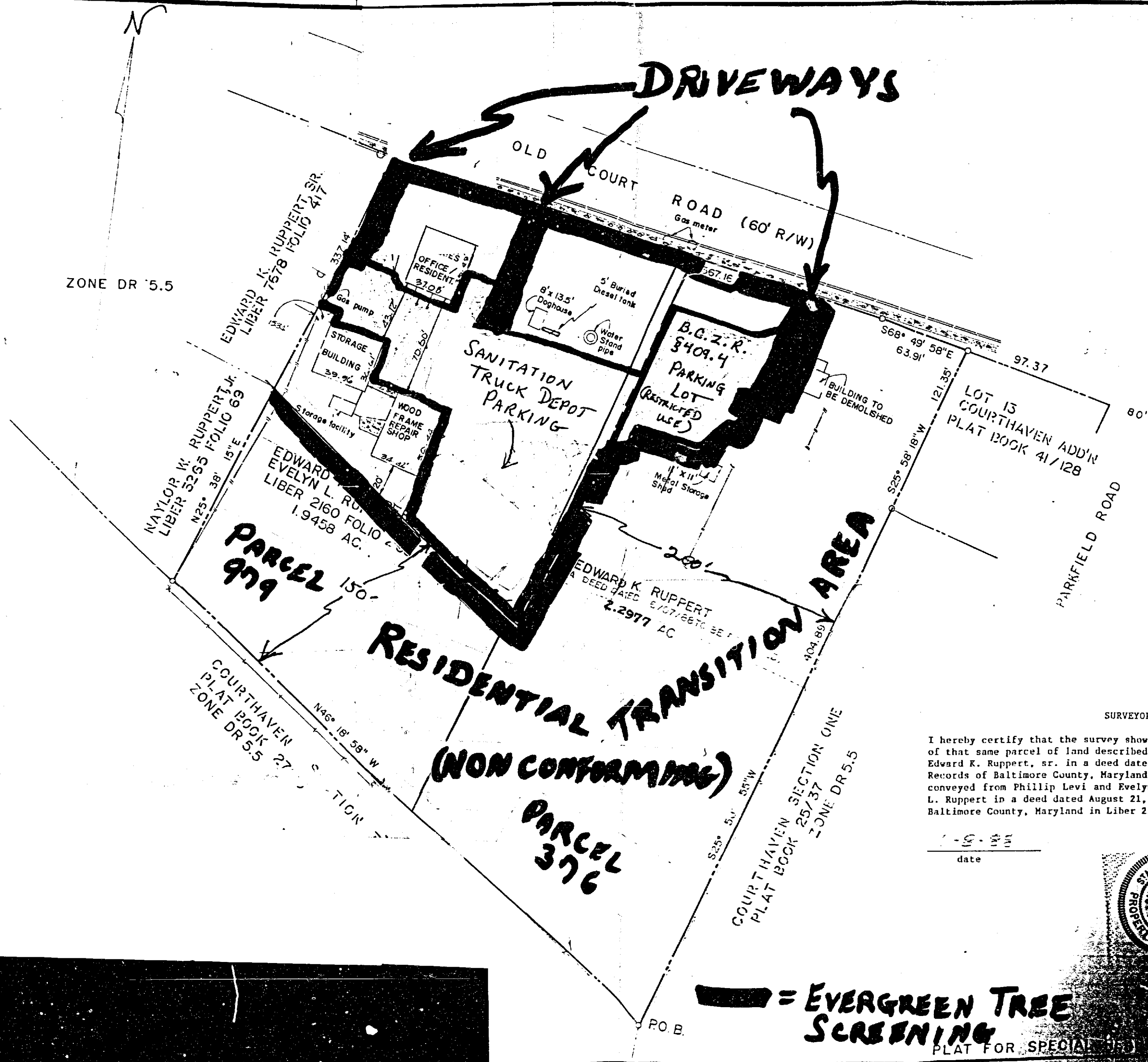
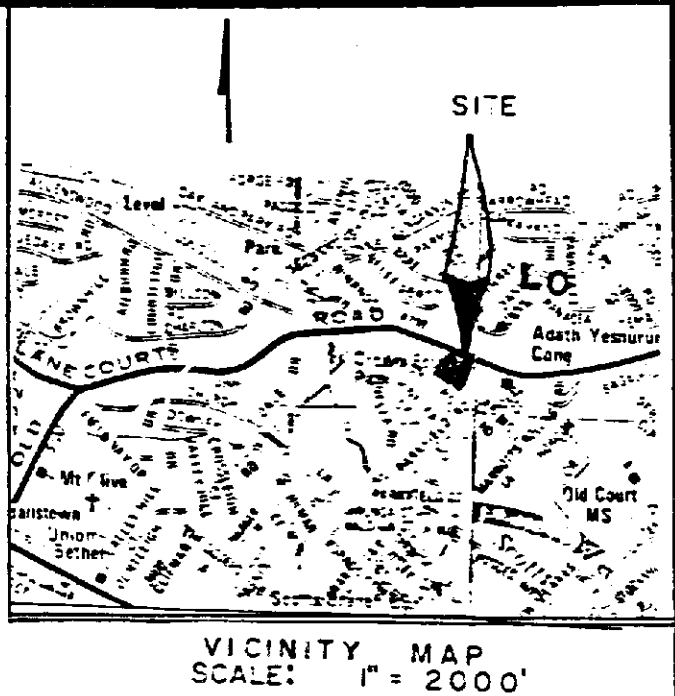
Motion was made by Mike Rogers and seconded that Ruppert maintain his storage and repair of trash removal vehicles for his existing trash removal business and that Ruppert not be allowed to use his property for any other commercial use. We also would request a visual buffering. Motion passed and Mrs. Wolfson will represent the Courtmar Association at the special zoning hearing on the Ruppert property.

A consensus by members that we formally lodge a complaint to the Zoning Commissioner against the TLC Ambulance running a business from a residential area on Hilmar Road.

State Senator Paula Hollinger was our guest speaker.

Meeting adjourned 9:00 P.M.

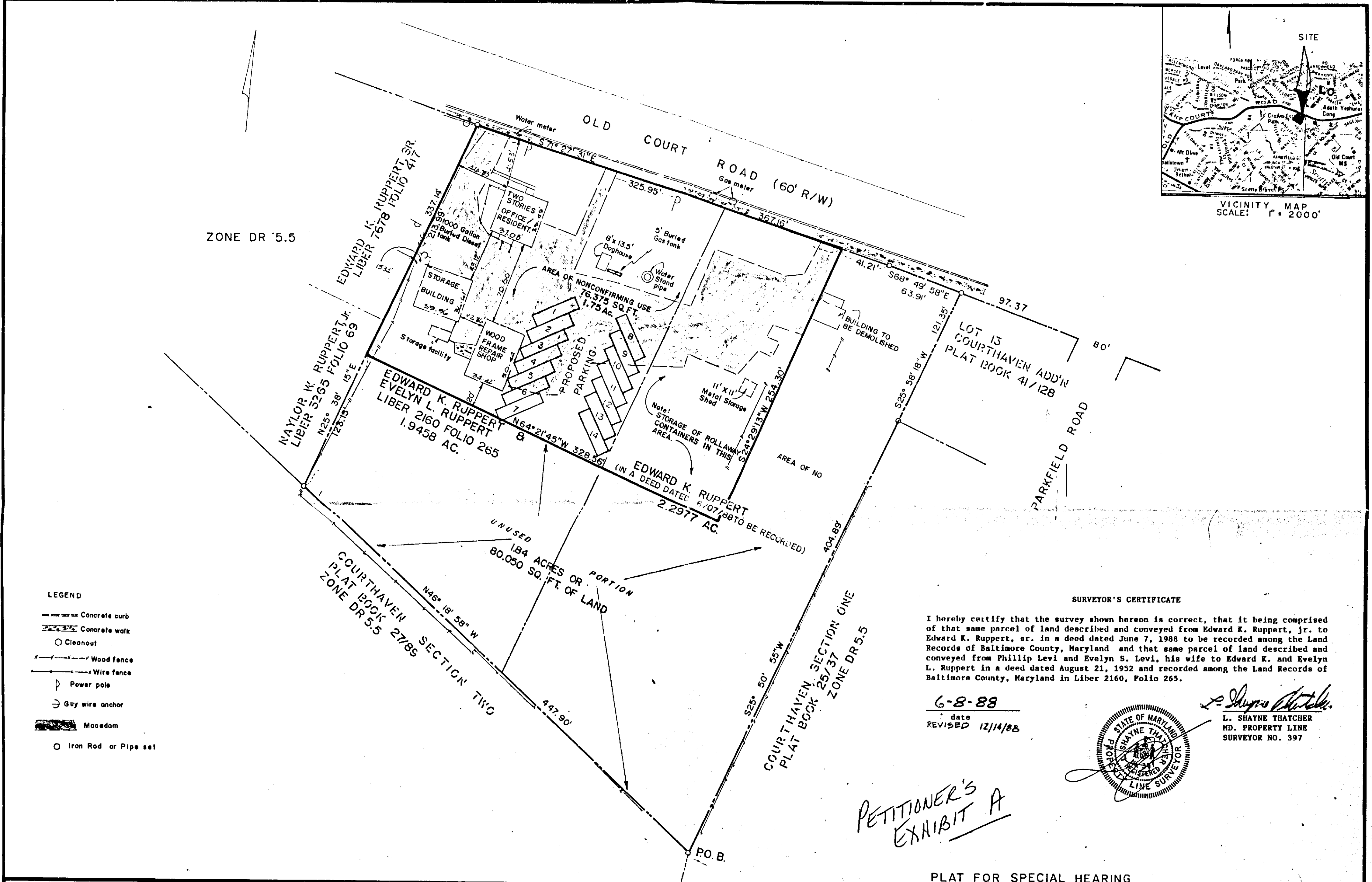
Vivian Noonan
Vivian Noonan
Acting Recording Secretary



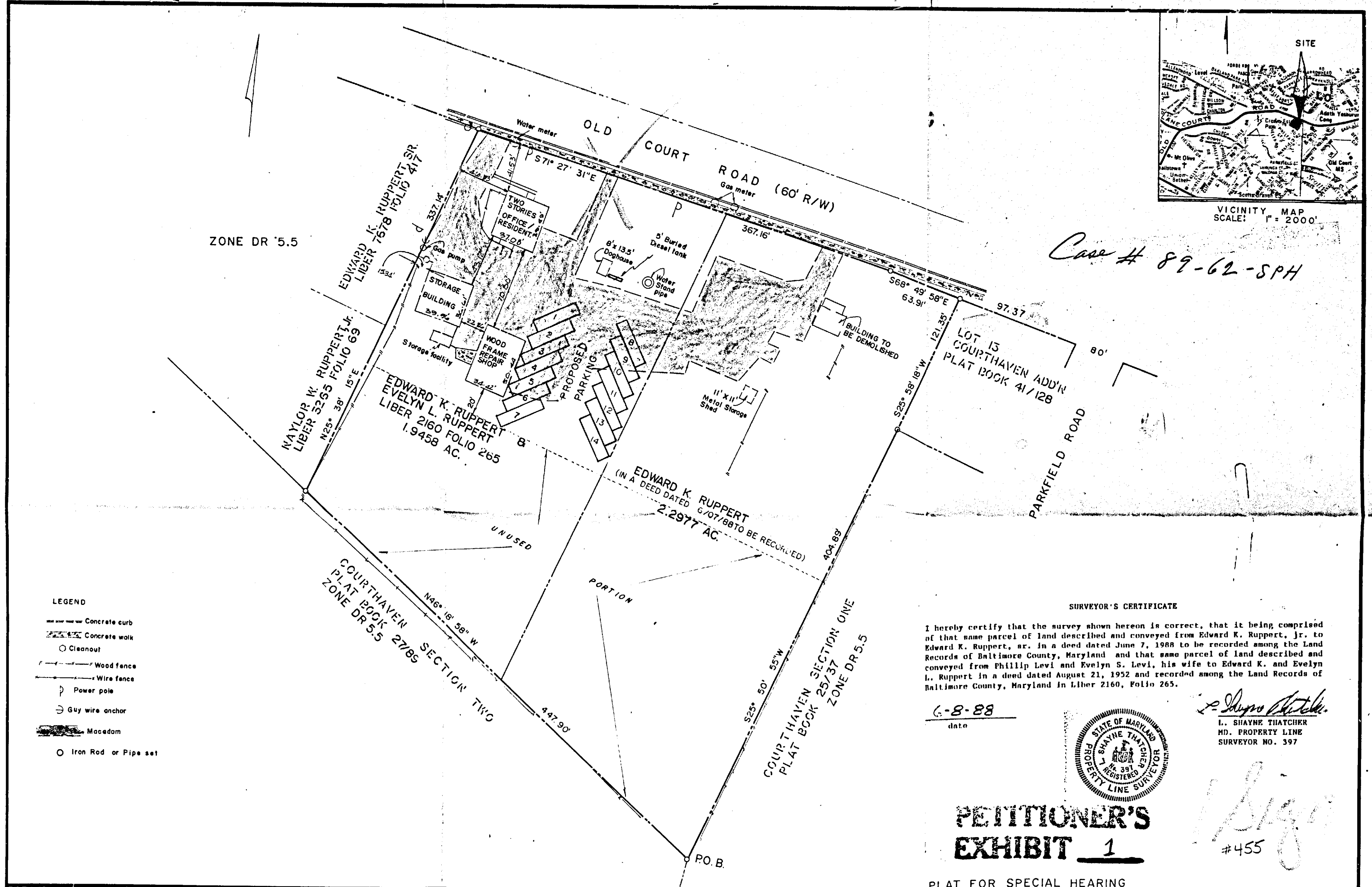
- LEGEND
- Concrete curb
 - Grate walk
 - Manhole
 - Wood fence
 - Wire fence
 - Power pole
 - Guy wire anchor
 - Macadam
 - Iron Rod or Pipe set

ARCHITECTS • PLANNERS • ENGINEERS • SURVEYORS • PHOTOGRAMMETRISTS
GREENHORNE & O'MARA, INC.
ROAD, SUITE 208, BALTIMORE, MARYLAND 21204

PROPERTY
EDWARD K. and EVELYN L. RUPPERT
LIBER 2160
DEED DATED
1 OF 1



 GREENHORNE & O'MARA, INC. 113 WEST ROAD, SUITE 208, BALTIMORE, MARYLAND 21204 (301) 296-4100 ANNAPOLIS, MD • ATLANTA, GA • AURORA, CO • CULPEPER, VA • EXPORT, PA • FAIRFAX, VA GREENBELT, MD • MANASSAS, VA • MONROE, MI • RALEIGH, NC • ROCKVILLE, MD • TAMPA, FL	ENGINEERS • ARCHITECTS • PLANNERS • SCIENTISTS • SURVEYORS • PHOTOGRAMMETRISTS	PROPERTY OF EDWARD K. and EVELYN L. RUPPERT ZONE DR 5.5 LIBER 2160 FOLIO 265 DEED DATED 6/07/88 TO BE RECORDED Parcels 376 & 979, Grid II, Tax map 77 2nd. ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND	DESIGN	SCALE 1" = 50'
			OKEI DRAWN	1 OF 1
			CHECKED	
				6/07/88 DATE



 GREENHORNE & O'MARA, INC. 113 WEST ROAD, SUITE 208, BALTIMORE, MARYLAND 21204 (301) 296-4100 ANNAPOLIS, MD • ATLANTA, GA • AURORA, CO • CULPEPER, VA • EXPORT, PA • FAIRFAX, VA GREENBELT, MD • MANASSAS, VA • MONROE, MI • RALEIGH, NC • ROCKVILLE, MD • TAMPA, FL	PROPERTY OF EDWARD K. and EVELYN L. RUPPERT ZONE DR 5.5 LIBER 2160 FOLIO 265 DEED DATED 6/07/88 TO BE RECORDED Parcels 376 & 979, Grid II, Tax map 77 2nd. ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND		DESIGN	SCALE 1" = 50'	1 OF 1
			OKEI DRAWN	SHEET	
			CHECKED		
			6/07/88 DATE		