

IN RE: PETITION FOR SPECIAL HEARING
SE/Corner Walnut Hill Lane
and Sherwood Avenue
(7911 Sherwood Avenue)
9th Election District
4th Councilmanic District
Sheldon H. Lerman, M.D.
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-91-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing for a determination as to the nonconforming use of the subject property as a riding and boarding stable and the subsequent expansion of same as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified and was represented by Benjamin Bronstein, Esquire. Dr. Lerman is not the owner of the subject property, but an adjoining property owner who contests the owner's use of the property as a riding and boarding stable. Also appearing on behalf of the Petition were Zoe C. O'Connell and Arthur D. Valk, adjoining property owners, and William F. Kirwin, licensed Landscape Architect. The property owner, Deborah J. Frank, formerly known as Deborah J. Rollins, appeared and was represented by S. Eric DiNenna, Esquire. Appearing in support of the property owners but not testifying were numerous other residents of the area.

Testimony indicated that the subject property, known as 7911 Sherwood Avenue, consists of 2.83 acres which have been zoned D.R. 2 since 1971. From 1945 to 1955 the property was zoned "A" Residence. From 1955 to 1971, the property was zoned R.20. Testimony indicated the property was acquired by Ms. Frank and her former husband, William G. Rollins, by three separate deeds. By deed dated March 15, 1965, Ms. Frank and Mr.

Rollins acquired the house and improvements known as 7911 Sherwood Avenue from Mr. & Mrs. Edward G. Stapleton. Thereafter, on June 21, 1968, Ms. Frank and Mr. Rollins acquired an adjoining 1.2 acre parcel from the Stapletons. The third parcel, which consisted of 1.103 acres more or less, was acquired by deed dated August 21, 1970 from Mr. & Mrs. Edwin R. Fitzgerald. Subsequently, by deed dated March 17, 1976, Mr. Rollins conveyed his interest in all three parcels to Ms. Frank, then known as Mrs. Rollins.

At the onset of the hearing, the Petitioner called Ms. Frank in regard to a subpoena she was served through her attorney to produce documents, including, but not limited to, State and Federal Income Tax return records of the Rendevous Farm, Inc. At the hearing, Ms. Frank refused to disclose the requested and subpoenaed information based upon her invocation of her privilege against self-incrimination under the Fifth Amendment of the U.S. Constitution.

Dr. Lerman testified that he has resided at 1409 Walnut Hill Lane since 1981. Testimony indicated that Dr. Lerman's house fronts on Walnut Hill Lane while the rear of his home faces Ms. Frank's property. He testified that when he moved to his home in 1981, no riding operations took place on the upper portion of the Frank property, that the property was in a vegetative state. Dr. Lerman indicated that since approximately 1985, the upper portion of the property nearest his home has been used as a riding area. He contends that said use adversely affects his enjoyment of his property due to foul odor and fly problems as a result of manure accumulation. Dr. Lerman testified that in addition to there being no riding activities in the upper riding area from 1981 to 1985, the number of horses on the three parcels were limited to between approximately 6 and 8.

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Dr. Lerman testified that on recent occasions he has seen as many as 18 horses on the property. To support his testimony, Dr. Lerman introduced a series of photographs of the subject property showing the stable operations and the upper riding ring, which at a minimum, evidence 8 riders on horses in the riding ring.

The Petitioner, through the testimony of Mr. Kirwin, established the improvements on the property and the location of the riding stable operation and riding rings. Mr. Kirwin testified he had personally visited the subject property in 1988 and observed a riding stable in operation and noticed a minimum of 11 horses on the property, not including any horses that were inside the stable. Through Mr. Kirwin, a series of photogrammetric maps were introduced. Mr. Kirwin testified, based upon a comparison of the photogrammetric maps, that the vegetative state of the property had changed over the course of the years wherein the area adjoining Dr. Lerman's property had been denuded to permit the riding activities in the upper portion of the property.

Mrs. O'Connell testified she lived directly across the street from the subject property from 1939 to 1964. Thereafter, she moved approximately 1 block down the road to 1401 Walnut Hill Lane. Ms. O'Connell testified that the two parcels of land acquired from the Stapletons had no horses on the property prior to the Rollins' acquisition of the property. She further testified that the property acquired from the Fitzgeralds had a couple of horses on the property in the 1960s; however, there had been no riding stable on the property or more than a couple of horses on one parcel of the property prior to the early 1960s. She further testified that her daughter has taken riding lessons from Ms. Frank and that she has been on the subject property on numerous occasions.

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Petitioner introduced as Petitioner's Exhibit 6 a copy of a 1977 animal facility holding license issued to Deborah Rollins. Said license indicates the type of facility is a "Breeding Farm (Horses) private riding instructions." Said license was signed by the Office of Planning and Zoning and indicates approval was issued for a "nonconforming conditional status." Introduced as Petitioner's Exhibit 7 is an Order of Dismissal in Case No. 83-172-V, C-83-259, dated August 4, 1983, in which the then Deputy Zoning Commissioner dismissed an alleged violation based upon "an August 24, 1977 letter written by S. Eric DiNenna, then Zoning Commissioner, lack of evidence at the 1977 alleged zoning violation hearing, the issuance of the holding facility license by Mr. DiNenna on September 20, 1977 indicating "nonconforming conditional status" and the issuance of a holding facility license from 1977/78 to the present time."

In further support of Petitioner's position that the property was being used as a riding stable, Petitioner introduced as Petitioner's Exhibit 9, a certified copy of the Articles of Incorporation of Rendevous Farm, Inc. Said Articles, which are dated July 31, 1987, indicate that the principal office of Rendevous Farm, Inc. is located at 7911 Sherwood Avenue. Further, the corporation articles indicate that the purpose of the corporation is "to operate a horseback riding stable and school for group and individual instruction in riding, showmanship, and dressage; to conduct a horse training, boarding, and breeding farm consistent with local zoning regulations and ordinances when applicable."

Subsequent to Petitioners' testimony and evidence, Counsel for Ms. Frank moved for dismissal of the proceeding, which was denied.

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Counsel for Ms. Frank argued that the burden of proof is upon the Petitioner to prove that the property does not enjoy a legal nonconforming use status. Ms. Frank contends the Petitioner has failed to do so. Further, Counsel contends that the decision by the then Deputy Zoning Commissioner in 1983 and the issuance of holding facility licenses since 1977 are determinative to the issue in this matter and not the legality of the nonconforming 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 Kohl 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 III of those regulations created seven zones, four being residential, one commercial, and two industrial. See McKenny 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 or 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 exception upon the general nonconforming rule for Special Exception office buildings, which is inapplicable to the present factual situation.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming 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 McKenny v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

When the claimed non-conforming 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 non-conforming use;

"(b) 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;

"(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 non-conforming use." McKenny v. Baltimore County, Md., Supra.

Dr. Lerman contends the burden of proving the existence of a nonconforming use is on Ms. Frank. The point made by Petitioner is well-taken and supported by case law as noted in their memorandum submitted. See Calhoun v. County Board of Appeals of Baltimore County, 262 Md. 265, 277 A.2d 589, 590 (1971). Clearly the evidence and documents presented indicate that the approval for the holding facility licenses for a breeding horse farm and riding instruction facility was issued as a nonconforming conditional status. It is not unusual for the Office of Zoning to issue nonconforming conditional status permits based upon limited information with the understanding that if the nonconforming status is ever challenged, the burden is on the property owner to establish the nonconforming use and support its claim. The Zoning Office file clearly indicates that Ms. Rollins was advised of the limited nature of the conditional status by letter dated September 20, 1977 from Larry J. Chernikof, Planning and Zoning Associate I. Ms. Frank did not present any evidence at this hearing nor any indication that any evidence was presented at the hearing on August 4, 1983 affirmatively proving a legal nonconforming status for use of the subject property as a riding and boarding stable. As noted by Petitioner's Counsel, the hearing officer in a civil matter is entitled to draw an adverse inference from a witness's refusal to testify. Whitaker vs. Prince Georges County, 307 Md. 368, 514 A.2d 4 (1986).

Clearly, the operation of a riding and boarding stable on the subject property is not permitted as of right in a D.R. 2 zone. The testimony presented did not indicate the use was established prior to 1971.

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1976 COMPREHENSIVE ZONING MAP
ADOPTED BY THE BALTIMORE COUNTY COUNCIL
ON OCTOBER 1, 1976
ORDINANCES 108-16, 108-26, 110-26, 111-26,
112-26, 113-26, and 114-26
BALTIMORE COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA OFFICIAL ZONING MAP

REVISIONS			SCALE	LOCATION	SHEET
BY	DATE		1" = 200'		
			DATE OF PHOTOGRAPHY APRIL 1982	RUXTON	N.W. 10-B
Compiled by: [illegible] and [illegible] AERO-SERVICE CORPORATION, PHILADELPHIA, PA.					

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
ZONING MAP

REVISIONS
SCALE
DATE OF PHOTOGRAPHY
LOCATION
SHEET
10/8

Based upon the evidence and exhibits presented at the hearing, the subject property does not enjoy a legal nonconforming use for the operation of a riding and boarding stable. Testimony presented by Zoe O'Connell indicates that at most, there were a couple of horses on the 1.103 acre parcel deeded to Ms. Frank in 1970. However, testimony does not indicate that said use was as a riding and boarding stable or permitted as a nonconforming use. Clearly the evidence presented indicates that there has been a change in use and an expansion beyond the original parcel on which horses were located. While Ms. Frank may be aware of facts which contradict the testimony presented and establishes a legal nonconforming use, no such evidence was offered. It is understood that many of the neighbors are in favor of Ms. Frank's use of the property as they find it beneficial to their enjoyment of the property; however, the evidence presented does not support the present use nor does the current zoning of the property, and neither the Zoning Commissioner or Deputy Zoning Commissioner has the authority to grant such use in the D.R. 2 zone. To do so would be usurping the power of the County Council.

After due consideration of the evidence and testimony presented, in the opinion of the Deputy Zoning Commissioner, a legal nonconforming use of the subject property as a riding and boarding stable and/or the boarding of any horses does not exist.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 13th day of July, 1989 that the subject property

is found not to enjoy a legal nonconforming use status for the operation of a riding and boarding stable; and,
IT IS FURTHER ORDERED that the use of the property as a boarding and/or riding stable shall cease within ninety (90) days of the date of this Order.

AMN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

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

July 13, 1989

Benjamin Bronstein, Esquire
Evans, George & Bronstein
29 W. Susquehanna Avenue, Suite 205
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
SE/Corner Walnut Hill Lane and Sherwood Avenue
(7911 Sherwood Avenue)
9th Election District - 4th Councilmanic District
Sheldon H. Lerman, M.D. - Petitioner
Case No. 89-91-SPH

Dear Mr. Bronstein:

Enclosed please find a copy of the decision rendered in the above-captioned matter. A determination has been made on the Petition for Special Hearing filed in this matter 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 887-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: S. Eric DiNenna, Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

People's Counsel

File



Dennis F. Rasmussen
County Executive

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE
AND SHERWOOD AVENUE
(7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

MEMORANDUM OF LAW

NOW COMES Debra J. Frank, by S. Eric DiNenna, her attorney, and submits to the Honorable Deputy Zoning Commissioner, this memorandum.

Sheldon H. Lerman, Petitioner, filed a Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations and requested that the Deputy Zoning Commissioner to "determine the legal nonconforming status and subsequent expansion of a riding and boarding stable". The Petition does not cite the location nor property, but names as legal owners William G. Rollins and Debra J. Rollins, whose address the Petition shows as 7911 Sherwood Avenue, Ruxton, Maryland.

Upon this matter having come before this Honorable Commissioner for a hearing, counsel for Debra Frank objected to the proceedings and she claims that the Commissioner is without authority to hear this Petition and to make the determination for what has been petitioned. She further moved that the Petition be dismissed in that the Petition for Special Hearing formally filed does not have the legal owners of the property

- 1 -

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listed. In light of the Commissioner hearing the evidence that was presented, it is assumed that the Deputy Zoning Commissioner overruled those two objections.

The evidence presented by Mr. Lerman, through counsel, shows that three parcels of land were deeded to William G. Rollins and Debra J. Rollins separately, but that all three parcels are contiguous to one another and contain approximately 2.8 acres of land more or less. Dr. Lerman moved to his property, which is immediately contiguous to the property in question, in 1981 and indicates that the portion of the subject property next to his house had horses grazing on it when he moved to his home. He indicated that subsequently and since 1981, this portion of the property had been filled or regated for a "riding ring". One witness on behalf of the petitioner, Mrs. O'Connell, verified that horses have been on the property since the late 1950's and early 1960's, but she had no knowledge or recollection of any horses prior to that time. She simply did not recall. Certain aerial photographs were submitted into evidence, the oldest being in 1962. Certain pictures were presented by the Petitioner into evidence showing some of the activity on the subject property.

Dr. Lerman testified and indicated that he felt there has been some change of the use of the property since he moved there in 1981. His main concern was that where horses were grazing in 1981, horses were now being ridden.

Also, the petitioners claimed that the building had been expanded but gave no concrete evidence as to its size, use,

purpose, etc.

First of all, the burden of proof is upon the petitioner to prove his petition. The hearing held before the Deputy Zoning Commissioner was not a violation hearing, but an affirmative request of a property owner to make a determination as stated on the Petition. The burden of proof does not shift to the property owner.

Simply, the Petitioners proved an acreage of land and that horses were kept on the land. The Petitioners failed to present sufficient probative facts to meet the burden of his Petition.

Assuming arguendo that the Petitioner met the burden of proof to sustain the fact that the property is being operated as a riding stable, it failed to prove that this use commenced following the date of the enactment of the law.

A riding stable is defined as follows:

Riding Stable: A building where riding horses are boarded or kept for higher. (B.C.Z.R., 1955). Long term interpretation of the Zoning Commissioners Office for Baltimore County has been not only the actual building or structure where the horses are boarded or kept for higher, but the land so adjoining and contiguous thereto.

The Petitioner would argue that the burden of proof shifts to the property owner claiming nonconforming use. There has been no prima facie case in evidence presented to the Commissioner to sustain the fact that the subject property is not a nonconforming use for a riding stable as defined.

There are cases that indicate that the burden of proof would shift to the property owner claiming nonconformity of the use, but these cases all involved charges by governmental

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agency's requests for conjunctive relief to prohibit the use.
Calhoun v. County Board of Appeals 262 Md. 265.

The matter before the Honorable Deputy Zoning Commissioner is an administrative petition and not a violation hearing, a charge of noncompliance, nor a request for injunctive relief. For the above reasons it is respectfully requested that the Deputy Zoning Commissioner deny the Petition.

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 10th day of February, 1989, a copy of the foregoing Memorandum of Law was mailed, postage prepaid, to Benjamin Bronstein, Esquire, Evans, George and Bronstein, 29 West Susquehanna Avenue, Suite 205, Towson, Maryland 21204, Attorney for Petitioner.

S. ERIC DINENNA

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- 4 -

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
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February 10, 1989

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FEB 10 1989

ZONING OFFICE

RE: Case No. 89-91-SPH

Ms. Ann Nastarowicz
Deputy Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Madam Commissioner:

Enclosed herewith please find the Memorandum of Law as submitted by Debra J. Frank concerning the above captioned matter.

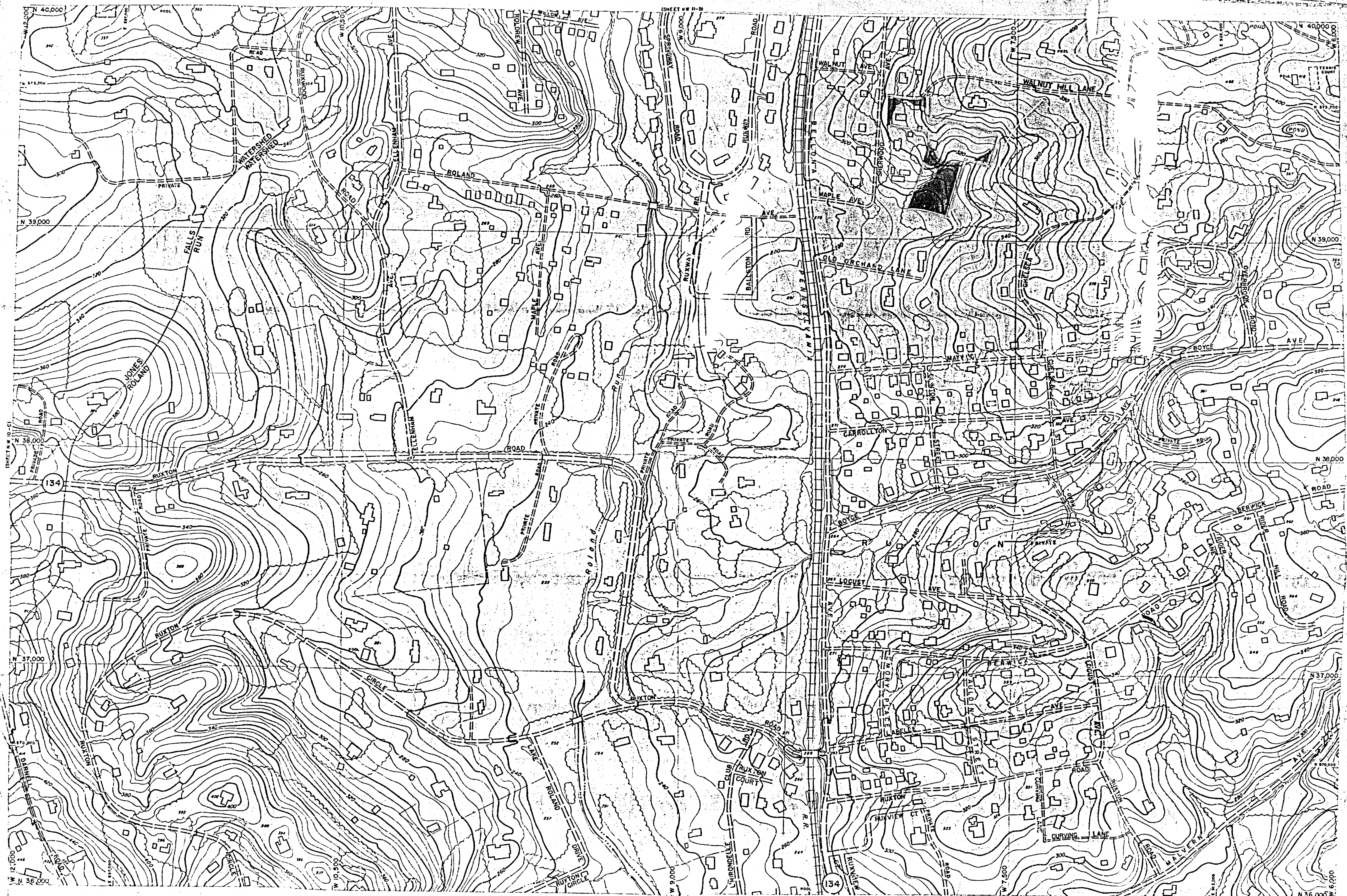
Very truly yours,

S. ERIC DINENNA

SED:cjc
Enclosure
cc: Benjamin Bronstein, Esquire
Ms. Debra Frank

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- 2 -



O - NE
S - SE

PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS		SCALE 1" = 200'
BY	DATE	
	10/1/55	DATE OF PHOTOGRAPHY APRIL 1955

Topography Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION-PHILADELPHIA, PA.

LOCATION
RUXTON

SHEET
N.W.
10-B



1409 Walnut Hill
395 Lane

BALTIMORE COUNTY METROPOLITAN DISTRICT TOWSON, MD.	TRAVERSE PLOTTED TRAVERSE PLOTTED DETAIL PLOTTED DETAIL PLOTTED EXIST. SEWERS PLOTTED EXIST. DRAINS PLOTTED EXIST. WATER PLOTTED EXIST. GAS PLOTTED EXIST. MISCL. PLOTTED WATER LAYOUT SEWER LAYOUT	BY	DATE	CHECK	DATE	BY	DATE	CHECK	DATE	BY	DATE	CHECK	DATE	BY	DATE	CHECK	DATE	BY	DATE	CHECK	DATE	
REFERENCES																						
TRAVERSE FIELD NOTES																						
DETAIL FIELD NOTES																						
LEVEL FIELD NOTES																						
CONTR. FIELD NOTES																						
SEWER CONTRACTS																						
WATER CONTRACTS																						
REF. DRAW AND DATA																						
SCALE	KEY SHEET	LOCALITY	SHEET																			
1"=5'	DATE STARTED	0	RIDERWOOD	40																		
9-16-27	N.E.	DISTRICT No. 9	NW	6																		
MICROFILMED																						

MICROFILMED



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PETITIONERS EXHIBIT 5

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	RUXTON	N.W. 10-B
DATE OF PHOTOGRAPHY JANUARY 1986		

1986

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE
AND SHERWOOD AVENUE
(7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

MEMORANDUM OF LAW

Sheldon H. Lerman, M.D., by Benjamin Bronstein and Evans, George & Bronstein, his attorneys, files this Memorandum on issues raised in the course of the hearing held in this matter before the Assistant Zoning Commissioner of Baltimore County on January 10, 1989. Dr. Lerman incorporates by reference as though more fully set forth herein the Memoranda of Law filed in the course of the hearing, concerning the issues of the applicability of the principles of res judicata and statutory interpretation.

SUMMARY OF TESTIMONY

At the beginning of the hearing, counsel for Dr. Lerman brought to the attention of the Deputy Zoning Commissioner that Mrs. Frank had been served with a subpoena, requiring her to produce at the hearing her tax returns, the records of Rendezvous Farm, Inc. and other related records and documents concerning the property in question. The purpose of requiring production of documents was to prove the establishment and commercial nature of Mrs. Frank's use of the property, i.e., that she depreciated structures and other equipment (purchased after the enactment of the Baltimore County Zoning Code and took deductions

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CASE NO. 89-91-SPH

in the nature of a business expense in connection with her use of the property as a commercial riding stable.

Mrs. Frank refused to produce the subpoenaed documents. Counsel for Dr. Lerman then called Mrs. Frank to the stand and attempted to question her regarding the information contained in those documents. Mrs. Frank refused to produce either the documents in question, or to answer questions concerning the facts and information which would be reflected on those documents. Mrs. Frank's refusal to disclose the requested and subpoenaed information was based on her invocation of her privilege against self-incrimination under the Fifth Amendment of the United States Constitution.

The next witness was William F. Kirwin, a licensed landscape architect. He was qualified as an expert witness. Mr. Kirwin testified to the accuracy of the plat accompanying the Petition for a Special Hearing, which was introduced as Petitioner's Exhibit No. 1. Also introduced during Mr. Kirwin's testimony were Petitioner's Exhibit Nos. 2 A-D, representing various deeds to the property in question. Exhibit 2A was a deed from the Stapletons to Mr. and Mrs. Rollins dated March 15, 1965, for 7911 Sherwood Avenue. Exhibit 2B was a deed from the Stapletons to Mr. and Mrs. Rollins dated June 21, 1968, for a 1.2 acre parcel. Exhibit 2C was a deed from the Fitzgeralds to Mr. and Mrs. Rollins dated August 21, 1970 for a 1.103 acre parcel. Exhibit 2D was a deed from William Rollins to Deborah Rollins dated March 17, 1976, conveying to Mrs. Frank his interest in the three parcels of realty which comprise the premises on which Mrs. Frank operates her commercial riding stable.

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Mr. Kirwin then offered testimony as to an amended plat which was entered into evidence as Petitioner's Exhibit No. 3. Exhibit Nos. 2A-D and 3 disclosed that the acreage on which Mrs. Frank conducts her riding stable operation totals 2.83 acres, more or less.

Mr. Kirwin's testimony further located certain improvements on the property, and located the three parcels comprising the riding stable operation in relation to Dr. Lerman's house and certain plats and maps.

Mr. Kirwin testified he personally observed the property in late 1988, and in the course of his observations noted an addition that had been built onto a pre-existing garage. Mr. Kirwin also observed that the parcel on which the house was located (7911 Sherwood Avenue) was separated by a fence from the remainder of the riding stable operation. Mr. Kirwin testified that the property was currently zoned DR2 (since 1971), and had been zoned R-20 prior to that. The import of this testimony was that the property has always been zoned for residential use, with lot size requirements the same size as presently exist. A series of zoning maps and photogrametric maps from the offices of Baltimore County were introduced through Mr. Kirwin as Petitioner's Exhibit No. 4.

Mr. Kirwin also testified that on December 20, 1988 he observed Mrs. Frank's riding stable in operation and noticed eleven horses on the property. (This observation did not include horses that remained inside the various structures on the property during that observation period.) Mr. Kirwin further testified that, based on a comparison of vegetation on the photogrametric maps over the course of years, the property presently stands denuded to a great extent of all vegetation that existed on the property in years past as shown on the exhibits.

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Through Mr. Kirwin copies of the photogrametric maps with overlays disclosing the devegetation of the property were introduced as Petitioner's Exhibit No. 5. These maps also show the topography of the property and disclose that the original topography has recently been altered to permit riding activities in the upper portion of the property, near Dr. Lerman's residence.

Other exhibits that were introduced during the testimony of Mr. Kirwin were Petitioner's Exhibit No. 6, a copy of a 1977 Animal Facility Holding License issued to Deborah Rollins, and Exhibit No. 7 which was an Order of Dismissal signed by then Zoning Commissioner, Jeanne Jung, dismissing a prior petition involving the subject property on the sole basis that the animal facility holding license had been issued in 1977 and that the holding facility license indicated that the property was "non-conforming conditional use."

The next witness for Dr. Lerman was Zoe O'Connell. Mrs. O'Connell testified that she had lived directly across the street from the Lerman property from 1939 to 1964. In 1964 she married and moved to her present address, 1401 Walnut Hill Lane, approximately one block down from Dr. Lerman's property.

Mrs. O'Connell testified that she had been on the subject property on numerous occasions, and that her daughter had ridden with or taken riding lessons from Mrs. Rollins.

Mrs. O'Connell further testified that the Stapletons (who owned two parcels of the property prior to their sale to Mr. and Mrs. Rollins) had no horses on the property, and that the Fitzgeralds (who owned one of the three parcels presently comprising the property on which Mrs. Frank operates her riding stable) had "a couple" of horses sometime around 1960. The thrust of Mrs. O'Connell's testimony was

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there were no horses on two parcels of the property (represented by Petitioner's Exhibit Nos. 2A and 2B) during a period of time prior to the purchase of the property by Mrs. Frank. The property owned by the Fitzgeralds (represented by Petitioner's Exhibit No. 2C) had only "a couple" of horses, sometime in the early 1960's.

Dr. Lerman, who resides at 1409 Walnut Hill Lane, then testified. Dr. Lerman's testimony was to the effect that he had owned his property for approximately nine years, and he described the orientation of his house vis-a-vis Mrs. Frank's property. (Dr. Lerman's house fronts on Walnut Hill Lane and the rear of his house faces the property of Mrs. Frank.) Dr. Lerman testified that at the time he moved in there were no riding operations occurring on the upper portion of the Frank property (which is nearest to Dr. Lerman's house) and this area was in a completely vegetated state. Dr. Lerman further testified that in approximately 1985 Mrs. Frank, or someone at her direction, graded the upper portion of her property near Dr. Lerman, brought in many, many truckloads of a special dirt and created an upper riding area. Since 1985, Mrs. Frank has utilized this upper riding area on an intensive basis, and the manure accumulation has caused difficulties to Dr. Lerman, both with stench and flies. Dr. Lerman testified the severity of these problems has been so great he has been unable to utilize the outdoor porches of his home and has been severely hampered in his use and enjoyment of the property.

Dr. Lerman testified that from 1981 to 1985 there were no riding activities in this upper riding area, and that the maximum number of horses he saw when he moved in was approximately six to eight. Dr. Lerman testified that he had observed as many as fifteen

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to eighteen horses on the property in recent times.

A series of photographs showing the upper riding ring and other aspects of the Frank riding stable operation were introduced as Petitioner's Exhibit No. 8.

Dr. Lerman testified that there have been a number of changes to the Frank property since 1981, including the grading and building up of the upper portion of the Frank property (which previously was verdant pasture), the intensive use of the upper riding area for riding lessons and the devegetation of that area. Dr. Lerman testified that there were considerably more horses on the site now than when he first purchased the property in 1981, and testified that he had observed as many as eighteen horses on the property (this represents an almost three fold increase in the number of horses on the property from the time Dr. Lerman originally purchased the property).

Petitioner's Exhibit No. 9, a certified copy of the Articles of Incorporation of Rendezvous Farms, Inc., was introduced into evidence. Rendezvous Farm, Inc. is the corporate format under which Mrs. Frank operates her commercial riding stable.

Counsel for Dr. Lerman then again called on Mrs. Frank to produce the subpoenaed records. This request was again refused by Mrs. Frank on the same basis as her previous refusal.

After Dr. Lerman closed his case, counsel for Mrs. Frank moved to dismiss the proceeding. This motion was denied. Mrs. Frank then declined to put on any evidence. As a result, the only evidence before the Zoning Commissioner relating to the existence and establishment of a non-conforming use on the Frank property, as well as the expansion of that use, was the testimony introduced by and on behalf of Dr. Lerman.

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DISCUSSION OF AUTHORITY

I. THE HEARING OFFICER IS ENTITLED TO DRAW AN ADVERSE INFERENCE FROM THE INVOCATION BY MRS. FRANK OF HER PRIVILEGE AGAINST SELF-INCRIMINATION AND HER REFUSAL TO TESTIFY.

The issue was raised in the course of the hearing as to whether the Deputy Zoning Commissioner was entitled to draw an adverse inference from Mrs. Frank's refusal to testify and produce documents on the basis that to do so would incriminate her and subject her to criminal prosecution. It is clear under Maryland law that such an adverse inference may be drawn.

The first threshold to cross is whether the privilege against self-incrimination under the Fifth Amendment of the United States Constitution may properly be invoked in a civil proceeding. The Fifth Amendment to the United States Constitution provides, in relevant part: "No person... shall be compelled in any criminal proceeding to be a witness against himself." This amendment was deemed incorporated into the Fourteenth Amendment and thus made applicable to the states, in 1964 in the case of Malloy v. Hogan, 378 U.S. 1, 84 S.Ct. 1489, 12 L.E.D. 2d. 653 (1964).

Though by its terms applicable only in criminal proceedings, the Fifth Amendment privilege against self-incrimination has been held to extend to compelling answers by parties or witnesses in civil litigation. "[The] privilege applies alike to civil and criminal proceedings, wherever the answer might tend to subject a criminal responsibility him who gives it." McCarthy v. Arndstein, 266 U.S. 34, 40, 45 S.Ct. 16, 17, 69 L.E.D. 158 (1924). See, Lefkowitz v. Turley, 414 U.S. 70, 94 S.Ct. 316, 38 L.E.D. 2d. 274 (1973).

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Thus, in a civil case the Fifth Amendment does not preclude from disclosure facts which would tend to establish civil liability, but rather protects a witness from being required to make disclosure, otherwise compellable by the exercise of the trial court's contempt power, which could incriminate him or her in a later criminal prosecution. 8 Wigmore on Evidence, §2254 (McNaughton rev. 1961), and discussion therein. When a witness in a civil proceeding refuses to answer a question on the ground that her answer might tend to incriminate her, the result sought to be achieved by invoking the privilege is accomplished. Such a refusal cannot be used against her in a subsequent criminal proceeding. However, the trier of facts in a civil case is entitled to draw an adverse inference from her refusal to so testify. Whitaker v. Prince George's County, 307 Md. 368, 514 A2d. 4 (1986). Whitaker involved an action brought by Prince George's County against the owners of an alleged bawdyhouse, the occupants thereof, and alleged prostitutes to enjoin prostitution and prostitution-related activities as a public nuisance. The putative defendants invoked their Fifth Amendment privilege against self-incrimination and refused to answer questions about certain facts surrounding the operation of the "Photo Studio", the alleged bawdyhouse. The trial court, upon the County's request, agreed to draw an adverse inference from the defendants' invocation of the Fifth Amendment privilege. Counsel for the defendants contended on appeal that the trial court erred in taking a negative inference from their invocation of that privilege. The Court of Appeals disagreed, saying:

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Put yet another way, the privilege does not forbid the drawing of adverse inferences against parties of civil actions when they refuse to testify. Our holding is in accord with the prevailing view that the Fifth Amendment "does not preclude the inference where the privilege is claimed by a party to a civil cause." 514 A.2d. at 13-14 (Emphasis in the original).

The Court, citing Baxter v. Palmigiano, 425 U.S. 308, 96 S.Ct. 1551, 47 L.E.D. 2d. 810 (1976), stated "There is no longer any doubt that at trial a civil defendant's silence may be used against him, even if that silence is in exercise of his constitutional privilege against self-incrimination.", quoting from National Acceptance Company of America v. Bathalter, 705 F.2d. 924, 929 (7th Cir. 1983) (emphasis added).

In light of the express holding of the Court of Appeals in Whitaker v. Prince George's County, *supra*, it is clear that the Hearing Officer is entitled (if not compelled) to draw an adverse inference from the invocation by Mrs. Frank of her privilege against self-incrimination under the Fifth Amendment and her refusal to testify or produce records as to the establishment and commercial nature and expansion of her riding stable and horse training operation.

11. THE BURDEN OF PROVING THE EXISTENCE OF A NON-CONFORMING USE IS ON MRS. FRANK, AS THE PROPONENT OF THE EXISTENCE OF THE ALLEGED NON-CONFORMING USE.

The Maryland appellate courts have repeatedly held that the burden of proving a non-conforming use is on the person claiming the existence of the non-conforming use.

As Chief Judge Hammon observed in Calhoun v. County Board of Appeals of Baltimore County, 262 Md. 265, 277 A.2d. 589, 590 (1971), "... this proposition is both axiomatic and court-sustained." In Vogl

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v. Mayor and City Council of Baltimore, 228 Md., 283, 179 A.2d. 693, 696 (1962), the Court declared "There can be little doubt that each [person claiming the existence of a non-conforming use] must assume the burden of establishing the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance." And in Lapidus v. Mayor and City Council of Baltimore, 222 Md. 260, 159 A.2d. 640, 641 (1960), the Court stated "In the presentation of his case before the Board, the appellant had the burden of proving that the non-conforming use which he asserted existed on March 30, 1931." See also, Daniels v. Board of Zoning Appeals of Baltimore County, 205 Md. 36, 106 A.2d. 57 (1954) (the burden of establishing a non-conforming use in the first instance rests upon the party claiming the existence of the non-conforming use).

The suggestion by counsel for Mrs. Frank that the burden somehow should be shifted to Dr. Lerman in this case is not well taken. The mere fact that Dr. Lerman initiated this proceeding by the filing of a Petition for Special Hearing does not act to shift the burden of establishing the existence of the non-conforming use from the shoulders of Mrs. Frank. For example, in Calhoun v. County Board of Appeals of Baltimore County, *supra*, the impetus behind the proceeding resulted from neighbors who objected to regular and extensive skeet and trap shooting and rifle practice on the property of the landowner. The Court ruled that the landowner "... had the burden of showing that the use it now claims as of right existed on January 2, 1945." 277 A.2d. at 590. Research disclosed no reported Maryland appellate authority indicating that the fortuitous happenstance of

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which party initiates an action to determine the existence and validity, vel non, of a non-conforming use should determine where the burden of proof lies. To the contrary, the cases (and the reasoning behind the decisions) clearly establishes that the burden in the first instance falls and remains on the party asserting the existence of a non-conforming use. In the present case, Mrs. Frank is the party claiming that she has a right to utilize the property for a commercial riding stable and associated enterprise under the protection of a non-conforming use. The burden is Mrs. Frank's to establish that she does, indeed, have a non-conforming use which permits her to utilize her property for the horse-related activities she now carries on.

Having adduced not a single sentence of testimony on her behalf which would tend to support the existence of a non-conforming use, Mrs. Frank failed to meet her burden to establish the existence of a non-conforming use. As argued extensively at the hearing, and set forth in the Memoranda filed during the hearing, neither the 1983 Order of Dismissal nor the issuance of an animal facility holding license in 1977 act in any way to bar consideration in the present case (for the first time on the merits) of whether a non-conforming use exists. No public hearing was held prior to the 1983 Order of Dismissal, and the 1977 animal holding facility license not only lacked a public hearing but was not even properly addressed to the existence or non-existence of a non-conforming use on the property in question. Under these circumstances, it must be determined that no non-conforming use exists and the utilization of the property by Mrs. Frank is in violation of the zoning regulations which specify the uses

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permitted as of right in a DR zone.

CONCLUSION

1. Mrs. Frank's riding stable operation is not permitted as of right in a DR2 zone.

2. A "riding stable" as defined in the Baltimore County Zoning Regulations is limited to use within a building, and does not permit use of the area around the building (as in Mrs. Frank's operations).

3. The evidence and exhibits clearly demonstrate that the present use of the Frank property could not have pre-existed the enactment of the Zoning Code because there were three (3) separate, discrete parcels until 1970. This conclusion is reinforced by the testimony of Zoe O'Connell that there were no horses on two of the three parcels in the early 1960's (which was before the present Frank property was assembled).

4. Assuming, for purpose of argument (and not conceding) there were horses on all three parcels at the time the Zoning Code was enacted (although there is no testimony to support this conclusion), the evidence produced at the hearing demonstrated the present use of the property differs in such a degree and kind as to constitute an unlawful expansion (not a mere intensification) of that original use; an expansion from the incidental keeping of (at best) "a couple" of horses, to an intensive, commercial operation involving up to eighteen (18) horses.

5. The prior "decisions" do not establish a valid non-conforming use. Counsel for Mrs. Frank conceded at the hearing that

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the 1977 Animal Holding Facility License was entitled to no precedential effect. The 1983 Order of Dismissal (which by its own terms relies for its validity on the 1977 license), made no independent finding as to the existence (or non-existence) of a non-conforming use. The burden was on Mrs. Frank to establish the existence of a horse farm and riding stable in 1945; she introduced no evidence whatsoever to meet her burden.

6. The evidence established the Frank property is less than 3 acres. Under the Baltimore County Zoning Regulations Mrs. Frank's operation may not be carried on in a DR2 zone unless the total acreage exceeds three (3) acres. On a smaller parcel (such as Mrs. Frank's), such a use will only be permitted by Special Exception. No Special Exception permitting Mrs. Frank her present use of the property has ever been granted (or even applied for).

In summary, in light of the governing principles of law, the evidence produced by Dr. Lerman, the absence of any evidence to support the existence of a lawful non-conforming use, and the facts and circumstances of this case, the only conclusion that may be drawn is that no lawful non-conforming use exists on the Frank property, and there must be a cessation of the present commercial riding stable and horse farm operation.

Respectfully submitted,
EVANS, GEORGE & BRONSTEIN

[Signature]
Benjamin Bronstein

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[Signature]
Michael J. Chynel
29 W. Susquehanna Ave., Ste. 205
Towson, Maryland 21204
(301) 296-0200
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of February, 1989 a copy of the foregoing Memorandum of Law was mailed first class, postage prepaid to Eric S. Dinenna, Esquire, Suite 600, 409 Washington Avenue, Towson, Maryland 21204.

[Signature]
Benjamin Bronstein

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BEFORE THE *
ZONING COMMISSIONER OF *
BALTIMORE COUNTY *
PETITION FOR SPECIAL HEARING *
SE/CORNER WALNUT HILL LANE * Case No. 89-91-SPH
AND SHERWOOD AVENUE (7911 *
SHERWOOD AVENUE) *
9TH ELECTION DISTRICT *
5TH COUNCILMANIC DISTRICT *

MEMORANDUM OF LAW

Sheldon H. Lerman, M.D., by Benjamin Bronstein and Evans, George & Bronstein, his attorneys, files this Memorandum of Law on the issue of statutory interpretation and says:

1. It is hornbook law that in construing the meaning of a word in a statute the cardinal rule is to ascertain and carry out the real legislative intention. Tucker vs. Fireman's Fund Insurance Company, 308 Md. 69, 517 A.2d 730, 731 (1986); Reid vs. State, 302 Md. 811, 498 A.2d 1289 (1985); Atlantic Richfield Company vs. Sybert, 295 Md. 347, 456 A.2d 20 (1983); Smelser vs. Criterion Insurance Company, 293 Md. 384, 444 A.2d 1024 (1982); Mauzy vs. Hornbeck, 285 Md. 84, 400 A.2d 1091 (1979). The primary source of legislative intent is, of course, the language of the statute itself. Tucker vs. Fireman's Fund Insurance Company, *supra*; Automobile Trade Association vs. Harold Polk Enterprises, 301 Md. 642, 484 A.2d 612 (1984); Haskell vs. Carey, 294 Md. 550,

451 A.2d 658 (1982); Bledsoe vs. Bledsoe, 294 Md. 183, 448 A.2d 353 (1982); State vs. Berry, 287 Md. 491, 413 A.2d 557 (1980).

2. Where the statutory provisions are clear and unambiguous, no construction or clarification is needed or permitted. Tucker vs. Fireman's Fund Insurance Company, *supra*. The rule is that a plainly worded statute must be construed without forced or subtle interpretations designed to extend or limit the scope of its operation. Id., State vs. Intercontinental Ltd., 302 Md. 132, 486 A.2d 174 (1985); Hornbeck vs. Somerset County Board of Education, 295 Md. 597, 458 A.2d 758 (1983). As the Court of Appeals observed in Webb vs. State, 311 Md. 610, 436 A.2d 1161 (1988), "to construe the statute as the [appellee] would have us do would require us to doff our judicial robes and don a legislative hat. We cannot indulge in such judicial legislation; we must take the statute as it reads, not rewrite it." 536 A.2d at 1165.

Where language of a statute is clear and unambiguous, the Courts may not insert or omit words to make the statute express intentions not evident in its original form. State vs. In Re Patrick A., 312 Md. 482, 540 A.2d 810 (1988); Bridges vs. Nicely, 304 Md. 1, 497 A.2d 142 (1985).

The definition of riding stable in the Baltimore County statutes and ordinances clearly limits application of that term to a building or structure. A "Riding Stable" is defined as "A building where riding horses are boarded or kept for hire." (emphasis supplied). A "Building" is defined as "A structure enclosed within exterior walls of fire walls for the shelter,

support, or enclosure of persons, animals, or property of any kind." (emphasis supplied). The language of these definitions is clear and unambiguous; it cannot be extended by interpretation to include additional areas plainly not within the scope of the definition. State vs. In Re Patrick A., supra; Webb vs. State, supra; Tucker vs. Fireman's Fund Insurance, supra. A "riding stable" is a building; a "building" is a structure enclosed within exterior walls. A building to enclose animals. This clear statutory language cannot be forcibly enlarged through interpretation to include the large, commercial operation in a residential zone, which is presently located on the property in question.

Respectfully submitted,
EVANS, GEORGE & BRONSTEIN

Benjamin Bronstein
Benjamin Bronstein
205 Susquehanna Building
29 W. Susquehanna Avenue
Towson, Maryland 21204
(301) 296-0200
Attorney for Sheldon Lerman, M.D.

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

CASE NO. 89-91-SPH

MEMORANDUM OF LAW

Sheldon H. Lerman, M.D., by Benjamin Bronstein and Evans, George & Bronstein, his attorneys, files this Memorandum on the issue of the applicability of the principle of res judicata, and says:

1. Although the principle of res judicata is applied to final judicial determination arising out of an administrative agency context, the Court of Appeals of Maryland has ruled that res judicata does not apply as an inflexible rule of proceedings before administrative agencies. Klein v. Colonial Pipeline Company, 55 Md. App. 324, 462 A2d. 546, 555 (1983), citing Cicala v. Disability Review Board for Prince George's County, 288 Md. 254, 418 A2d. 205 (1980); Gaywood Community Association v. Metropolitan Transit Authority, 246 Md. 93, 227 A2d. 735 (1967).

As expressly recognized in the Klein case, the holding that principles of res judicata do not apply to administrative proceedings as an inflexible rule of law is particularly appropriate where the

administrative agency's original decision was based on an error of law. 462 A2d. at 555. Thus, an unreversed final decision by a Zoning Board cannot forever bar a redetermination of that issue either where there has been a substantial change in conditions or it is shown that the decision is the product of fraud, surprise, mistake or inadvertence. Board of County Commissioners of Cecil County v. Racine, 24 Md. App. 435, 332 A2d. 306 (1978) (emphasis in the original). As the Court of Special Appeals stated in Racine, supra,

[T]he principle of res judicata should not apply to an erroneous determination of law by an administrative body. Any other course would approach, if it did not reach, a deprivation of constitutional dimension. In any event, unrelaxed application of the doctrine would constitute a manifest unfairness to Racine. 332 A2d. at 306.

The Court in Klein recognized that:

Mistaken interpretation of law, however honestly arrived at, [is] held not to be within the exercise of sound administrative discretion and the legislative prerogative, but to be arbitrary and illegal. Id. at 556, quoting Criminal Injuries Compensation Board v. Gould, 273, Md. 486, 331 A2d. 55, 76 (1975).

The holding in Klein may be summed up as follows:

"Perpetuation of illegality by an administrative body by inflexible application of the principle of res judicata is impermissible." Id.

In the instant case, there is simply no evidence from which this Board can determine the basis on which the prior determination of a former Zoning Commissioner that a non-conforming use existed was based. Without the opportunity to review the facts, and the applica-

tion of the law to those facts, in order to ascertain whether a mistake or other erroneous determination was made, this Board may not blindly rely on that prior determination. The principle of res judicata does not require that the prior determination be held sacrosanct; rather, as the case law clearly establishes, that prior decision must be closely scrutinized to see whether it was the product of fraud, surprise, mistake, or inadvertence. If any of these conditions exist, or if it appears that the prior determination was based on a mistaken interpretation of the law, however honestly arrived at, it must not be permitted to stand. Such a determination would be arbitrary and illegal, and the perpetuation that illegality by this Board's inflexible application of the principle of res judicata is impermissible. Klein, supra, 462 A2d. at 556.

In the absence of any basis to determine the soundness and validity of the prior decision as to a non-conforming use, this Board cannot hold itself bound by that decision and must review the evidence independently without giving any weight to any prior determination.

Respectfully submitted,

EVANS, GEORGE & BRONSTEIN

Benjamin Bronstein
Benjamin Bronstein
29 W. Susquehanna Avenue, Ste. 205
Towson, Maryland 21204
(301) 296-0200
Attorneys for Sheldon H. Lerman, M.D.

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, ~~XXXXXX~~ of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 506.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should ~~XXXXXX~~. Determine the legal non conforming status and subsequent expansion of a riding and boarding stable.

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

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

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

PETITIONER SHELDON H. LERMAN (Type or Print Name) <i>Sheldon H. Lerman</i> Signature 1409 WALNUT HILL LANE Address RUXTON, MARYLAND 21204 City and State	Legal Owner(s): WILLIAM G. ROLLINS & DEBORAH J. ROLLINS (Type or Print Name) Signature (Type or Print Name) Signature 7911 SHERWOOD AVENUE Address RUXTON, MARYLAND City and State Name, address and phone number of legal owner, contract purchaser or representative to be contacted Name Address Phone No.
--	--

Attorney for Petitioner,
EVANS, GEORGE & BRONSTEIN
(Type or Print Name)
By: *George Evans*
Signature The Susquehanna Building
29 W. Susquehanna Avenue, Ste. 205
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No. (301) 296-0200

ORDERED By the Zoning Commissioner of Baltimore County, this 13th day of July, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 05th day of Oct, 1989, at 9:00 o'clock A.M.

Reset for Nov. 23, 1988
at 10:30 a.m.

J. Robert Haines
J. Robert Haines
Zoning Commissioner of Baltimore County

ZONING DESCRIPTION

Beginning on the SE/Cor of Walnut Hill Lane and Sherwood Avenue.
Containing 2.83 acres in the 9th Election District. Also known as
7911 Sherwood Avenue.

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 3, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Nov. 3, 1988

THE JEFFERSONIAN,

S. Zebe Orlan
Publisher

PO 05765
reg M20891
case 89-91-SPH
price \$101.04

89-91-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 13th day of July, 1989.

Petitioner Sheldon H. Lerman
Petitioner's Attorney Benjamin Bronstein
Received by: J. Robert Haines
Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 52627
DATE 6/27/88 ACCOUNT 01-615-000
AMOUNT \$ 100.00
RECEIVED FROM Evans, George & Bronstein
FOR Sph # 473 - LHC
B 683*****100001 6276F
VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 059714
DATE 1/10/89 ACCOUNT R-01-615-000
AMOUNT \$ 131.04
RECEIVED FROM Lerman
FOR P+A 1/10/89
B 683*****100001 89-91-SPH
VALIDATION OR SIGNATURE OF CASHIER

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

J. Robert Haines
Zoning Commissioner
Mr. Sheldon H. Lerman
1409 Walnut Hill Lane
Ruxton, Maryland 21204

Re: Petition for Special Hearing
Case Number: 89-91-SPH
SE Walnut Hill & Sherwood Ave.
7911 Sherwood Avenue
Hearing Scheduled: January 10, 1989 at 9:30 a.m.

Dear Mr. Lerman:

Please be advised that \$131.04 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

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

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

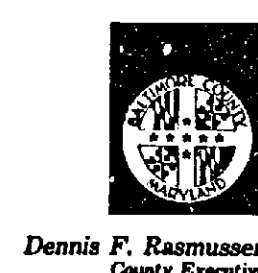
Very truly yours,

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

JRH:gs
cc: Evans, George & Bronstein
File

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

9/12/88



Mrs. Deborah Rollins Frank
7911 Sherwood Avenue
Baltimore, Maryland 21204

Re: POSTPONEMENT REQUEST

Dear Sir:

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

Case number: 89-91-SPH
Petitioner(s): Sheldon H. Lerman
Location: 5816 Walnut Hill Lane, Sherwood
7911 Sherwood Avenue

Please be advised that your request [X] will [] will not be granted, and as such, the case [] will [X] will not proceed on the assigned date of 10-5-88.

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

J. Robert Haines
Zoning Commissioner
BALTIMORE COUNTY, MARYLAND

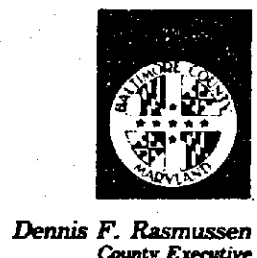
JRH:gs

cc: Sheldon Lerman
Evans, George & Bronstein
File

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

October 10, 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: 89-91-SPH
SE/Cor. Walnut Hill Lane and Sherwood Avenue
(7911 Sherwood Avenue)
9th Election District - 4th Councilmanic
Legal Owner(s): William G. Rollins, et ux
Petitioner(s): Sheldon H. Lerman
HEARING SCHEDULED: WEDNESDAY, NOVEMBER 23, 1988 at 10:30 a.m.*

Special Hearings To determine the legal non-conforming status and subsequent expansion of a riding and boarding stable.

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

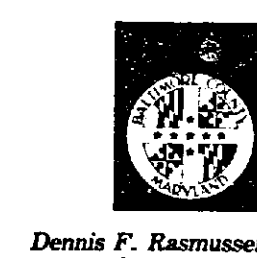
cc: William G. Rollins, et ux
Sheldon H. Lerman
Ben Bronstein, Esq.
File

*NOTE:
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 POST-
PONED AND TENTATIVELY
RESCHEDULED FOR THURSDAY,
DECEMBER 22, 1988. PLEASE
TELEPHONE CDDXET CLERK
AT 494-3331 TO CONFIRM
DATE.

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

August 19, 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: 89-91-SPH
SE/Cor. Walnut Hill Lane and Sherwood Avenue
(7911 Sherwood Avenue)
9th Election District - 4th Councilmanic
Petitioner(s): Sheldon H. Lerman
Legal Owner(s): William G. and Deborah J. Rollins
HEARING SCHEDULED: WEDNESDAY, OCTOBER 19, 1988 at 9:30 a.m.

Special Hearings To determine the legal non-conforming status and subsequent expansion of a riding and boarding stable.

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: Sheldon H. Lerman
William G. Rollins, et ux
Evans, George & Bronstein
File

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

Date:



Mr. Sheldon H. Lerman
1409 Walnut Hill Lane
Baltimore, Maryland 21204

Re: Petition for Special Hearing
CASE NUMBER: 89-91-SPH
SE/Cor. Walnut Hill Lane and Sherwood Avenue
(7911 Sherwood Avenue)
9th Election District - 4th Councilmanic
Petitioner(s): Sheldon H. Lerman
Legal Owner(s): William G. and Deborah J. Rollins
HEARING SCHEDULED: WEDNESDAY, OCTOBER 19, 1988 at 9:30 a.m.

Dear Mr. Lerman:

Please be advised that [] is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

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

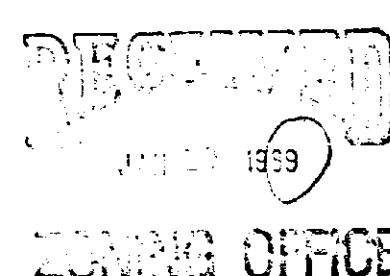
Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
Zoning Commissioner of
Baltimore County

JRH:gs
cc: Evans, George & Bronstein
File



January 8, 1988

Mr. J. Robert Haines
Zoning Commissioner
Baltimore County
111 W. Chesapeake Ave.
Towson, Maryland 21204

Re: Case #89-91-SPH

Dear Commissioner Haines:

I had every good intention of being at the hearing to testify in support of Deborah Rollins Frank and the "horse farm", however a meeting scheduled to discuss the Falls Road plan preceded my knowing of this morning's hearing.

As a resident of the Ruxton-Riderwood-Lake Roland Area Community, I would like to go on record as being in support of the "horse farm", and hope that you will consider maintaining the non-conforming status presently enjoyed.

Best Wishes.

Sincerely,

Louise M. Schulz
Louise M. Schulz
7820 Ballston Road
Baltimore, MD 21204

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

DEC 6 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: 89-91-SPH
SE/Cor. Walnut Hill Lane and Sherwood Lane
(7911 Sherwood Avenue)
9th Election District - 4th Councilmanic
Petitioner(s): Sheldon H. Lerman
Legal Owners: Deborah J. Rollins Frank

Special Hearings To determine the legal non-conforming status and subsequent expansion of a riding and boarding stable.

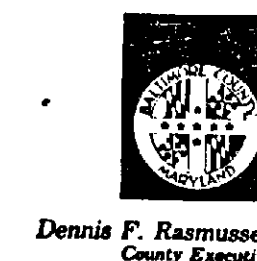
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received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

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

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

December 5, 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: 89-91-SPH
SE/Cor. Walnut Hill Lane and Sherwood Lane
(7911 Sherwood Avenue)
9th Election District - 4th Councilmanic
Petitioner(s): Sheldon H. Lerman
Legal Owners: Deborah J. Rollins Frank
HEARING SCHEDULED: TUESDAY, JANUARY 10, 1989 at 9:30 a.m.

Special Hearings To determine the legal non-conforming status and subsequent expansion of a riding and boarding stable.

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: Sheldon H. Lerman
Deborah J. Rollins Frank
Ben Bronstein, Esq.
S. Eric Gilmore, Esq.
File

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 29, 1988

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

Benjamin Bronstein, Esquire
Evans, George & Bronstein
29 West Susquehanna Avenue
Towson, Maryland 21204

RE: Item No. 473 - Case No. 89-91-SPH
Petitioner: Sheldon H. Lerman
Petition for Special Hearing

Dear Mr. Bronstein:

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, Jr.
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt

cc: William F. Kirwin, Inc.
28 West Susquehanna Avenue
Towson, Maryland 21204

PLEASE PRINT CLEARLY

PARENT(S) OWNER

PARENT(S) SIGN-IN SHEET

NAME

ADDRESS

Beverly Raymond

MD Dept of Agriculture

Nancy Weiner

2910 Nighthawk Lane MD

Michael B. Chick

7909 Sherwood Ave Balto 21204

George Frank

7911 Sherwood Ave 21204

James J. Frank

211 Sherwood Ave 21204

Kenneth L. Wallace

853 Evesham Ave. 21212

David A. Wallace, Sr.

853 Evesham Ave. 21212

David A. Wallace, Jr.

1407 Walnut Hill Lane 21204

Nana R. McAdam

1407 Walnut Hill Lane 21204

Elizabeth E. Buck

7753 Yorkland Drive 21204

Holly Skutumpah

4655 Briarcliff Rd.

John Hubbard

7820 Chelsea St 21204

Herbert P. Bange

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Sheldon Lerwin

1409 Walnut Hill Lane, Park 21204

Joe C. O'Connell

1401 Walnut Hill Lane Balto 21204

Arthur D. Vark

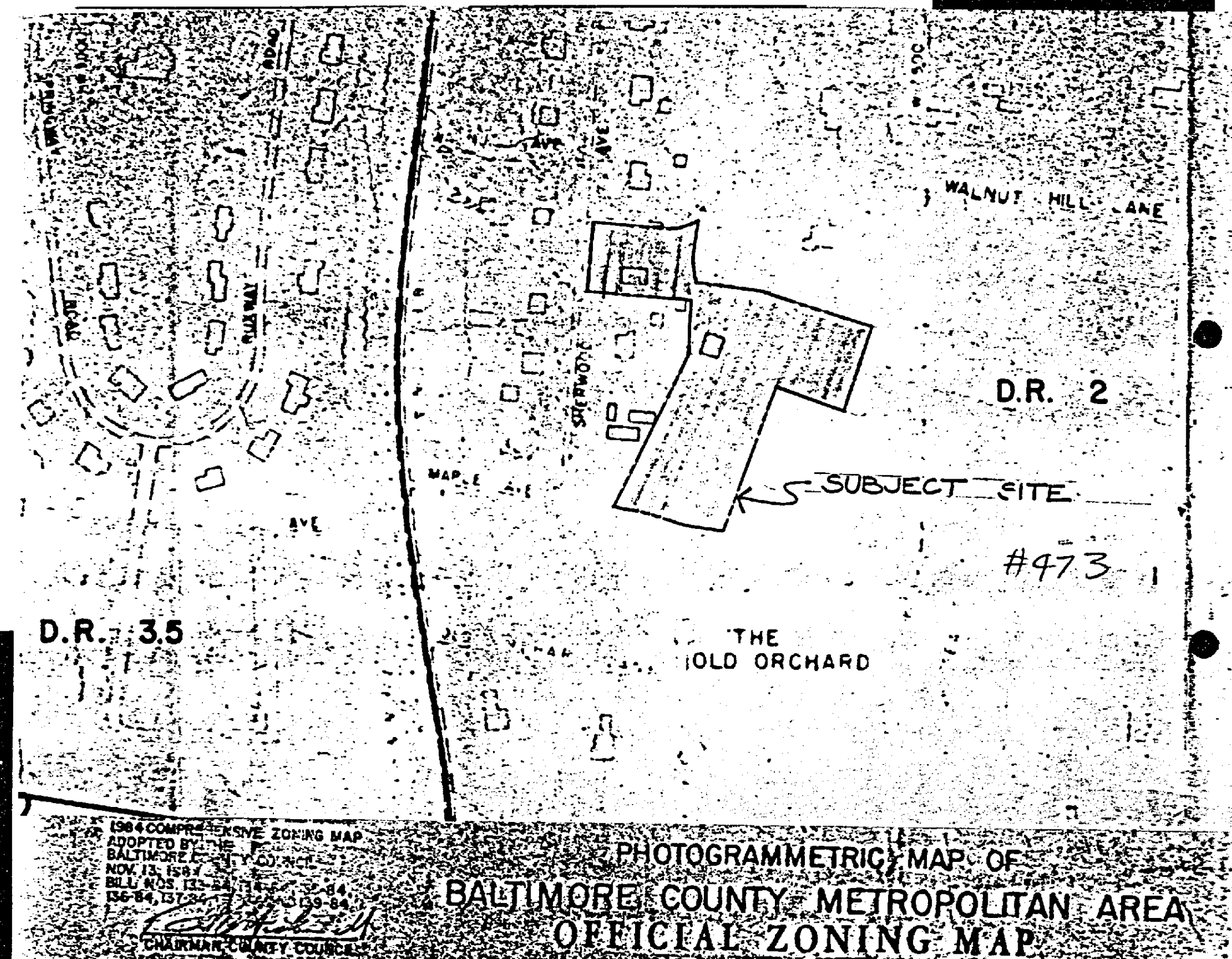
7910 Sherwood Ave Balto 21204

William F. Kivimäki

8015 Susquehanna Ave Towson

Joseph V. Mearns

BALTO CO. PLANNING & ZONING



R. 40 ZONE

Theatre, drive-in;
Tourist home;
Trailer park;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 201-HEIGHT REGULATIONS

No building shall exceed a height of 35 feet or 3 stories, except as provided in ARTICLE 3.

Section 202-AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1-Lot Area and Width-Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width of the front building line of not less than 150 feet, except that for two or more lots in the same ownership, and in the same tract, a minimum lot area of 20,000 square feet is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 square feet or more. A wedge shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 feet (see Section 304).

202.2-Front Yard-For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings-70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3-Side Yard-For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street; for other principal buildings-40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4-Rear Yard-50 feet deep.

ARTICLE 2-ZONES, USE, HEIGHT, AND AREA REGULATIONS

R. 40 Zone-Residence, One-Family

Section 200-USE REGULATIONS

The following uses only are permitted:

200.1-One-family detached dwellings.

200.2-Conversion of a one-family dwelling as conditioned in Section 402.

200.3-Churches and other buildings for religious worship, including church schools and private schools.

200.4-Trailers, as limited by Section 415.

200.5-Country club, golf course, or other outdoor recreation club, including club house, and quasi-public camps, including day camps, but no such use shall be located on less than 3 acres, and no building or parking lot thereon shall be located within 60 feet of any property line.

200.6-Community building, swimming pool, or other structural or land use devoted to civic, social, recreational and educational activities of the community.

200.7-Offices of a doctor or dentist but with no hospital facilities, and offices or studios of a lawyer, architect, engineer, or artist, when these or offices of similar professions are situated in the same dwelling used by any of the foregoing persons as his residence. Not more than 25% of the floor area of the dwelling shall be used for offices or studios; not more than one non-resident employee shall be permitted. Signs are prohibited except as noted in Section 413.

200.8-Home occupations, as heretofore defined in Section 101, provided that no sign shall be displayed except as noted in Section 413.

200.9-Accessory buildings and uses as limited by Section 400.

200.10-Hospitals, Class A, as defined in Section 101 and as limited by Section 407.

200.11-Public utility uses as follows:

a. Telephone and telegraph lines.

b. Electric light and power lines, including transformers and transformer banks, when located on poles, on or contiguous

R. 20 Zone-Residence, One-Family

Section 203-USE REGULATIONS

The following uses only are permitted:

203.1-Uses permitted and as limited in R. 40 Zone.

203.2-Special Exceptions-Same as in R. 40 Zone.

Section 200.15, except airports and laboratories which are not permitted (see Sections 270 and 502).

Section 204-HEIGHT REGULATIONS

Same as R. 40 Zone.

Section 205-AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

205.1-Lot Area and Width-Each principal building hereafter erected shall be located on a lot having an area of not less than 20,000 square feet, and a width at the front building line of not less than 100 feet, except that for four or more lots in the same ownership, and in the same tract, a minimum lot area of 15,000 square feet is permitted if an average of all the lot sizes in the same ownership and in the same tract equals 20,000 square feet or more, but not more than thirty per cent of the lots may have an area less than 20,000 square feet (see Section 304).

205.2-Front Yard-For dwellings, the front building line shall be not less than 40 feet from the front lot line and not less than 65 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings-60 feet from the front lot line and not less than 85 feet from the center line of the street, except as in Section 303.1.

205.3-Side Yards-For dwellings, 15 feet wide, except that for a corner lot the building line along the side street shall be not less than 40 feet from the side lot line and not less than 65 feet from the center line of the street; for other principal buildings-30 feet wide, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street.

205.4-Rear Yard-40 feet deep.

R. 40 ZONE

to public highways, alleys, rear lot lines, railroad rights-of-way or if carrying less than 35,000 volts.

c. Conduits, cables, gas, sewer, storm drain, and water mains-all located underground.

d. Railroad.

200.12-Farming, as defined in Section 101 and as conditioned in Section 404.

200.13-Signs in accordance with the provisions of Section 413.

200.14-Excavations, uncontrolled.

200.15-Special Exceptions: The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Airport;

Boarding or rooming houses;

Boat yard and/or marine railway;

Cemetery (see Section 401);

Conservatory, music and the arts;

Convalescent home;

Conversion of a dwelling into a tea room or restaurant as conditioned in Section 402;

Excavations, controlled (see Section 403);

Funeral establishment;

Golf driving range, miniature golf, and base-

ball batting range;

Hospital, Class B (see Section 407);

Kennel, but not on a lot of less than 3 acres, and not closer than 50 feet to a property line;

Laboratory;

Poultry, commercial killing of, but only on a farm (see Section 404);

Private colleges, nursery or dancing schools, dormitories, and fraternity and sorority houses, but excluding business and trade schools;

Public utility uses other than those noted in Section 200.11 (see Section 411);

Race track, commercial;

Radio studio;

Riding stable, commercial;

Sanitary landfill (see Section 412);

Shooting range;

Television studio;

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

ARNOLD JADON
ZONING COMMISSIONER

August 4, 1983

Ms. Deborah J. Rollins
7911 Sherwood Road
Towson, Maryland 21204

RE: 7911 Sherwood Road
Case No. 93-172-V

Dear Ms. Rollins:

I have this date passed my Order in the above captioned matter. Copy of said Order is enclosed.

Very truly yours,

Juan M.H. Jung

Deputy Zoning Commissioner

JMJ:teoh

cc: Mr. J. Sheridan McClees, Jr.
4 Glen Chattan Lane
Baltimore, Maryland 21204

File

RE: ZONING VIOLATION

7911 Sherwood Road

9th Election District

Deborah J. Rollins

7911 Sherwood Road

Towson, Maryland 21204

Defendant

BEFORE THE

DEPUTY ZONING

COMMISSIONER

OF

BALTIMORE COUNTY

83-172-V, C-93-259

ORDER OF DISMISSAL

A complaint has been filed with the Zoning Office concerning an alleged violation of the Baltimore County Zoning Regulations at the above captioned location in Baltimore County.

Testimony and evidence produced at the hearing indicated that no violation exists on the subject property. This decision is based on an August 24, 1977 letter written by S. Eric DiNenna, the then Zoning Commissioner, lack of evidence at the 1977 alleged zoning violation hearing, the issuance of a holding facility license by Mr. DiNenna on September 20, 1977 indicating "nonconforming conditional status" and the issuance of holding facility licenses from 1977/1978 to the present time.

As there appeared no apparent violation of the Baltimore County Zoning Regulations at the present time, the matter is DISMISSED.

Juan M.H. Jung
Deputy Zoning Commissioner of
Baltimore County

Date: August 4, 1983

Baltimore County
Department of permits and licenses
TOWSON, MARYLAND 21204
33011 494-3610

JOHN D. SEYFFERT
DIRECTOR

September 30, 1977

Deborah J. Rollins
7911 Sherwood Avenue
Baltimore, Maryland 21204

Dear Ms. Rollins:

Your application for a Holding Facility, Commercial Stable license has been approved.

Kindly send us your check in the amount of \$ 75.00 made payable to Baltimore County, Maryland.

Upon receipt of the above mentioned check your license will be mailed to you.

Your prompt attention to this matter will be greatly appreciated.

Very truly yours,

Marie C. Phillips
Marie C. Phillips
Supervisor
Animal Control Agency

MCP/dmc

Baltimore County
Office of planning and zoning
TOWSON, MARYLAND 21204
33011 494-3351

S. ERIC DINENNA
ZONING COMMISSIONER

September 20, 1977

Deborah J. Rollins
7911 Sherwood Avenue
Baltimore, Maryland 21204

RE: Holding Facility Application
Rollins Rendez-Vous
7911 Sherwood Avenue
9th Election District

Dear M's Rollins:

This office will conditionally approve your holding facility application. It appears that the subject property has a nonconforming status for a riding and/or horse boarding facility. However, since our approval is based on limited information, the use may continue until this office receives a complaint challenging the nonconforming status. At such time, a Special Hearing would be required to permanently establish a nonconforming use. Testimony or evidence should be presented at such time to support this claim.

Very truly yours,

LARRY J. CHERNIKOFF
Planning & Zoning Associate I

LJC/smw

cc: Mr. S. Eric DiNenna
Zoning Commissioner

Mr. James E. Dyer
Zoning Supervisor

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW
S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLASER
FRANCES N. BORGERDING, JR.
P.O. BOX 10508
TOWSON, MARYLAND 21285-0508
SUITE 650
MERCANTILE TOWSON BUILDING
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(301) 296-6820
(301) 296-6884

June 26, 1989
JUN 27 1989

ZONING OFFICE

RE: Petition for Special Hearing
Case No.: 89-91-SPH

Dear Ms. Nastarowicz:

I am in receipt of a letter dated June 20, 1989 from Mr. Benjamin Bronstein, counsel for the Petitioner concerning the above-captioned matter.

I am unaware of any letter of June 9, 1989 sent from your office to Mr. Bronstein.

Would you be so kind as to give me a copy of that letter as well as Ms. Frank's letter of June 6, 1989.

Thank you for your cooperation.

Very truly yours,

S. Eric Dinenna
S. ERIC DINENNA

SED:cjc
cc: Benjamin Bronstein, Esquire
Ms. Deborah J. Rollins Frank

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

WALLACE DANN
COUNSEL

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN
MICHAEL J. CHOMEL
DOUGLAS A. STUBBS
WILLIAM R. LEVASSEUR, JR.

October 28, 1988

Mr. J. Robert Haines
Zoning Commissioner for
Baltimore County
County Office Building, Rm. 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Sheldon Lerman
SE/Corner Walnut Hill Lane and Sherwood Avenue
(7911 Sherwood Avenue)
Case No.: 89-91-SPH

Dear Mr. Haines:

Enclosed please find a copy of an Affidavit of Service to be filed in the above entitled case, together with a copy of the Subpoena Duces Tecum that was served on Mr. Maranto.

Thank you for your kind attention to this matter.

Very truly yours,
EVANS, GEORGE & BRONSTEIN
Benjamin Bronstein
Benjamin Bronstein

BB/bjs
Enclosures

RECEIVED
OCT 31 1988

ZONING OFFICE

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT
CASE NO. 89-91-SPH

AFFIDAVIT OF SERVICE

The undersigned hereby certifies:

1. I am a competent private person over 18 years of age and not a party to this action.
2. On October 28, 1988 at 10:05 a.m. I personally served a Subpoena Duces Tecum on Joseph Maranto, Area Planner, at the Office of Planning and Zoning for Baltimore County, Room 406, County Courts Building, 401 Bosley Avenue, Towson, Maryland 21204.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing Affidavit are true to the best of my knowledge, information and belief.

Barbara J. Smith
Barbara J. Smith
29 W. Susquehanna Avenue
Ste. 205, The Susquehanna Bldg.
Towson, Maryland 21204
(301) 296-0200

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

WALLACE DANN
COUNSEL

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN
MICHAEL J. CHOMEL
DOUGLAS A. STUBBS
WILLIAM R. LEVASSEUR, JR.

November 9, 1988

Mr. J. Robert Haines
Zoning Commissioner for
Baltimore County
County Office Building, Rm. 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Sheldon Lerman
SE/Corner Walnut Hill Lane and Sherwood Avenue
(7911 Sherwood Avenue)
Case No.: 89-91-SPH

Dear Mr. Haines:

Enclosed please find a copy of an Affidavit of Service to be filed in the above entitled case, together with a copy of the Subpoena Duces Tecum that was served on Mr. Maranto to notify him of the change in date for the hearing.

Thank you for your kind attention to this matter.

Very truly yours,
EVANS, GEORGE & BRONSTEIN
Benjamin Bronstein
Benjamin Bronstein

BB/bjs
Enclosures

RECEIVED
NOV 10 1988

ZONING OFFICE

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT
CASE NO. 89-91-SPH

AFFIDAVIT OF SERVICE

The undersigned hereby certifies:

1. I am a competent private person over 18 years of age and not a party to this action.
2. On November 9, 1988 at 10:50 a.m. I personally served a Subpoena Duces Tecum on Joseph Maranto, Area Planner, at the Office of Planning and Zoning for Baltimore County, Room 406, County Courts Building, 401 Bosley Avenue, Towson, Maryland 21204.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing Affidavit are true to the best of my knowledge, information and belief.

Barbara J. Smith
Barbara J. Smith
29 W. Susquehanna Avenue
Ste. 205, The Susquehanna Bldg.
Towson, Maryland 21204
(301) 296-0200

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

WALLACE DANN
COUNSEL

L. ROBERT EVANS
HARRIS JAMES GEORGE
BENJAMIN BRONSTEIN
MICHAEL J. CHOMEL
DOUGLAS A. STUBBS
WILLIAM R. LEVASSEUR, JR.

January 4, 1989

Mr. J. Robert Haines
Zoning Commissioner for
Baltimore County
County Office Building, Rm. 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Sheldon Lerman
Petition for Special Hearing
Case No. 89-91-SPH
Property: 7911 Sherwood Avenue

Dear Commissioner Haines:

Enclosed please find 2 Affidavits of Service to be filed in this case, together with a copy of the Subpoena Duces Tecum that was served on Paul Solomon and the Custodian of Records at the Department of Environmental Protection and Resource Management for Baltimore County.

Thank you for your kind attention to this matter.

Very truly yours,
EVANS, GEORGE & BRONSTEIN
Benjamin Bronstein
Benjamin Bronstein

BB/bjs
Enclosures

RECEIVED
JAN 5 1989

ZONING OFFICE

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT
CASE NO. 89-91-SPH

AFFIDAVIT OF SERVICE

The undersigned hereby certifies:

1. I am a competent private person over 18 years of age and not a party to this action.
2. On January 4, 1989 at 11:45 a.m., I personally served a Subpoena Duces Tecum on Robert W. Sheesley, the Director/Custodian of Records for the Department of Environmental Protection and Resource Management for Baltimore County, County Courts Building, 401 Bosley Avenue, Room 416, Towson, Maryland 21204.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing Affidavit are true to the best of my knowledge, information and belief.

Barbara J. Smith
Barbara J. Smith
29 W. Susquehanna Avenue
Ste. 205, The Susquehanna Bldg.
Towson, Maryland 21204
(301) 296-0200

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT
CASE NO. 89-91-SPH

AFFIDAVIT OF SERVICE

The undersigned hereby certifies:

1. I am a competent private person over 18 years of age and not a party to this action.
2. On January 4, 1989 at 11:43 a.m., I personally served a Subpoena Duces Tecum on Paul Solomon at the Department of Environmental Protection and Resource Management for Baltimore County, County Courts Building, 401 Bosley Avenue, Room 416, Towson, Maryland 21204.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing Affidavit are true to the best of my knowledge, information and belief.

Barbara J. Smith
Barbara J. Smith
29 W. Susquehanna Avenue
Ste. 205, The Susquehanna Bldg.
Towson, Maryland 21204
(301) 296-0200

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

CASE NO. 89-91-SPH

REQUEST FOR ISSUANCE OF SUBPOENA DUCES TECUM

Sheldon Lerman, by Benjamin Bronstein and Evans, George & Bronstein, his attorneys, requests the issuance of a Subpoena Duces Tecum directed to the following individual:

Joseph Maranto
Area Planner
Office of Planning & Zoning
for Baltimore County
County Courts Building
401 Bosley Avenue
Room 406
Towson, Maryland 21204

to appear and testify before the Zoning Commissioner of Baltimore County, County Office Building, 111 W. Chesapeake Avenue, Room 106, Towson, Maryland 21204 on Wednesday, November 23, 1988 at 10:30 a.m., and to bring with him all documents in his possession, custody or control which refer, relate or pertain to the William G. Rollins Zoning Petition, Case No. 89-91-SPH.

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

CASE NO. 89-91-SPH

REQUEST FOR ISSUANCE OF SUBPOENA DUCES TECUM

Sheldon Lerman, by Benjamin Bronstein and Evans, George & Bronstein, his attorneys, requests the issuance of a Subpoena Duces Tecum directed to the following individual:

Paul Solomon
Department of Environmental Protection
and Resource Management
for Baltimore County
County Courts Building
401 Bosley Avenue
Room 416
Towson, Maryland 21204

to appear and testify before the Zoning Commissioner of Baltimore County, County Office Building, 111 W. Chesapeake Avenue, Room 106, Towson, Maryland 21204 on Tuesday, January 10, 1989 at 9:30 a.m.

Benjamin Bronstein
Evans, George & Bronstein
29 W. Susquehanna Avenue, Ste. 205
Towson, Maryland 21204
(301) 296-0200
Attorneys for Sheldon Lerman

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

CASE NO. 89-91-SPH

REQUEST FOR ISSUANCE OF SUBPOENA DUCES TECUM

Sheldon Lerman, by Benjamin Bronstein and Evans, George & Bronstein, his attorneys, requests the issuance of a Subpoena Duces Tecum directed to the following individual:

Custodian of Records
Department of Environmental Protection
and Resource Management
for Baltimore County
County Courts Building
401 Bosley Avenue
Room 416
Towson, Maryland 21204

to appear and testify before the Zoning Commissioner of Baltimore County, County Office Building, 111 W. Chesapeake Avenue, Room 106, Towson, Maryland 21204 on Tuesday, January 10, 1989 at 9:30 a.m., and to bring with him/her their entire file including, without limitation, all documents in his possession, custody or control which refer, relate or pertain to the property known as 7911 Sherwood Avenue and/or Rendevous Farm and any and all complaints and investigations relating thereto.

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0200
FAX: (301) 296-3719

WALLACE DANN
COUNSEL

December 13, 1988

Mr. J. Robert Haines
Zoning Commissioner for
Baltimore County
County Office Building, Rm. 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Sheldon Lerman
Petition for Special Hearing
Case No. 89-91-SPH
Property: 7911 Sherwood Avenue

Dear Commissioner Haines:

Enclosed please find an Affidavit of Service to be filed in this case, together with a copy of the Subpoena Duces Tecum that was served on Ms. Frank in care of her attorney, S. Eric Dinenna, Esquire.

Thank you for your kind attention to this matter.

Very truly yours,
EVANS, GEORGE & BRONSTEIN

Benjamin Bronstein/bjs
Benjamin Bronstein

BB/bjs
Enclosures

RECEIVED
DEC 14 1988
ZONING OFFICE

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

CASE NO. 89-91-SPH

AFFIDAVIT OF SERVICE

The undersigned hereby certifies:

1. I am a competent private person over 18 years of age and not a party to this action.
2. On December 13, 1988 at 11:45 a.m., I served a Subpoena Duces Tecum on Deborah J. Rollins Frank by hand delivery to her attorney, S. Eric Dinenna, Dinenna, Mann & Breschi, at the Mercantile Towson Building, Suite 600, 409 Washington Avenue, Towson, Maryland 21204.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing Affidavit are true to the best of my knowledge, information and belief.

Barbara J. Smith
29 W. Susquehanna Avenue
Ste. 205, The Susquehanna Bldg.
Towson, Maryland 21204
(301) 296-0200

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
PETITION FOR SPECIAL HEARING
SE/CORNER WALNUT HILL LANE AND
SHERWOOD AVENUE (7911 SHERWOOD AVENUE)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

CASE NO. 89-91-SPH

REQUEST FOR ISSUANCE OF SUBPOENA DUCES TECUM

Sheldon Lerman, by Benjamin Bronstein and Evans, George & Bronstein, his attorneys, requests the issuance of a Subpoena Duces Tecum directed to the following individual:

Deborah J. Rollins Frank
7911 Sherwood Avenue
Baltimore, Maryland 21218

to appear and testify before the Zoning Commissioner of Baltimore County, County Office Building, 111 W. Chesapeake Avenue, Room 106, Towson, Maryland 21204 on Tuesday, January 10, 1989 at 9:30 a.m., and to bring with her the following documents in her possession, custody or control: all state and federal income tax returns, including all schedules, worksheets, attachments, depreciation calculations, notes, memoranda and other documents showing deductions and the calculations relating thereto, for the period 1978 to present; to include without limitation, all such records in the names of Deborah J. Rollins, Deborah J. Frank, Deborah J. Rollins Frank, Rollins

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

SUITE 600
MERCANTILE TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(301) 296-6820

November 2, 1988

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

RE: Petition of Lerman
Location: 7911 Sherwood Avenue

Dear Mr. Commissioner:

Please enter my appearance on behalf of the property owners of 7911 Sherwood Avenue, concerning the above-captioned matter.

I see that this matter is set for hearing on November 23, 1988. I will be leaving for Germany on the evening of November 22, 1988, and will not be returning until December 4, 1988.

Accordingly, I would respectfully request a postponement and I have discussed this matter with Mr. Bronstein, Attorney for the Petitioner, and if you are willing to grant this Request for Postponement, we would like to set a date in December, so this matter is not unreasonably delayed.

Thank you for your cooperation.

Very truly yours,
S. ERIC DINENNA

SED:cjc
cc: Benjamin Bronstein, Esquire

RECEIVED
NOV 3 1988
ZONING OFFICE

Rendez - Vous Farm
7911 Sherwood Avenue
Baltimore, Maryland 21204

Sept 8, 1988

Dear Mr. Haines
If possible, I would like
to postpone the special hearing
Case Number 89-91-SPH on Oct 5th
1988. I will be attending a conference
for John Hopkins University in
Delaware.

Thank you
Deborah J. Rollins Frank

RECEIVED ZONING OFFICE
DATE: 9/7/88

This Deed, Made this 15th day of March, in the year one thousand nine hundred and sixty-five, by and between EDWARD G. STAPLETON and HELEN C. STAPLETON, his wife, of Baltimore County, State of Maryland, of the first part, and WILLIAM GORDON ROLLINS and DEBORAH J. ROLLINS, his wife, of the second part.

Witnesseth, that in consideration of the sum of Five Dollars (\$5.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said EDWARD G. STAPLETON and HELEN C. STAPLETON, his wife, do hereby grant and convey unto the said WILLIAM GORDON ROLLINS and DEBORAH J. ROLLINS, his wife, as tenants by the entireties, their assigns, the survivor of them, and the heirs and assigns of the survivor.

in fee simple, all that lot(s) of ground, situate, lying and being in

Baltimore County, State of Maryland, and described as follows, that is to say:—

Beginning for the same at the corner formed by the intersection of the South side of Walnut Avenue with the East side of Sherwood Avenue as said avenues are defined on the Plat hereinafter mentioned, and running thence Southerly and binding on the East side of Sherwood Avenue 135 feet 6 inches to the Northwest corner of a certain Lot No. 14 which, by deed dated April 22, 1904, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 275, folio 235, etc., was conveyed by The Sherwood Land Improvement Company of Baltimore City to William L. Smith and wife, thence Easterly bounding on the Northern outline of said Lot No. 14, 180 feet or until it intersects the 5th line of the whole lot of ground which, by deed dated August 31, 1903, and recorded among the Land Records aforesaid in Liber N.B.M. No. 269, folio 450, etc., was conveyed by Joseph Dize and wife to The Sherwood Land Improvement Company of Baltimore City, thence bounding reversely on part of the last recited line North 5 degrees East 87 feet 2 inches to the 4th line, thence bounding reversely on said fourth line of the last recited lot North 19-1/4 degrees East 71 feet 5 inches to the South side of Walnut Avenue, and thence Westerly bounding on the South side of the last recited Avenue to the place of beginning. The improvements thereon being known as No. 7911 Sherwood Road.

SAVING AND EXCEPTING therefrom, however, all those two parcels of land which, by Deed dated October 19, 1904, and recorded among the Land Records aforesaid in Liber W.P.C. No. 275, folio 407, etc., were conveyed by The Sherwood Land Improvement Company of Baltimore City to Nicholas M. Smith.

Aug 11 5 24 AM '23 J.C. 2

This Deed, Made this twenty-first day of June, in the year one thousand nine hundred and sixty-eight, by and between EDWARD G. STAPLETON and KAREN H. STAPLETON, his wife, of Baltimore County, in the State of Maryland, of the first part, and WILLIAM GORDON ROLLINS and DEBORAH J. ROLLINS, his wife, of the second part.

Witnesseth, that in consideration of the sum of Five Dollars (\$5.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part, Edward G. Stapleton and Karen H. Stapleton, his wife, do hereby grant and convey unto the said parties of the second part, William Gordon Rollins and Deborah J. Rollins, his wife, as tenants by the entireties, their assigns, the survivor of them and the heirs and assigns of such survivor.

in fee simple, all that lot(s) of ground, situate, lying and being in NINTH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND, aforesaid, and described as follows, that is to say:—

Beginning for the same on the northeast side of a 30 foot Road at a point where it is intersected by the division line between lots Nos. 6 and 9 as laid out on the plat titled The Old Orchard, which plat is recorded among the Plat Records of Baltimore County in Plat Book L.M.C.M. No. 10, folio 123, and running thence and binding on the northeast side of said road as laid out on said plat, the three following lines, viz: westerly by a line curving toward the right having a radius of 291.46 feet for a distance of 30 feet; North 67 degrees 01 minutes 20 seconds West 74.78 feet and westerly by a line curving toward the left having a radius of 326.91 feet for a distance of 91.79 feet, thence leaving said road and running for a line of division made through said Lot No. 6, North 30 degrees 19 minutes East 298.31 feet to the south side of a large black oak tree standing at the northernmost corner of said Lot No. 6 as laid out on the aforesaid plat titled The Old Orchard, thence binding on the northeasternmost outline of said Lot No. 6, South 62 degrees 23 minutes 10 seconds East 180.58 feet to the aforesaid division line between Lots No. 6 and 9 as laid out on said plat and thence binding on said division line South 27 degrees 50 minutes 50 seconds West 268.24 feet to the place of beginning.

CONTAINING 1.20 acres of Land, more or less.

BEING a part of Lot No. 6 as laid out on the plat titled The Old Orchard, which plat is recorded among the Plat Records of Baltimore County in Plat Book L.M.C.M. No. 10, folio 123.

BEING the same lot of ground described in a Deed dated April 2, 1959, and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 1206, folio 218, which was granted and conveyed by Elsie S. Scheld, widow, unto Edward G. Stapleton and Helen C. Stapleton, the said Helen C. Stapleton having since departed this life.

THIS DEED, Made this 21st day of August in the year nineteen hundred seventy, by and between EDWIN R. FITZGERALD and CAROLYN J. FITZGERALD, his wife, of Baltimore County, State of Maryland, parties of the first part; and WILLIAM GORDON ROLLINS and DEBORAH J. ROLLINS, his wife, of Baltimore County, State of Maryland, parties of the second part.

WITNESSETH, That in consideration of the sum of Five Dollars and other good and valuable considerations, this day paid, the receipt whereof is hereby acknowledged, the said EDWIN R. FITZGERALD and CAROLYN J. FITZGERALD, his wife, do grant and convey unto the said WILLIAM GORDON ROLLINS and DEBORAH J. ROLLINS, his wife, as tenants by the entireties, their assigns, the survivor of them and the heirs and assigns of the survivor, in fee simple, subject to the covenant, condition and restriction hereinafter set forth, all that parcel of ground situate, lying and being in the Ninth Election District of Baltimore County and described as follows, that is to say:

BEGINNING for the same at a point at the end of the second or North 65 degrees West 23 perch line of the first parcel of land which by deed dated July 31, 1961 and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3874 folio 481 was conveyed by Richard N. Tillman et al to Edwin R. Fitzgerald and Carolyn J. Fitzgerald, his wife, running thence and binding on a part of the third line in the aforesaid deed, as now surveyed, North 0 degrees 23 minutes 00 seconds West 70.00 feet to the end of the third or North 73 degrees 50 minutes West 32.00 feet line of the 700 square foot exception to the first parcel in the aforesaid deed, running thence and binding reversely on the third and second line in said exception, as now surveyed, South 79 degrees 03 minutes 00 seconds East 32.00 feet and northwesterly by a curve to the right with a radius of 177 feet for a distance of 77.28 feet (the chord of said arc being North 26 degrees 33 minutes 10 seconds West 76.66 feet) to a point at the end of the second or 26 feet line of the second parcel of land in the aforesaid deed, running thence and binding reversely on the second and part of the first line of the second parcel in said deed the two following courses and distances, as now surveyed: 1) northerly by a curve to the right with a radius of 47.00 feet for a distance of 17.76 feet (the chord of said arc being North 3 degrees 13 minutes 22 seconds West 17.65 feet); 2) North 7 degrees 36 minutes 00 seconds East 24.25 feet to the end of the fourth or South 19 degrees 20 minutes West 71.5 feet line of the third parcel of the aforesaid deed, running

24750

THIS DEED, made this 17th day of March, in the year one thousand nine hundred and seventy-six, by and between WILLIAM GORDON ROLLINS, of Baltimore County, State of Maryland, of the first part, and DEBORAH J. ROLLINS, of the second part.

WITNESSETH, that for and in consideration of the sum of Five (\$5.00) Dollars, and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said WILLIAM GORDON ROLLINS does hereby grant and convey unto the said DEBORAH J. ROLLINS, her heirs and assigns, in fee simple, subject to the liens, encumbrances and restrictive covenants of record prior hereto all those lots of ground situate, lying and being in the Ninth Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING for the first thereof at the corner formed by the intersection of the south side of Walnut Avenue with the east side of Sherwood Avenue as said Avenues are defined on the Plat hereinafter mentioned, and running thence southerly and binding on the east side of Sherwood Avenue 135 feet 6 inches to the northwest corner of a certain lot No. 14, which, by Deed, dated April 22, 1904, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 275, folio 235, etc., was conveyed by The Sherwood Land Improvement Company of Baltimore City to William L. Smith and wife, thence easterly bounding on the northern outline of said lot No. 14, 180 feet or until it intersects the 5th line of the whole lot of ground, which, by Deed, dated August 31, 1903, and recorded among the Land Records aforesaid in Liber N.B.M. No. 269, folio 450, etc., was conveyed by Joseph Dize and wife to The Sherwood Land Improvement Company of Baltimore City, thence bounding reversely on part of the last recited line North 5 degrees East 87 feet 2 inches to the 4th line, thence bounding reversely on said fourth line of the last recited lot north 19-1/4 degrees east 71 feet 5 inches to the south side of Walnut Avenue, and thence westerly bounding on the south side of the last recited Avenue to the place of beginning. The improvements thereon being known as No. 7911 Sherwood Road.

SAVING AND EXCEPTING therefrom, however, all those two parcels of land, which, by Deed dated October 19, 1904, and recorded among the Land Records aforesaid in Liber W.P.C. No. 275, folio 407, etc., were conveyed by The Sherwood Land Improvement Company of Baltimore City to Nicholas M. Smith.

DEPT. OF RECORDS & CLERK OF COURTS

PETITIONER'S EXHIBIT 20

LICENSE NO. #79

APPLICATION FOR HOLDING FACILITY LICENSE
BALTIMORE COUNTY, YEAR OF 1977
SUBJECT TO APPROVAL BY: Department of Zoning
Bureau of Animal Control

ELECTION DISTRICT 9 DATE May 24 1977
OWNER Deborah J. Rollins FACILITY NAME Rollins Riding House
ADDRESS 7911 Sherwood Rd. ZIP CODE 21204 ADDRESS Same ZIP CODE
PHONE NUMBER 835-3506 PHONE NUMBER Same
TYPE OF FACILITY Riding Area (Horses) Break Riding Instructions
NUMBER OF ANIMALS 6 TYPE OF ANIMALS Horses
STATE LICENSE NO. 031 HR 77 FEDERAL LICENSE NO. 1005
TYPE OF ENCLOSURE IN DWELLING SEPARATE BUILDING
MOBILE FENCED AREA (Horse)
DISTANCE FROM ENCLOSURE TO NEAREST PROPERTY LINE Ave 55 feet (Horse)

Kindly complete the above items and send to Animal Control Agency, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

APPROVED BY: James M. H. Jones
OFFICE OF PLANNING AND ZONING
DATE: 9-20-77
Bureau of Animal Control
DATE: 9/29/77

PETITIONER'S EXHIBIT 6

RE: ZONING VIOLATION
7911 Sherwood Road
9th Election District
Deborah J. Rollins
7911 Sherwood Road
Towson, Maryland 21204
Defendant
BEFORE THE
DEPUTY ZONING
COMMISSIONER
OF
BALTIMORE COUNTY
63-172-V, C-83-259

UNDER RECEIVED FOR FILING
DATE August 4, 1977
BY Mary Langreiter (Clerk)

ORDER OF DISMISSAL

A complaint has been filed with the Zoning Office concerning an alleged violation of the Baltimore County Zoning Regulations at the above captioned location in Baltimore County.

Testimony and evidence produced at the hearing indicated that no violation exists on the subject property. This decision is based on an August 24, 1977 letter written by S. Eric Dierker, the then Zoning Commissioner, lack of evidence at the 1977 alleged zoning violation hearing, the issuance of a holding facility license by Mr. Dierker on September 23, 1977 indicating "nonconforming conditional status" and the issuance of holding facility licenses from 1977/1978 to the present time.

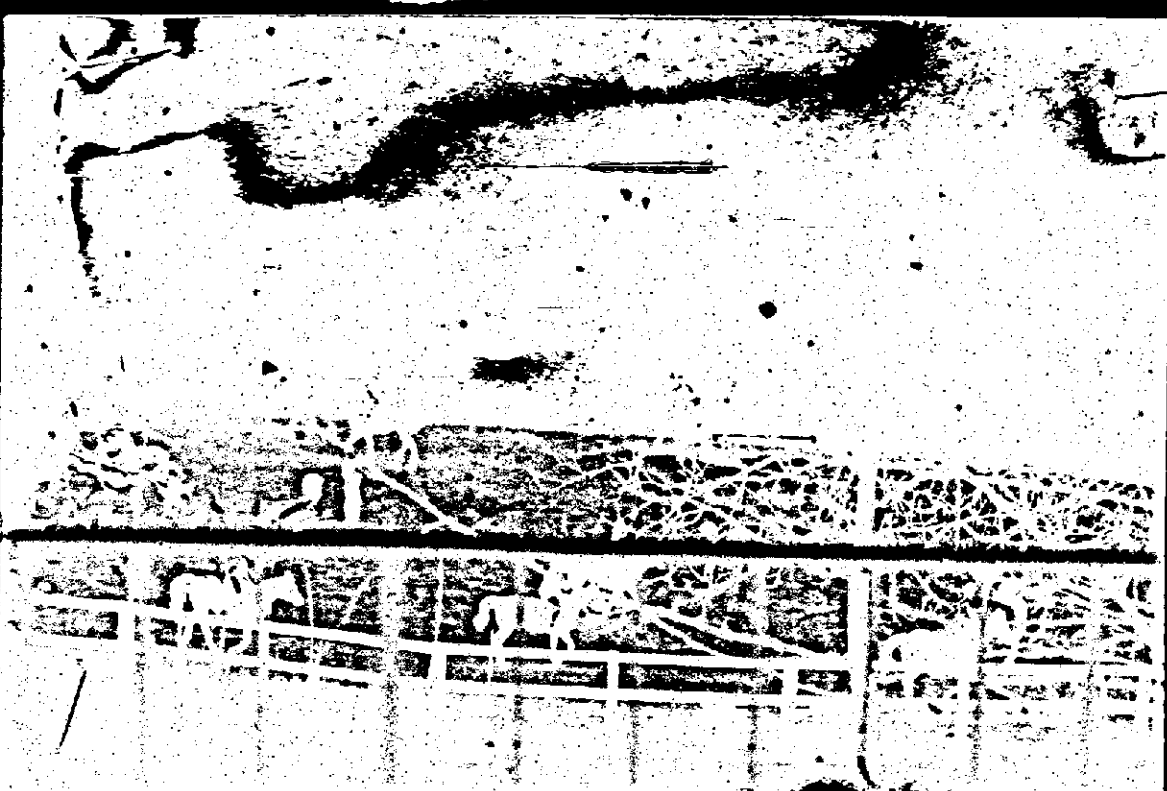
As there appeared no apparent violation of the Baltimore County Zoning Regulations at the present time, the matter is DISMISSED.

James M. H. Jones
Deputy Zoning Commissioner of Baltimore County

Date: August 4, 1978

PETITIONER'S EXHIBIT 1

PETITIONER'S EXHIBIT 8



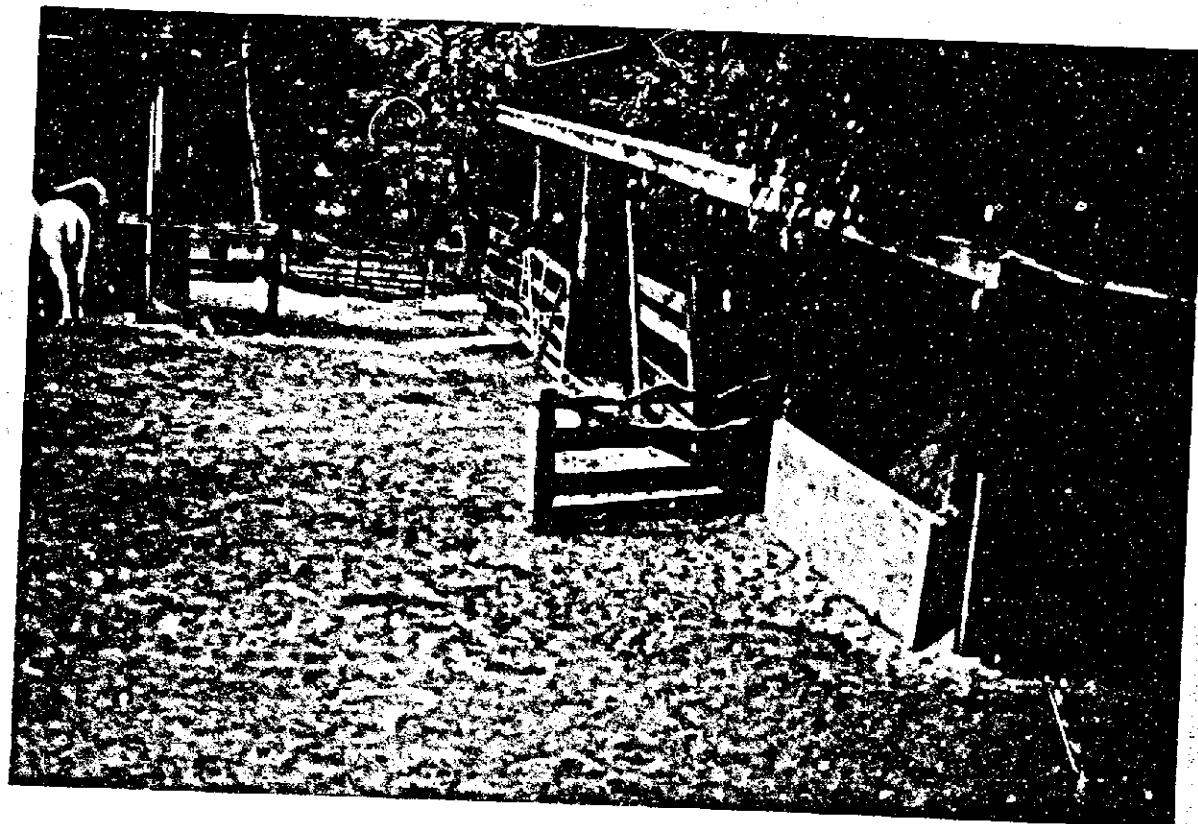
PETITIONER'S EXHIBIT 8



PETITIONER'S EXHIBIT 8



PETITIONER'S EXHIBIT 8



PETITIONER'S EXHIBIT 9

ARTICLES OF INCORPORATION
OF
RENEVOUS FARM, INC.

APPROVED AND RECEIVED FOR RECORD BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION
OF MARYLAND SEPTEMBER 24 1917 AT 8:35 O'CLOCK A. M. AS IN CONFORMITY
WITH LAW AND ORDER RECORDED

INCORPORATION AND
CAPITALIZATION TAX PAID \$ 23.03

REVENUE
TAX PAID \$ 20.00

OFFICIAL
FEE PAID \$

J2420035

TO THE CLERK OF THE COURT IN BALTIMORE COUNTY
IT IS HEREBY CERTIFIED THAT THE WITHIN INSTRUMENT, TOGETHER WITH ALL INCREMENTAL THEREON, HAS
BEEN RECEIVED APPROVED AND RECEIVED BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION OF MARYLAND

EDWARD L. LAMARCA, ESQUIRE
33 BALTIMORE AVENUE
BALTIMORE, MARYLAND

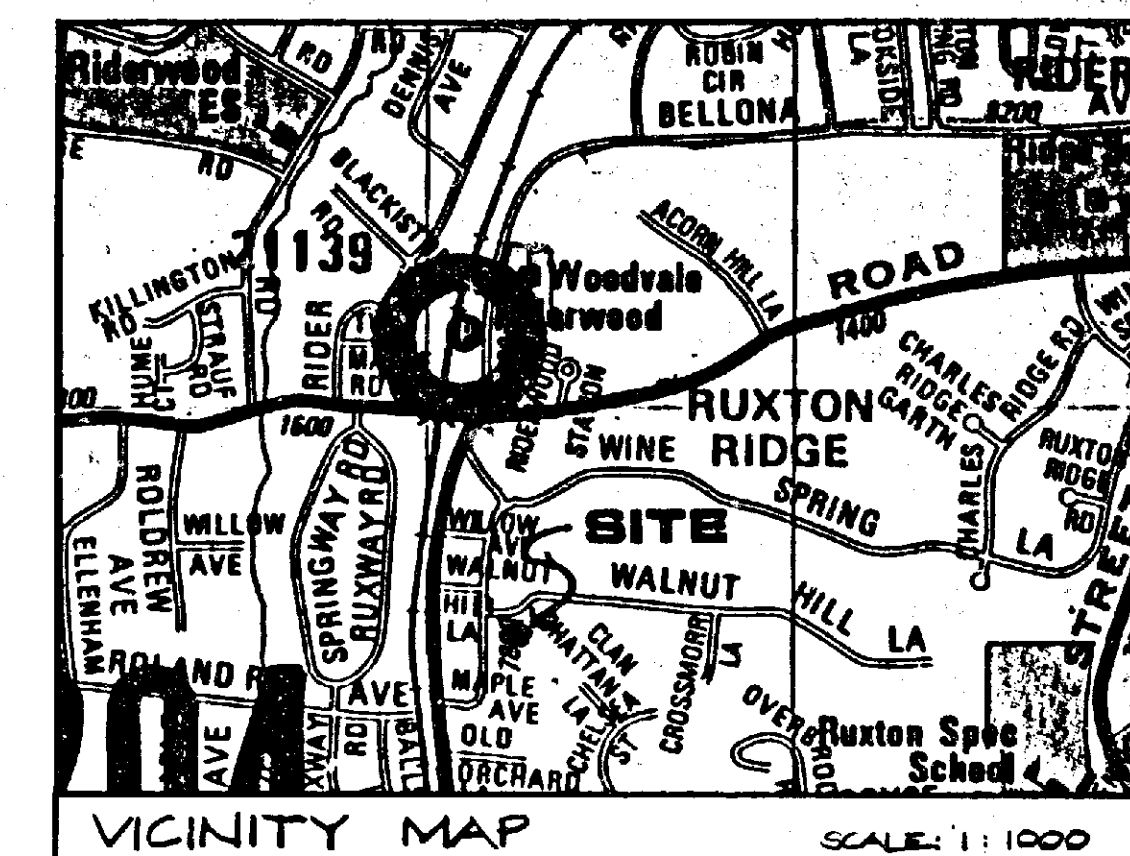
STATE OF MARYLAND

I hereby certify that this is a true and complete copy of the original as filed in my office. DATED: 9-24-17

BY: [Signature] CLERK OF THE COURT

THIS INSTRUMENT IS FILED IN THE RECORDS OF THE BALTIMORE COUNTY CLERK'S OFFICE IN THE PREVIOUS CERTIFICATION SYSTEM.

THE PROPERTY IN QUESTION LIES APPROXIMATELY 700 FT. SOUTH OF JCFPA ROAD ALONG BELLONA AVENUE, 300 FT. EAST ON WALNUT HILL LANE AND 100 FT. SOUTH ON SHERWOOD AVENUE TO THE INTERSECTION OF SHERWOOD AVENUE AND WALNUT HILL LANE.



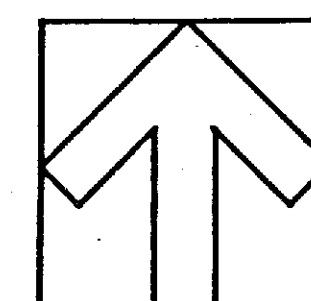
1. THE PROPERTIES SHOWN HEREON WERE COMPILED FROM DEEDS, PLATS AND OTHER AVAILABLE INFORMATION, IT IS NOT A FIELD SURVEY.
2. DEED LINES FOR L-1435-522 & L-5119-638 DO NOT MATCH.
3. DEEDS FOR THE ROLLINS PROPERTY WERE FURNISHED TO H. MALMUD & ASSOCIATES, INC.

#473

PETITIONER:
DR. SHELDON LERMAN
1409 WALNUT HILL LANE
RUXTON, MD. 21204

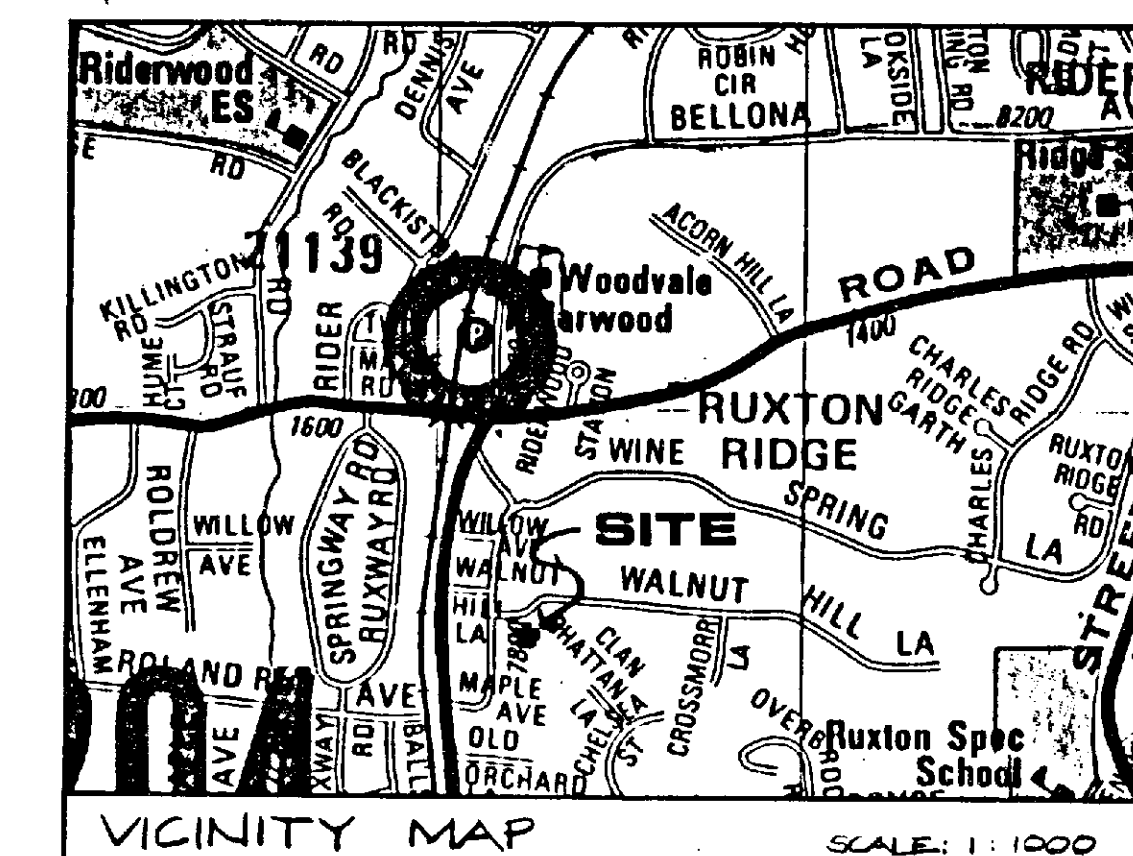
JUNE 27, 1988

WFK **WILLIAM F. KIRWIN, INC.**
Land Planning/Landscape Architecture
28 E. Susquehanna Avenue
Towson, MD 21204
Phone 301/337-0075



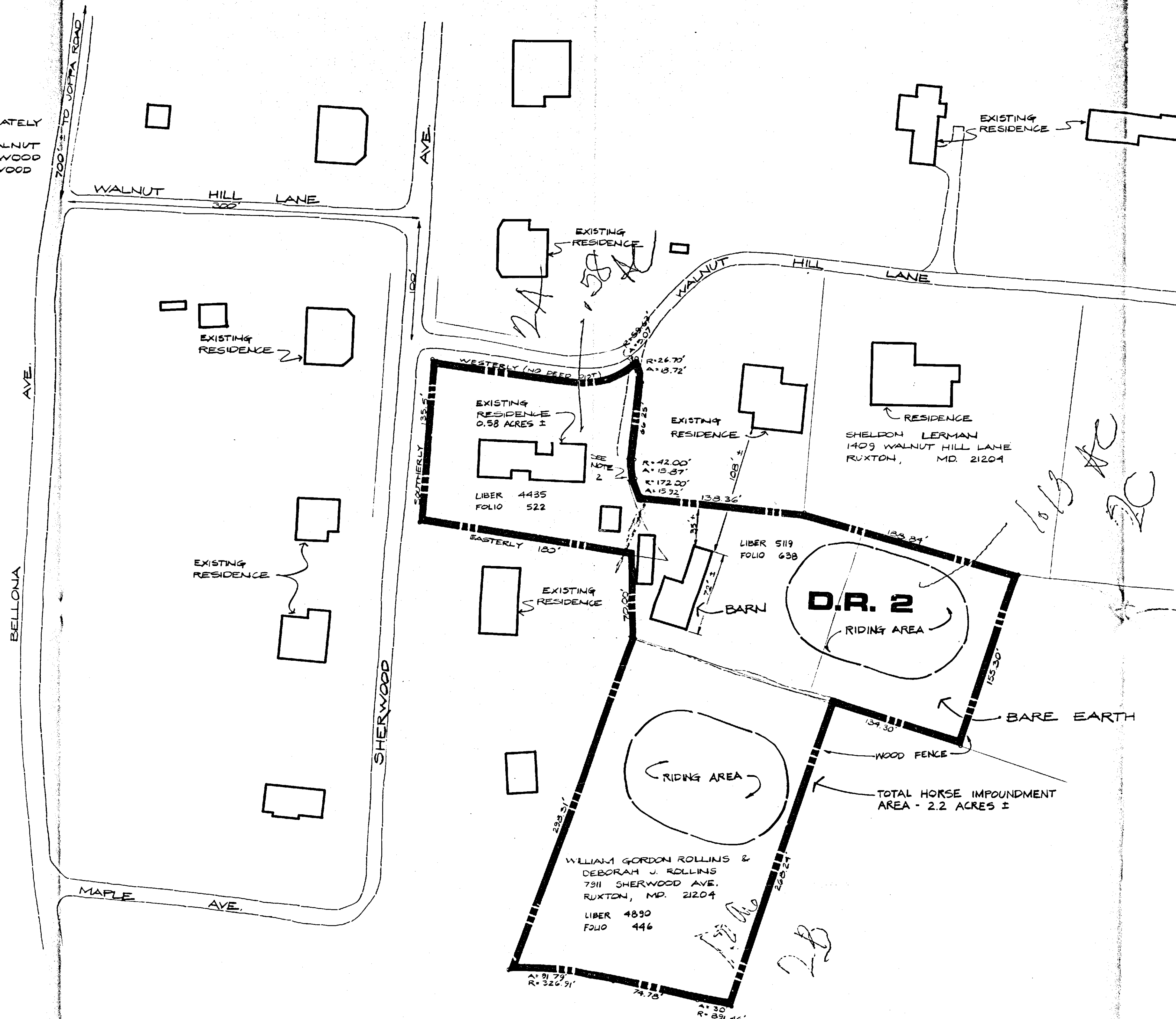
SCALE: 1" = 50'

THE PROPERTY IN QUESTION LIES APPROXIMATELY 700 FT. SOUTH OF JEFFA ROAD ALONG BELLONA AVENUE, 320 FT. EAST ON WALNUT HILL LANE AND 100 FT. SOUTH ON SHERWOOD AVENUE TO THE INTERSECTION OF SHERWOOD AVENUE AND WALNUT HILL LANE.



1. THE PROPERTIES SHOWN HEREON WERE COMPILED FROM DEEDS, PLATS AND OTHER AVAILABLE INFORMATION. IT IS NOT A FIELD SURVEY.
2. DEED LINES FOR L4135-522 & L5119-638 DO NOT MATCH.
3. DEEDS FOR THE ROLLINS PROPERTY WERE FURNISHED TO H MALMUD & ASSOCIATES, INC.

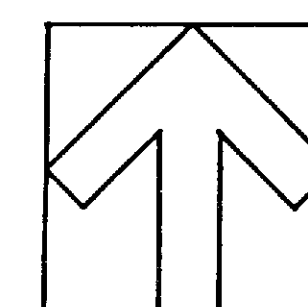
TOTAL SITE AREA - 28 ACRES ±



FLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
BALTIMORE COUNTY COUNCILMANIC DISTRICT - 1, ELECTION DISTRICT - 9.

PETITIONER:
DR. SHELDON LERMAN
1409 WALNUT HILL LANE
RUXTON, MD. 21204

JUNE 27, 1988



SCALE: 1" = 50'

WFK **WILLIAM F. KIRWIN, INC.**
Land Planning/Landscape Architecture
28 E. Susquehanna Avenue
Towson, MD 21204
Phone 301 337-0075

2372 ~~2372~~ #3

WEATHERFIELD ROAD
D.R. 1

D.R. 3.5

D.R. 5.5

D.R. 2

D.R. 2

D.R. 3.5

THE OLD ORCHARD

RUXTON HEIGHTS

D.R. 3.5

MALVERN

RUXTON HEIGHTS

D.R. 5.5

D.R. 16

D.R. 16

D.R. 1

D.R. 2

D.R. 1
SHEET

1984 COMPREHENSIVE ZONING MAP
ADOPTED BY BALTIMORE COUNTY COUNCIL
NOV. 13, 1984
BILL NOS. 133, 134, 135-14, 136-84, 137-84
CHAIRMAN COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP

REVISIONS
BY DATE
SCA 2
DATE OF PHOTOGRAPHY
APRIL 1983
AERO SERVICE CORPORATION-PHILADELPHIA, PA.

LOCATION
RUXTON
N.W.
10-B

