490

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-534-X

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for law office of resident attorney and one (1) non-resident associate attorney and one (1) non-resident employee in a DR5.5 zone

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

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

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

Contract Purchaser:	Legal Owner(s):
N/A (Type or Print Name)	Russell J. White (Type or Print Name)
Signature	Russell J. White Signature
Address	Mirta White (Type or Print Name)
City and State	Mirta White Signature

MAP NE/10A 2C E.D. 9th DATE 11-17-89 200 16F 1000 16F DP 5

Attorney for Petitioner:

Susan McMillan Davis (Type or Print Name)	309 W. Chesapeake Avenue 583-5699 Address Phone No.
Susan McMillan Davis Signature	Towson, Maryland 21204 City and State
300 E. Joppa Road, #1110 Address	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Towson, Maryland 21204 City and State	Susan McMillan Davis Name
Attorney's Telephone No.: 583-1325	300 E. Joppa Road, #1110 583-1325 Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 16th day of May, 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 had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 5th day of July, 1989, at 9:00 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

ORDER RECEIVED FOR FILING
Date 5/16/89
By Linda O'Keefe

ZCO—No. 1 (over)

490

SPELLMAN, LARSON & ASSOCIATES, INC.

ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON
HENRY W. APPEL
ALFRED F. AMORES, P.L.S

SUITE 107 — JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

DESCRIPTION FOR A SPECIAL EXCEPTION TO ZONING, 309 WEST CHESAPEAKE, NINTH DISTRICT, BALTIMORE COUNTY, MARYLAND

Beginning for the same at the corner formed by the intersection the South side of West Chesapeake Avenue, 60 feet wide, and the East side of Florida Road, 50 feet wide, and running thence and binding on the South side of West Chesapeake Avenue, South 76 Degrees 23 Minutes 00 Seconds East 70.00 feet thence leaving the South side of West Chesapeake Avenue and running South 13 Degrees 26 Minutes 00 Seconds West 125.00 feet and North 76 Degrees 23 Minutes 00 Seconds West 70.00 feet to the East side of Florida Road herein referred to and running thence and binding on the East side of Florida Road North 13 Degrees 26 Minutes 00 Seconds East 125.00 feet to the place of beginning.

Containing 0.20 acres of land, more or less.

5/1/89

STATE OF MARYLAND — ROBERT E. SPELLMAN — No. 4500 — REGISTERED PROFESSIONAL LAND SURVEYOR

RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN ★ LAND SURVEYING
LAND PLANNING ★ SUBDIVISION LAYOUT ★ FEASIBILITY STUDIES ★ ESTIMATING
GRADING STUDIES ★ LOCATION SURVEYS ★ TECHNICAL CONSULTATION

IN THE MATTER OF THE APPLICATION OF RUSSELL J. WHITE, ET UX FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE SOUTH SIDE OF CHESAPEAKE AVENUE, 25' EAST OF FLORIDA AVE. (309 W. CHESAPEAKE AVE) 9TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 89-534-X

* * * * * * * * *

O P I N I O N

This is an appeal from the decision of the Deputy Zoning Commissioner which granted with restrictions a request for a special exception to permit a law office consisting of one resident attorney, one nonresident associate attorney, and two nonresident employees on the subject site. The property is located in Towson and is zoned D.R. 5.5. The Petitioner seeks relief pursuant to Section 1B01.1.C.9B. Within that section, the Baltimore County Zoning Regulations (BCZR) permit by special exception certain professional offices providing that they do not occupy more than 25 percent of the total floor area of the subject residence; that the building serves as the professional person's primary residence; and that the proposed use does not involve the employment of more than one nonresident professional associate nor more than two nonresident employees.

The subject site is located within an area which has frequently served as a battleground for hearings before this Board in recent years. It is immediately west of the governmental/legal center of Towson and has faced increased pressure to become open for office and commercial uses. However, to the east the area is upon the fringe of an established residential community known as

Southland Hills. Lodged between these competing uses, this property and the ones immediately surrounding it have been frequent subjects of requests to permit more intense zoning use.

Prior to the taking of testimony at the hearing before this Board, the Board panel entertained a Motion to Dismiss the appeal filed by Counsel for the Petitioner. The basis of this request was that the appeal was not in compliance with the Board's Rules of Procedure, Rule 3(a). This rule provides that any appeals to the Board must be accompanied with a notice of appeal stating the names and addresses of all persons taking the appeal. As Petitioner's counsel correctly points out, the required notice is on the letterhead of the Protestants' counsel and does not list the appellants' addresses. As this Board noted during the hearing, we are nonetheless persuaded that the Motion should be denied. The Rules of Practice and Procedure for the Board were promulgated to achieve certain purposes and facilitate and expedite the business of the Board. Clearly, the rationale behind rule 3(a) is to allow both the Board and all interested parties to ascertain the identity and, if need be, contact the appellants. In that the Protestants' counsel's address is clearly contained within his stationery, we believe that the underlying purpose for rule 3(a) has been satisfied. Thus, the Board denied the Petitioner's Motion during open hearing and affirms that decision herein.

Turning to the merits of the case at issue, the Board heard from a number of witnesses both in support of and in opposition to the proposed special exception. On behalf of the Petitioner, the

Board considered the testimony of Robert E. Spellman, a professional land surveyor who prepared the site plan submitted as an exhibit to the Board. Mr. Spellman described the dwelling and the lot upon which it is located in some detail. He noted that the total floor area of the existing dwelling is 4,492 square feet and that the basement area which is to be converted to office use pursuant to the Petition for Special Exception is 900 square feet in area. Thus, Mr. Spellman concludes that the subject office will occupy 20 percent of the total floor area of the dwelling and the Petition thus satisfies one of the prongs mandated by Section 1B01.1.C.9B. Mr. Spellman also commented upon the requirements of Section 502.1 of the BCZR and opined that the proposed use satisfied those requirements and would not detrimentally affect the surrounding locale.

Also testifying on his own behalf was the Petitioner, Russell J. White. He testified that he has occupied this property as his residence with his wife since March of 1989. He discussed in detail the deplorable condition of the dwelling at the time of his purchase and the extensive improvements which he has made. He described the proposed office use which, as indicated above, is to be located in the basement of the dwelling. It will contain a one-room library, two offices, a bathroom, and a reception and storage area. Mr. White defined his practice as primarily including the representation of criminal defendants and that he desired to convert the basement area into an office for reasons of convenience. He also indicated that he intended on having one

associate attorney work from within his basement office, as well as two support individuals. He also described his client traffic as being light and indicated that the available parking shown on the site plan was sufficient for County regulations.

Mr. White also addressed in detail several of the restrictions imposed by the Deputy Zoning Commissioner within her Order which granted the special exception. He opined that many of these restrictions were impractical and unduly burdensome. In that this Board sits as a de novo body, we have the authority to impose reasonable restrictions and elsewhere within this Opinion will state the reasons why certain restrictions should be included within our Order.

Also testifying on behalf of the Petitioner was Norman Gerber, a well-recognized expert land planner. Mr. Gerber described the subject site and surrounding locale in great detail and also addressed the requirements of Section 502.1 of the BCZR. In his view, the proposal met each of the standards contained therein. Mr. Gerber also testified that there were no factors which he could determine which caused the proposed use at this site to have any adverse effect above and beyond those normally associated with such a special exception use. Thus, Mr. Gerber provided factual testimony upon which this Board can conclude that the proposed use complies with the Court of Appeals' holding in Schultz v. Pritts, 291 Md. 1 (1981).

Lastly, the Board heard from an immediate neighbor, Mr. Ronald Creswell of 1 Florida Road. He was supportive of the petition and

felt the proposed use to be compatible with the area. Further, he did not anticipate any problems with parking or traffic generation by the site.

In opposition to the project, the Board heard from several residents of the Southland Hills community located to the west. These included Susan Schenning, president of the Southland Hills Improvement Association. She recognized the increasing commercial pressure on this fringe of her community and opined that the propposed use is too intensive at this location. She also believes that the proposed use will aggravate an existing parking problem and that it does not comply with the provisions of 502.1. The Board also heard from two other residents of the community, Wilbert Boehm and Ronald DiLonardo, both of whom objected to the proposal for reasons similar to those offered by Ms. Schenning.

Before addressing the merits of the proposed special exception as it concerns Section 502.1 of the BCZR, the Board feels compelled to address an issue raised by the Protestants concerning whether Mr. White inherently qualifies for special exception consideration under Section 1B01.1.C.9B. The Protestants correctly note that Mr. White is but one attorney in his law firm. This fact being uncontradicted, the Protestants argue that the proposed use is but a satellite office of Mr. White's firm and therefore the conversion of a portion of Mr. White's dwelling for office use is not compatible with the zoning regulations. That is, the Protestants suggest that the regulation granting the authority for this special exception envisions that only a solo practitioner may seek relief

under a Petition for Special Exception. Although we may agree that satellite offices are not permitted by the statute, we do not construe the regulations so narrowly as to prohibit Mr. White's petition in this case. Chief among the requirements of the special exception statute is the mandate that the professional practicing in the office must be a resident of the dwelling. Therefore, we believe that for so long as Mr. White personally resides within the dwelling and uses the basement as his office space, the special exception is permissible.

As to the requirements of the BCZR as codified within Section 502.1, we believe they are satisfied. The testimony of the numerous witnesses offered by the Petitioner as stated hereinabove is persuasive. It must be recognized that a special exception is an inherently permissible right for any property owner subject to his meeting the test within Section 502.1.

As to the restrictions imposed by Deputy Zoning Commissioner Nastarowicz, we agree that some are onerous and unduly burdensome. We do not believe it proper to personally identify that associate attorney and/or support personnel who will work in this office. We need only remind the Petitioner that the language within 1B01.1.C.9B is in and of itself limiting and that such a use above and beyond that permitted within the statute would be violative of our Order. Likewise, we recognize that the practice of law by Mr. White may occasionally entail conferences and meetings with clients and other counsel. Again, we do not believe that a restriction limiting these meetings is appropriate or necessary in that the

89-535-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this 26th day of April, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: Richard D. Lentz
Petitioner's Attorney:

Received by: Jean P. Dyer
Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines, Zoning Commissioner DATE: June 16, 1989

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

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case No. 89-535-A
Item No. 429

Re: Richard D. Lentz

The Petitioner requests a variance to permit an existing carport to remain outside of the third of the lot farthest removed from any street and to be located one foot from the street right of way. In reference to this request, staff offers no comment.

A:7589.txt Pg.1

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: May 17, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting for April 25, 1989

The Developers Engineering Division has reviewed the zoning items for the subject meeting and we have no comments for Items 424, 425, 427, 428, 429, 430, 431, 432, 435, 437, 439, 440, 441, 442, 443, 444, 445, 447, and 448. Comments are attached for Items 426, 434, 436, 438 and 446.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Encls.

MAY 1 0 1989

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

June 20, 1989

MEMBERS

Bureau of Engineering

Department of Traffic Engineering

State Roads Commission

Bureau of Fire Prevention

Health Department

Project Planning

Building Department

Board of Education

Zoning Administration

Industrial Development

Mr. Richard D. Lentz
8327 Bear Creek Drive
Dundalk, MD 21222

RE: Item No. 429, Case No. 89-535-A
Petitioner: Richard D. Lentz
Petition for Zoning Variance

Dear Mr. Lentz:

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. 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.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

23

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

April 25, 1989

Dennis F. Rasmussen
County Executive

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

Dear Mr. Haines

The Bureau of Traffic Engineering has no comments for items number 424, 425, 426, 427, 428, 429, 430, 431, 432, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, and 448.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/lab

RECEIVED
APR 28 1989
ZONING OFFICE

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

Paul H. Reincke
Chief

Dennis F. Rasmussen
County Executive

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

RE: Property Owner: Richard Dale Lentz

Location: Corner of S/S of Bear Creek Dr. & W/S of Park Dr.

Item No.: 429 Zoning Agenda: April 25, 1989

Gentlemen:

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

The Fire Prevention Bureau has no comments at this time.

REVIEWER: Lt. Joseph Kelly 4-25-89 Noted and Approved
Planning Group
Special Inspection Division
Fire Prevention Bureau

JUN 2 0 1989

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines, Zoning Commissioner DATE: June 26, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 429
Lentz Property
Chesapeake Bay Critical Area Findings
Case 89-535-A

RECEIVED
JUL 19 1989
ZONING OFFICE

SITE LOCATION

The subject property is located at 8327 Bear Creek Drive. The site is within the Chesapeake Ba, Critical Area and is classified as an Intensely Developed Area.

APPLICANT PROPOSAL

The applicant has requested a variance from section 4001.1 of the Baltimore County Zoning Regulations to allow an accessory building (carport) outside of the third of the lot farthest removed from any street and a side yard setback of 1 foot in lieu of the minimum 2.5 feet for the accessory building.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;

2. Conserve fish, wildlife and plant habitat; and

3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01. C>

Memo to Mr. J. Robert Haines
June 26, 1989
Page 2

REGULATIONS AND FINDINGS

1. Regulation: "New development and redevelopment within the IDA shall use best Management Practices or other technology which reduces pollutant loadings by 10% of the on-site level prior to new development or redevelopment." <Baltimore County Code Sec. 22-217>

Finding:

a) At present roof top runoff is directed through downspouts and into infiltration pits along the parking pad. All runoff from the additional carport shall also be infiltrated into the trenches.

b) Two major deciduous trees or three conifer trees shall be planted and maintained on the lot. Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorous associated with them.

These measures will encourage maximum infiltration of stormwater and will bring this property into compliance with the 10% rule.

2. Regulations: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination." <Baltimore County Code Sec. 22-98>

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site.

3. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-213(a)>.

Finding: This property is located approximately 300 feet from the mean high water line of Bear Creek and is therefore not disturbing the shoreline buffer.

Memo to J. Robert Haines
June 26, 1989
Page 3

CONCLUSION

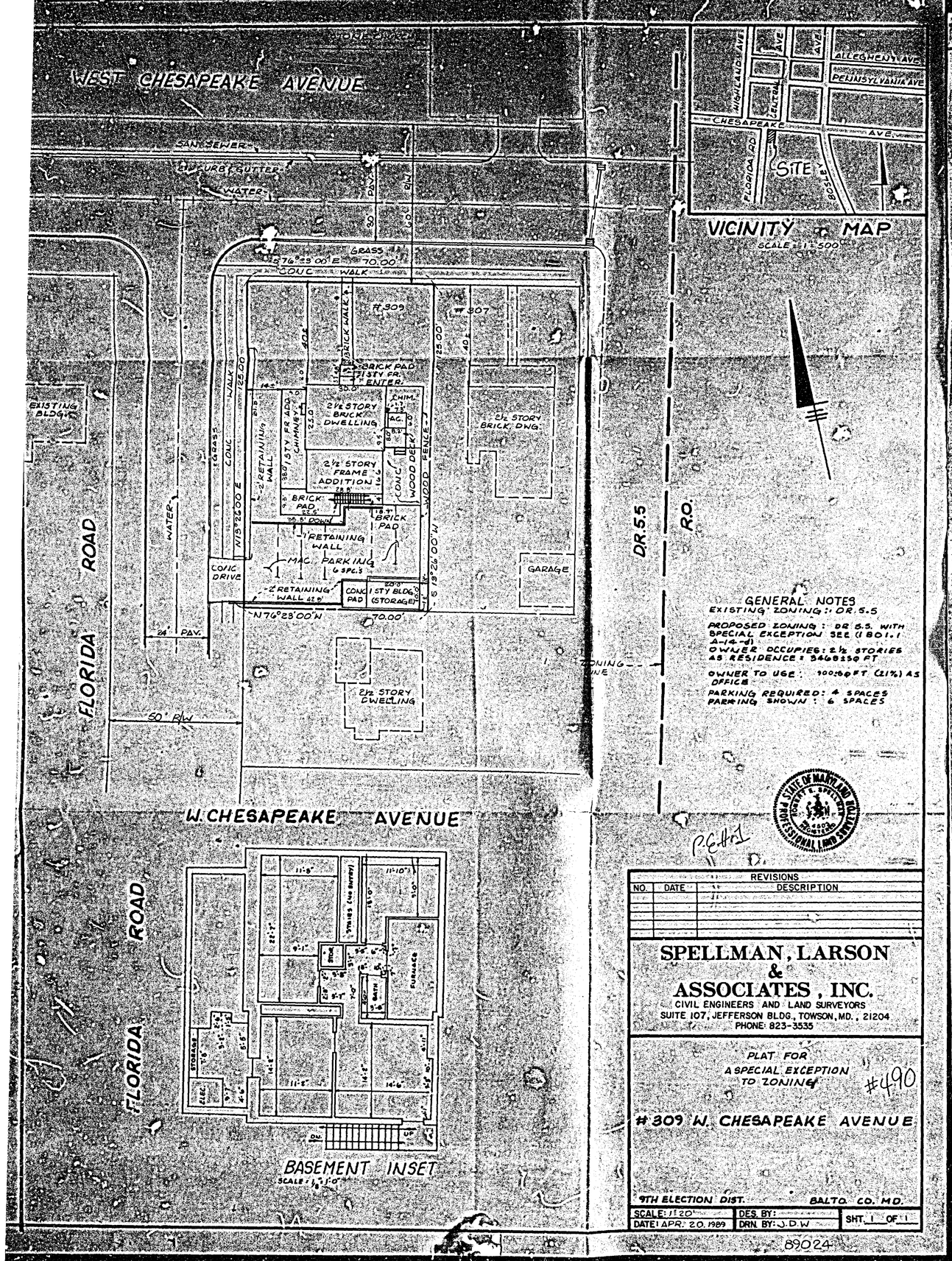
The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and findings listed above.

Upon compliance with Chesapeake Bay Critical Area Regulations, this project shall be approved.

Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:jw
Attachment

cc: The Honorable Ronald B. Hickernell
The Honorable Norman R. Lauenstein
The Honorable Dale T. Volz



VICINITY MAP
SCALE: 1" = 500'

GENERAL NOTES
EXISTING ZONING: D.R. 5.5

PROPOSED ZONING: D.R. 5.5 WITH SPECIAL EXCEPTION SEE I 801.1 A-1 & d)

OWNER OCCUPIES: 2½ STORIES AS RESIDENCE: 3468±50 FT

OWNER TO USE: 1000±50 FT (21%) AS OFFICE

PARKING REQUIRED: 4 SPACES
PARKING SHOWN: 6 SPACES

BASEMENT INSET
SCALE: 1/8" = 1'-0"

P.E. Hall

REVISIONS		
NO.	DATE	DESCRIPTION

SPELLMAN, LARSON & ASSOCIATES, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 107, JEFFERSON BLDG., TOWSON, MD., 21204
PHONE: 823-3535

PLAT FOR
A SPECIAL EXCEPTION
TO ZONING #490

309 W. CHESAPEAKE AVENUE

9TH ELECTION DIST. BALTO. CO. MD.

SCALE: 1"=20'	DES. BY:	SHT. 1 OF 1
DATE: APR. 20. 1989	DRN. BY: J.D.W	

89024

WEST CHESAPEAKE AVENUE
SAN. SEWER
EX. CURB & GUTTER
WATER
GRASS
CONC.
WALK
S76°23'00"E 70.00'
BRICK WALK
FF 309
BRICK PAD
1 STY FR. ENTER.
2½ STORY BRICK DWELLING
CHIM.
A.C.
2½ STORY FRAME ADDITION
1 STY FR ADD
CHIMNEY
2 RETAINING WALL
WOOD DECK
CONC.
WOOD FENCE
BRICK PAD
RETAINING WALL
MAC. PARKING (6 SPCS.)
CONC. DRIVE
2 RETAINING WALL 42.8'
CONC. PAD
1 STY BLDG. (STORAGE)
20.0
N76°23'00"W 70.00'
24' PAV.
50' R/W
FLORIDA ROAD
2½ STORY DWELLING
GARAGE
2½ STORY BRICK DWG.
EXISTING BLDG.
N13°26'00"E 125.00'
S13°26'00"W
40'
30'
ZONING LINE
D.R. 5.5
R.O.
ALLEGHENY AVE.
PENNSYLVANIA AVE.
CHESAPEAKE AVE.
HIGHLAND AVE.
CENTRAL AVE.
SITE
BOSLEY AVE.

VICINITY MAP
SCALE: 1" = 500'

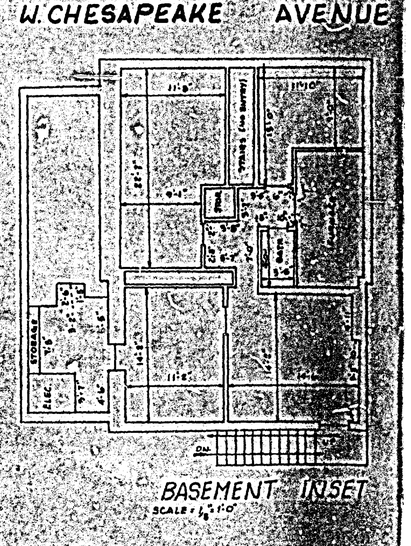
GENERAL NOTES
EXISTING ZONING: D.R. 5.5

PROPOSED ZONING: D.R. 5.5 WITH SPECIAL EXCEPTION SEE I 801.1 A-1 & d)

OWNER OCCUPIES: 2½ STORIES AS RESIDENCE: 3468±50 FT

OWNER TO USE: 1000±50 FT (21%) AS OFFICE

PARKING REQUIRED: 4 SPACES
PARKING SHOWN: 6 SPACES



BASEMENT INSET
SCALE: 1/8" = 1'-0"

REVISIONS		
NO.	DATE	DESCRIPTION

SPELLMAN, LARSON & ASSOCIATES, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 107, JEFFERSON BLDG., TOWSON, MD., 21204
PHONE: 823-3535

PLAT FOR
A SPECIAL EXCEPTION
TO ZONING

309 W. CHESAPEAKE AVENUE

9TH ELECTION DIST. BALTO. CO. MD.

SCALE: 1"=20'	DES. BY:	SHT. 1 OF 1
DATE: APR. 20. 1989	DRN. BY: J.D.W	

89024

89-534-X Petitioners 1

...statute so limits the office use. We do believe it proper, however, to provide the zoning officials with the authority to monitor this special exception to insure its compliance with the regulations and this Order. For the aforegoing reasons, this Board shall grant the special exception and will so order.

ORDER

For the reasons as stated above, it is therefore this 2nd day of July, 1990 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Exception in Case No. 89-534-X be and is hereby GRANTED subject to the following restrictions:

1. Petitioner shall use no more than the 900 square feet of the basement level as set forth in Petitioner's Exhibit No. 1 for office space.

2. Petitioner shall not have more than two nonprofessional employees working ont he premises at any one time. This shall include full-time, part-time, or independent contract employees.

3. Prior to the issuance of occupancy permits for office use, Petitioners shall submit the tag numbers of all vehicles owned by Petitioners.

4. Prior to the issuance of occupancy permits for office use, Petitioners shall submit to the Baltimore County Landscape Planner for approval a landscaping plan which provides screening and/or landscaping of the subject project along Florida Avenue, Chesapeake Avenue and the rear property line. The screening required may exceed the requirements of the Landscaping Manual. A copy of the approved plan shall be submitted to the Deputy Zoning Commissioner for final approval prior to the issuance of any occupancy permits.

5. The landscaping as approved under Restriction No. 4 shall be completed within ninety (90) days of the date of approval, unless extended for documented good cause,

and shall be maintained by Petitioners as long as the basement portion of the property is used as an office.

6. Petitioners shall provide a minimum of four (4) standard parking spaces on-site, or six (6) stacked spaces.

7. Petitioners agree to take any and all steps necessary to abide by and insure compliance of the restrictions set forth in this Order; and when requested by the Zoning Office shall, upon reasonable notice, permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence E. Schmidt, Acting Chairman

John G. Disney

Lynn B. Moreland

ORDER RECEIVED FOR FILING
Date 7/2/90
By Kathi Schuman

IN RE: PETITION FOR SPECIAL EXCEPTION
S/S Chesapeake Avenue, 25' E
of Florida Road
(309 W. Chesapeake Avenue)
9th Election District
4th Councilmanic District

Russell J. White, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-534-X

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception to permit a law office consisting of one resident attorney, one non-resident associate attorney, and two non-resident employees on the subject property zoned D.R. 5.5, as more particularly described in Petitioner's Exhibit 1. The original Petition requested permission for one non-resident employee; however, an amendment was filed requesting two non-resident employees as provided for in the zoning regulations.

The Petitioners, Russell White and Mirta White, his wife, appeared, testified, and were represented by S. Eric DiNenna, Esquire. Also appearing on behalf of the Petition were Susan McMillan Davis, Esquire, an attorney associated with Mr. White; E. J. Fitzsimmons, Jr. and Michael Ruby, residents of the area; and Robert E. Spellman, Registered Professional Land Surveyor. Appearing as Protestants in the matter were Mical Wilmoth on behalf of the West Towson Neighborhood Association; Timothy C. Kolarick, Past President, and Sue Schenning, President, on behalf of the Southland Hills Improvement Association, Bert Boohm, Robert W. Lindsay, Charles Culbertson, and Mary Laura Kalista, all residents of the area. Phyllis Freidman, Esquire, People's Counsel for Baltimore County, appeared and expressed the concerns of People's Counsel.

ORDER RECEIVED FOR FILING
Date 7/2/90
By Kathi Schuman

Testimony indicated that the subject property, known as 309 West Chesapeake Avenue, consists of 3,468 sq.ft. more or less, zoned D.R. 5.5, and is improved with a 2.5 story dwelling and detached garage (storage building). Mr. White testified they purchased the property approximately four years ago and that at that time, the dwelling and storage building were in need of repair. Testimony indicated extensive renovations were made to the dwelling prior to Petitioners moving into the premises this past Spring. Mr. White testified as to the improvements made to the first, second and third stories for use exclusively as their private residential quarters. He further testified the basement level was dug out to enable conversion of same to attractive office space for himself and his associate/employees. Mr. White quite candidly testified he had filed a Petition in the last comprehensive zoning map process to have the property rezoned from D.R. 5.5 to R.O. Petitioner's request was denied by the County Council. Mr. White testified that subsequent to the denial of the request for rezoning, he and his wife decided to move their principal residence from 2 Southerly Gate in Towson to the subject property. Petitioners' property and the adjoining property at 307 W. Chesapeake Avenue are zoned D.R. 5.5 while the abutting property, known as 305 W. Chesapeake Avenue is zoned R.O. and is the site of a five story office building.

Testimony presented indicated Mr. White is an attorney who has been practicing law for many years and has maintained an office in various locations throughout Baltimore County since 1968. Mr. White testified he currently is associated with three attorneys who are in the process of moving out of offices in Hampton Plaza. Two of the four attorneys have begun setting up their principal office in Ellicott City. Mr. White and his associate, Susan McMillan Davis, desire to practice out of offices

ORDER RECEIVED FOR FILING
Date 7/2/90
By Kathi Schuman

located in the basement level of Mr. White's home. Additionally, two secretaries would work out of the subject property. Mr. White testified his practice is predominately criminal law which, from his past experience, generates little traffic in and out of the office. Mr. White testified from his many years of practice that he did not feel any client who would visit his office would pose a danger to the safety of himself, his family or the neighborhood. In response to cross examination regarding the holding of depositions in the proposed office, Mr. White responded that the nature of his practice has not generated the need for same in the past ten years. He further testified that if the granting of the relief requested prohibited the other attorneys associated with him from using the office for any purpose, including meeting clients or using the parking lot, then he would abide with whatever restrictions were imposed regarding same. He further testified the practice of Ms. Davis is principally assisting him by handling some of the administrative cases and criminal hearings.

Testimony was presented by Mr. White as to the steps which he and his wife were taking to landscape the property and their opinion as to the improvements made thus far. Mr. White strongly felt that the dwelling was in keeping with the residential character of the surrounding homes and disagreed with those who felt it looked like an office building. He testified as to the care he and his wife had taken to improve the dwelling at great expense as the property is their primary residence. Testimony presented indicated that the office would be limited to the basement level and that only he and his wife would have access to the other areas. Mr. White addressed the requirements contained in Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and stated he believed the Petition and use proposed complies with each.

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By Kathi Schuman

Robert E. Spellman, a registered professional land surveyor, who has testified on numerous occasions in the past in zoning cases, testified that under his supervision his office prepared the site plan for the subject property. Mr. Spellman described the property and improvements thereon. Mr. Spellman testified he believed the requirements of Section 502.1 would be met by the proposed use. While it was not immediately apparent that the proposed use would not exceed the maximum permitted expansion of 25% of the total area of the existing dwelling, through the assistance of Phyllis Freidman and the recalling of Mr. White the 25% requirement was shown to have been met.

Through cross examination of Mr. Spellman and Mr. White the Protestants and Ms. Freidman raised concerns as to the adequacy of the number of parking spaces available in light of Petitioners' proposed use. Counsel for Petitioners contends there are no parking requirements imposed under the regulations for the use proposed as the regulations speak to office buildings not offices in a residence. Further, Petitioners argued that parking will be sufficient as Mrs. White works outside the home during the day. The Protestants contend the neighborhood currently has a tremendous parking problem due to its proximity to the Courthouse, County government offices, and numerous other general office uses and argue the proposed use will exacerbate the problem. The Petitioner contends they have created a minimum of four spaces and at least six can be arranged for on the lot with stacking and cooperation of those involved. Petitioner argued the neighbors who would be most affected are not opposed to his request and have acknowledged their consent as evidenced by Petitioner's Exhibit 2.

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The Protestants further indicated that the majority of those members of the Southland Hills Improvement Association who attended a meeting on June 4, 1989 voted to oppose the Petitioners' request. The Protestants question the ability of the Petitioners to maintain and insure the use proposed would be restricted to a level that was intended under the zoning regulations. The Protestants believe Mr. White would not restrict the use of the office by the other attorneys with whom he is associated who have set up an office in Ellicott City when they have cases in Baltimore County or for that matter, any other attorneys. The Protestants fear the granting of Petitioner's request will result in its eventual reclassification to R.O. and further intrusion of office uses into their community. The Protestants fear the decision in this matter will have an impact on the Petition for Reclassification recently filed for the adjoining property at 307 W. Chesapeake Avenue, which is requesting an R.O. classification.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. "A special exception is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each case, decide under specified statutory standards whether the presumptive compatibility in fact exists..." (See Creswell v. Baltimore Aviation Serv., Inc., 257 Md. 712, 719, 264 A.2d 838, 842 (1970). Special exceptions are inherently proper absent adverse affects to the surrounding locale as enumerated in Section 502.1 of the B.C.Z.R.

The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the

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proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The concerns raised by the Protestants can be properly addressed by restrictions. As the Board of Appeals recently eloquently stated In the Matter of The Application of Mary H. Baltus, Case No. 88-267-XA,

> "...as to enforcement, there is great concern that the Board's restrictions will not be followed. Although we are cognisant of this possibility, we cannot be controlled by it. Clearly, the Board may impose such restrictions it deems to be appropriate. We must assume that adherence to those restrictions will be forthcoming as well as enforcement by the County. To assume otherwise would render the imposition of restrictions in any case meaningless."

In addressing the Protestants' fears of the Petitioners' inability to enforce any restrictions imposed, Ms. Wilmoth made reference to a case where the property owner neither exhibited the openness the Petitioners have nor voluntarily presented his case.

In the opinion of the Deputy Zoning Commissioner, the proposed use, as hereinafter restricted, will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R. Petitioners have agreed to abide by restrictions imposed. The principal practice of the one non-resident associate attorney shall be limited to assisting Mr. White in his practice. The reason for this restriction is the impact on the residents is directly related to the size of the practice operating out of the premises. While the testimony presented indicated that Ms. Davis'

practice in conjunction with Mr. White's will not create a sizable amount of traffic, the same cannot be determined at this time as to the impact on the community a substitute attorney would create. Further, while Counsel for Petitioner may be correct in his opinion that parking regulations are inapplicable in this instance, Section 502.1 requirements cover the need for parking concerns to be considered. The restrictions imposed hereinafter address the Protestants' concerns and are designed to prevent any traffic congestion and/or detrimental impact on the community by eliminating the potential for overuse of the offices as a parking problem.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3rd day of August, 1989 that the Petition for Special Exception to permit a law office consisting of one resident attorney, one non-resident associate attorney, and two non-resident, non-professional employees on the subject property zoned D.R. 5.5, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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Date 8/3/89
By John E. Hoffman

2) The Special Exception granted herein is limited to the practice of law by the Petitioner, Russell J. White, while the subject property is his principal residence.

3) Petitioner shall use no more than the 900 sq.ft. of the basement level as set forth in Petitioner's Exhibit 1 for office space.

4) The principal practice of the one non-residential attorney permitted to share office space with the Petitioner shall be limited to Susan McMillan Davis unless, after written request by Petitioners, a substitute attorney is approved by the Zoning Commissioner and/or Deputy Zoning Commissioner, which may be accomplished without a public hearing provided the associate principally assists Mr. White in his practice.

5) No attorneys other than the Petitioner, Russell White, and an associate as permitted under Restriction No. 4, may use office space on the subject site, whether temporarily and/or on an occasional basis.

6) Petitioner shall not have more than two non-professional employees working on the premises at any one time. This shall include full time, part time or independent contract employees.

7) Prior to the issuance of occupancy permits for office use, Petitioners shall submit the following:

a) provide the name, addresses, tag numbers of all vehicles of all non-resident employees working out of the premises. In the event of a change in personnel or the vehicles driven by same, Petitioner shall notify the Zoning Office in writing by certified mail within ten (10) days of such change.

b) the tag numbers of all vehicles owned by Petitioners.

c) submit to the Baltimore County Landscape Planner for approval a landscaping plan which provides screening and/or landscaping of the subject property along Florida Avenue, Chesapeake Avenue and the rear property line. The screening required may exceed the requirements of the Landscaping Manual. A copy of the approved plan shall be submitted to the Deputy Zoning Commissioner for final approval prior to the issuance of any occupancy permits.

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Date 8/3/89
By John E. Hoffman

8) The landscaping as approved under Restriction 7.c) shall be completed within ninety (90) days of the date of approval, unless extended for documented good cause, and shall be maintained by Petitioners as long as the basement portion of the property is used as an office.

9) When applying for an occupancy permit, the site plan and lanscaping plan filed must reference this case and set forth and address the restrictions of this Order.

10) Petitioners shall provide a minimum of four (4) standard parking speces on-site, or six (6) stacked spaces.

11) Petitioners agree to take any and all steps necessary to abide by and insure compliance of the restrictions set forth in this Order and when requested by the Zoning Office shall:

a) provide a notarized statement verifying that each of the requirements have been at all times followed and enforced by Petitioners;

b) upon reasonable notice, permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

12) Petitioners agree to record the restrictions herein in the Land Records of Baltimore County.

13) Petitioners understand that in the event neighborhood parking problems which can be directly related to the operation of this office result or Petitioners fail to abide by the spirit and intent of these restrictions, a loss of the special exception granted herein may result. Petitioners agree, upon reasonable notice, to cooperate in any hearing called for by the Zoning Commissioner and/or Deputy Zoning Commissioner, pursuant to Section 500.7 of the B.C.Z.R., to determine whether or not the office use has exceeded the stated intensity insofar as traffic and/or parking generated by such use or the restrictions imposed have not been followed or have been violated.

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Date 8/3/89
By John E. Hoffman

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
S/S Chesapeake Avenue, 251' E of Florida Road (309 W. Chesapeake Ave.) * DEPUTY ZONING COMMISSIONER
9th Election District * OF BALTIMORE COUNTY
4th Councilmanic District * Case No.: 89-534-X
Russell J. White, et ux. *
Petitioners *
* * * * * * * * * * * *

ORDER OF APPEAL

MR. COMMISSIONER:

Russell J. White, et ux., 309 W. Chesapeake Avenue, by their attorneys, DiNenna, Mann & Breschi and S. Eric DiNenna, enter an Order of Appeal from certain restrictions imposed in the Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner for Baltimore County on August 3, 1989, as follows:

1. A. Restriction No. 2, 4, 5, 7(a), 11, 12 and, 13, only.

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

RECEIVED
PAYMENT
7-1-89 (Cash)
ZONING OFFICE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 1st day of Sept., 1989, a copy of the aforegoing Order of Appeal was mailed, postage prepaid, to Susan A. Schenning, Esquire, Court House, Towson, Maryland 21204; and, Phyllis Friedman, Esquire, People's Counsel, 409 Washington Avenue, Suite 900, Towson, Maryland 21204; John C. Murphy, 516 N. Charles Street,

Baltimore, Maryland 21201, Attorney for Protestants and Appellants.

S. ERIC DiNENNA

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
S/S Chesapeake Ave. * DEPUTY ZONING COMMISSIONER
(309 W. Chesapeake Avenue) * OF BALTIMORE COUNTY
* Case No. 89-534-X
Russell J. White, et ux *
Petitioners *
* * * * * * * * * * * *

NOTICE OF APPEAL

Please enter an appeal to the Board of Appeals from the Order dated August 3, 1989 granting the special exception in the above matter on behalf of the Southland Hills Improvement Association of Baltimore County, Inc., Wilbert Boehm, Charles Culbertson and Timothy C. Kolarik.

John C. Murphy
516 N. Charles St.
Baltimore, Md. 21201
625-4828
Attorney for Appellants

I HEREBY CERTIFY, that on this 28 day of Aug., 1989, I mailed a copy of the foregoing Notice of Appeal to Russell J. White, Esq., 309 W. Chesapeake Avenue, Towson, Md. 21204.

John C. Murphy

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 077436
DATE 8/30/89 ACCOUNT R-01-615-000
AMOUNT $ 200.00
RECEIVED John C. Murphy
FOR Appeal Filing - Case # 89-534-X
Russell J. White
$ 135****20000:a 8018
VALIDATION OR SIGNATURE OF CASHIER
WHITE - CASHIER'S COPY YELLOW - CUSTOMER

RECEIVED
AUG 30 1989
ZONING OFFICE

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

GERALDINE A. KLAUBER
FRANCIS X. BORGERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508

SUITE 600
MERCANTILE-TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

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

October 3, 1989

Baltimore County Board of Appeals
111 West Chesapeake Avenue
County Office Building
Towson, Maryland 21204

RE: Petition for Special Exception
S/S Chesapeake Avenue
(309) W. Chesapeake Avenue)

Russell J. White, et ux
Petitioners
Case No.: 89-534-X

Dear Board:

Enclosed please find a Motion to Dismiss Appeal and Request for Hearing regarding the above captioned matter. This Motion was originally filed with the Deputy Zoning Commissioner's office in error. These corrected pleadings are replacing the original ones and all parties are hereby notified of such. Thank you for your cooperation.

Very truly yours,

S. ERIC DiNENNA

SED:gak
Enclosure
cc: John C. Murphy, Esquire
People's Counsel
Russell White, Esquire

Deny motion by order

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89 OCT -5 AM 11:52

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
S/S Chesapeake Avenue * BALTIMORE COUNTY BOARD
(309) W. Chesapeake Avenue) * OF APPEALS
* Case No.: 89-534-X
Russell J. White, et ux *
Petitioners *
* * * * * * *** * * * * *

REQUEST FOR HEARING

The Petitioners, Mr. and Mrs. Russell J. White, by and through their attorneys, S. Eric DiNenna, and DiNenna, Mann and Breschi, request that the above captioned matter be set in for an immediate hearing.

S. ERIC DiNENNA
DiNenna, Mann and Breschi
P.O. Box 10508
Towson, Maryland 21285-0508
(301)296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 4th day of October, 1989, a copy of the aforegoing Motion to Dismiss Appeal was mailed, postage prepaid to John C. Murphy, Esquire, 516 North Charles Street, Baltimore, Maryland 21201, attorney for Appellants and People's Counsel of Baltimore County, Room 304, County Office Building, Towson, Maryland 21204.

S. ERIC DiNENNA

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
S/S Chesapeake Avenue * BALTIMORE COUNTY BOARD
(309 W. Chesapeake Avenue) * OF APPEALS
* Case No.: 89-534-X
Russell J. White, et ux *
Petitioners *

MOTION TO DISMISS APPEAL

The Petitioners of the above referenced matter, by and through their attorneys, S. Eric DiNenna, and DiNenna, Mann and Breschi, moves that pursuant to the Rules of Practice and Procedure the County Board of Appeals Rule 3(a) that the appeal be dismissed for the following reasons:

1. That Petitioners, Russell White and Mirta White, his wife, filed a Request for Special Exception to permit a law office consisting of one resident attorney, one non-resident associate attorney, and two non-resident employees on the subject property zoned DR5.5.

2. After a hearing on July 13, 1989, before the Deputy Zoning Commissioner, the requested Special Exception was granted, subject, to certain restrictions. As set forth by the decision and order of the Deputy Zoning Commissioner dated August 3, 1989.

3. That on August 28, 1989, an appeal was filed with the Zoning Commissioner by John C. Murphy, Esquire on behalf of the Southland Hills Improvement Association of Baltimore County, Inc., Wilbert Boehm, Charles Culbertson and Timothy C. Kolarik, a copy of which is attached hereto as Exhibit A.

4. That the appeal filed by John C. Murphy, Esquire on behalf of Appellants failed to include the address of the Appellants themselves.

5. Rule 3(a) of the Rules of Practice and Procedure of the County Board of Appeals provides:

> No appeal shall be entertained by the Board of Appeals unless the notice of the appeal shall state the names and addresses of the persons taking such an appeal.

6. That John C. Murphy, Esquire, as counsel for the Appellants is not the person taking the appeal.

Agencies of government are bound to observe rules, regulations or procedures which they have established. When an agency fails to do so, its actions cannot stand and court will strike it down. United States v. Heffner, 420 F 2d. 809, 811 (4th Cir.1979); Hopkins v. Maryland Inmate Grievance Commission, 40 Md.Ap. 329, 335-336 (1978).

8. Notice of the subject appeal does not contain the address of the Appellants as mandated by the County Board of Appeals, the Rules of Practice and Procedure, and therefore must be dismissed with prejudice.

WHEREFORE, Petitioners respectfully request this Board to dismiss this subject appeal with prejudice.

S. ERIC DINENNA
DiNenna, Mann and Breschi
P.O. Box 10508
Towson, Maryland 21285-0508
(301)296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 4th day of October, 1989, a copy of the aforegoing Motion to Dismiss Appeal was mailed, postage prepaid to John C. Murphy, Esquire, 516 North Charles Street, Baltimore, Maryland 21201, attorney for

Appellants and People's Counsel of Baltimore County, Room 304, County Office Building, Towson, Maryland 21204.

S. ERIC DINENNA

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
S/S Chesapeake Ave.
(309 W. Chesapeake Avenue) * BALTIMORE COUNTY BOARD
* OF APPEALS
* Case No. 89-534-X
Russell J. White, et ux *
Petitioners *

ANSWER TO MOTION TO DISMISS APPEAL

The Southland Hills Improvement Association of Baltimore County, Inc., et. al., Respondents in the above matter, by John C. Murphy, their attorney, for answer to the Motion to Dismiss, say:

1. In the case of Application of Richard O. Huffman, Jr., et ux, Case No. 89-7, the Board recently denied a similar motion on the grounds that there was actual notice and no prejudice was shown. This reasoning is sound and should be adhered to here. It is a fundamental principle of law that actual notice can take the place of a prescribed notice in the absence of prejudice. Petitioners have not suggested any actual prejudice.

2. Petitioners had actual notice since (1) all of the Respondents appeared at the hearing before the Deptuy Zoning Commissioner and gave their address at that time; (2) the letter of the Zoning Commissioner dated September 13, 1989 transmitting the appeal gave the names and addresses of the Respondents.

3. Rule 1(d) of the Board of Appeals states:

"All appeals to the board from decisions of the Zoning Commissioner or the Deputy Zoning Commissioner shall be in conformance with the rules of the Zoning Commissioner of Baltimore

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OCT 18 1989

County with respect to the form of the appeal.....". In fact, the rules of the Zoning Commissioner contain no standards for the appeal. However, the sample form handed out by the Zoning Office, attached hereto, does not contain the address of the appellant.

WHEREFORE, Respondents ask that the Motion to Dismiss be denied.

John C. Murphy
516 N. Charles St.
Baltimore, Md. 21201
625-4828
Attorney for Appellants

I HEREBY CERTIFY, that on this 13 day of Oct, 1989, I mailed a copy of the foregoing Answer to Motion to S. Eric DiNenna, Esq., P.O. Box 10508, Towson, Md. 21204, and the People's Counsel, Courthouse, Towson, Md. 21204.

John C. Murphy

IN RE:
PETITION FOR SPECIAL HEARING
E/S Earls Beach Road, 1073' * ZONING COMMISSIONER
N of the c/l of Ebenezer Road
(702 Earls Beach Road) * BALTIMORE COUNTY
Donald Parlett * CASE NO. 89-267-SPH
Petitioner

APPEAL

DEAR ZONING COMMISSIONER:

Please enter an appeal to the Board of Appeals for Baltimore County in the above referenced case on behalf of the Petitioner.

John B. Gontrum
Romadka, Gontrum & Hennegan
809 Eastern Boulevard
Essex, Maryland 21221
686-8274
Attorney for Petitioner.

I HEREBY CERTIFY that on this 26 day of April, 1989, a copy of the foregoing was mailed postage prepaid to People's Counsel, Court House, Towson, Maryland 21204.

John B. Gontrum

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APR 27 1989
(O.K. - cw)
ZONING OFFICE

175 (SPX)
25 (PETITION)

SAMPLE

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN
ESSEX, MARYLAND

PLEASE PRINT CLEARLY — PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Russell J. White	309 W. Chesapeake Av.
Mirta White	"
ROBERT E. SPELLMAN	107 JEFFERSON BLDG
Susan McMillan Davis	9925 Tuscarora Rd
MICHAEL RUBY	7 FLORIDA 21204
E.J. FITZSIMMONS JR	409 W. Chesapeake Ave

89-534-X

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Date of Posting September 22, 1989

District: 9th
Posted for: Appeal
Petitioner: Russell J. White, et ux
Location of property: S/S Chesapeake Ave., 25' E of Florida Road
309 W. Chesapeake Ave.
Location of Signs: In front of subject property 309 W. Chesapeake Avenue
Remarks:
Posted by: Walter A. Bailey (Signature) Date of return: September 29, 1989
Number of Signs: 1

PLEASE PRINT CLEARLY — PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Myral Wilmoth	503 Woodbine Ave
Timothy C. Kolarik	404 Carolina Rd
Bert Boehm	200 Bosley Ave.
Robert W. Lindsay	413 Georgia Court
Charles Culbertson	412 Carolina Rd
Mary Claire Kalista for Southland Hills	521 Allegheny Ave
Ann Schemmig	308 Dixie Dr.

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

July 2, 1990

John C. Murphy, Esquire
516 N. Charles Street
Baltimore, Maryland 21201

Re: Case No. 89-534-X (Russell J. White, et ux)

Dear Mr. Murphy:

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

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: S. Eric DiNenna, Esquire
Mr. and Mrs. Russell J. White
Ms. Sue Schenning, Southland Hills Improvement Association
Mr. Wilbert Boehm
Mr. Charles Culbertson
Mr. Timothy C. Kolarick
Ms. Susan McMillan Davis
E.J. Fitzsimmons, Jr.
Mr. Michael Ruby
Mr. Robert E. Spellman
Mical Wilmoth, West Towson Neighborhood Association
Mr. Robert W. Lindsay
Ms. Mary Laura Kalista
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

12/1/89 - Following parties notified of hearing set for April 6, 1990 at 10:00 a.m.:

Mr. and Mrs. Russell J. White
S. Eric DiNenna, Esq.
Ms. Sue Schenning - Southland Hills Impr. Assoc.
Mr. Wilbert Boehm
Mr. Charles Culbertson
Mr. Timothy C. Kolarick
John C. Murphy, Esq.
Susan McMillan Davis
E.J. Fitzsimmons, Jr.
Michael Ruby
Robert E. Spellman
Mical Wilmoth, West Towson Neighborhood Assoc.
Robert W. Lindsay
Mary Laura Kalista
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

Capitol Bond.

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

J. Robert Haines
Zoning Commissioner

September 13, 1989

Dennis F. Rasmussen
County Executive

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

RE: Petition for Special Exception
S/S Chesapeake Avenue, 25' E of Florida Road
(309 W. Chesapeake Avenue)
9th Election District - 4th Councilmanic District
RUSSELL J. WHITE, ET UX - Petitioner
Case No. 89-534-X

Dear Board:

Please be advised that the following appeals of the above referenced case were filed in this office:

1. August 30, 1989 by John C. Murphy, attorney on behalf of the Protestants.

2. September 1, 1989 by S. Eric DiNenna, attorney on behalf of the Petitioners.

All materials relative to the case are being forwarded herewith.

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

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Russell and Mirta White
309 W. Chesapeake Avenue, Towson, MD 21204

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

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Appeal Cover Letter - Case No. 89-534-X
RUSSELL J. WHITE, ET UX - Petitioner
September 13, 1989
Page 2

Susan McMillan Davis, 9925 Tuscarora Road, Randallstown, MD 21133

E. J. Fitzsimmons, Jr., 409 W. Chesapeake Ave., Towson, MD 21204

Michael Ruby, 7 Florida Road, Towson, MD 21204

Robert E. Spellman, 107 Jefferson Building, Towson, MD 21204

John C. Murphy, Esquire, 516 N. Charles Street, Balto., MD 21201

Mical Wilmoth, West Towson Neighborhood Association
582 Woodbine Avenue, Towson, MD 21204

Timothy C. Kolarick, 404 Carolina Road, Towson, MD 21204

Sue Schenning, Southland Hills Improvement Association
308 Dixie Drive, Towson, MD 21204

Bert Boehm, 200 Bosley Avenue, Towson, MD 21204

Robert W. Lindsay, 413 Georgia Court, Towson, MD 21204

Charles Culbertson, 412 Carolina Road, Towson, MD 21204

Mary Laura Kalista, 521 Allegheny Avenue, Towson, MD 21204

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

File

P.C. #2

PETITION

We, the undersigned, have been informed that Russell J. White and Mirta White have applied for a special exception for their residence known as 309 West Chesapeake Avenue, Towson, Maryland to permit said residence to be used as the law office of resident, Russell J. White and one non-resident associate attorney and two non-resident employes. We do not oppose the granting of this special exception.

Name	Address
Carl L. Wannen Jr CARL L. WANNEN JR	9 FLORIDA ROAD TOWSON MD 21204
ANNE K. WANNEN	
Sandy Williams	20 Honda Road Towson Md. 21204
	401 W. Chesapeake Ave Towson, Md 21204
Thomas F. Anderson	2 Florida Rd Towson Md 21204
	7 FLORIDA RD TOWSON MD 21204

Name	Address
E J Fitzsimmons Jr	409 W. Chesapeake Ave Towson Md 21204

WEST TOWSON NEIGHBORHOOD ASSOCIATION
604 Allegheny Avenue
Towson, Md. 21204
823-1777

July 10, 1989

TO WHOM IT MAY CONCERN:

The West Towson Neighborhood Association unanimously passed the following motion at its regularly scheduled monthly meeting earlier this evening:

The West Towson Neighborhood Association (WTNA) strongly opposes the application of Russell J. White for a Special Exception at 309 W. Chesapeake Avenue, and WTNA supports Southland Hills in their opposition to this request.

Further, Mical R. Wilmoth, a member in good standing of the WTNA Board of Governors, is hereby authorized to submit this resolution on our behalf before the Special Exception Hearing to be held in this regard on July 13, 1989.

Sincerely,

Frank Uebersax
President, WTNA

Protestants
Exhibit #1

WEST TOWSON NEIGHBORHOOD ASSOCIATION, INC.

RESOLVED: That at the Annual Meeting of the West Towson Neighborhood Association held on May 1, 1989 it was decided by the Association that responsibility for review and action on all zoning matters for the period May 1989 through June 1990 be placed in the Board of Governors consisting of the following members:

Joy Biddison
Gerry L. Brewster
Eugene G. Cross
Linda Edelman
Mary Ginn
Mary Ann Jensen
Mary Laura Kalista
David W. Kozera
Richard Parsons
John W. Pyle
Phyllis Ross
Rebecca A. Ross
Nan Spencer
Frank W. Uebersax
Mical E. Wilmoth

AS WITNESS: OUR HANDS AND SEAL THIS 1st DAY OF MAY, 1989:

ATTEST

Gerry L Brewster
Corresponding Secretary

WEST TOWSON NEIGHBORHOOD ASSOCIATION, INC.

Frank W Uebersax
President

Protestants
Exhibit #2

SPELLMAN, LARSON & ASSOCIATES, INC.

ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON
HENRY W. APPEL
ALFRED F. ANGERI, P.L.S.

SUITE 107 — JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

July 17, 1989

RECEIVED
JUL 17 1989
ZONING OFFICE

Ms. Ann M. Nastarowicz
Deputy Zoning Commissioner
Department of Zoning
Baltimore County, MD

Re: 309 W. Chesapeake Avenue

Dear Ms. Nastarowicz:

We have made another on-site inspection of the above referred to property.

We have measured the third floor of the residence and find that the actual floor is 650 square feet.

We have rechecked our computations of the other floors of the building and a tabulation is as follows:

TOTAL DWELLING AREA

Lower Level -- 1354 square feet (1228 square feet + 126 square feet)

1ST Floor -- 1570 square feet (1228 square feet + 342 square feet)

2ND Floor -- 1228 square feet

3RD Floor -- 750 square feet

Total Dwelling (outside dimensions) 4902 square feet

Total Office -- 973 square feet (19.8 %)

ACTUAL FLOOR SPACE

Lower Level -- 1237 square feet

1ST Floor -- 1480 square feet

2ND Floor -- 1125 square feet

3RD Floor -- 650 square feet

Total Floor Area 4492 square feet

Office -- 900 square feet = (20.0 %)

RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN • LAND SURVEYING
LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION

Ms. Ann M. Nastarowicz
Deputy Zoning Commissioner
Department of Zoning
Baltimore County, MD

SPELLMAN, LARSON & ASSOC., INC.
July 17, 1989
Page 2

The conclusion is that which ever dimensions are used [total or actual] the square feet of the proposed office is no more than 20% of the total of the entire residence.

We hope that this tabulation will be clear to you and will satisfy your request.

If you have any questions please feel free to call this office at any time.

Very truly yours,

SPELLMAN, LARSON & ASSOCIATES, INC.

Robert E. Spellman
President

cc: Mr. Russell J. White
Mr. S. Eric DiNenna

STATE OF MARYLAND — ROBERT E. SPELLMAN — REG. NO. 6098 — REGISTERED PROFESSIONAL LAND SURVEYOR

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

November 2, 1989

S. Eric DiNenna, Esquire
DiNENNA, MANN & BRESCHI
P.O. Box 10508
Towson, MD 21285-0508

RE: Case No. 89-534-X
Russell J. White, et ux

Dear Mr. DiNenna:

The Board is in receipt of your letter dated October 27 regarding your Motion to Dismiss an Appeal in the subject matter.

Please be advised that on the date set for the hearing of this case the Board will first entertain argument on the Motion to Dismiss prior to the taking of testimony on the merits.

A Notice of Assignment will be sent to all parties at the time the case is set in for hearing by the Board.

Very truly yours,

William T. Hackett, Chairman
County Board of Appeals

cc: Mr. Russell White
John C. Murphy, Esquire

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

GERALDINE A. KLAUSER
FRANCIS X. BORGERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508

SUITE 600
MERCANTILE-TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

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

October 27, 1989

County Board of Appeals
County Office Building
Towson, Maryland 21204

RE: Case No.: 89-534-X
Russell J. White, et ux.,
Petitioners

Dear Mr. Chairman:

On or about October 3, 1989, on behalf of the Petitioners, Appellants, I filed a Motion to Dismiss an Appeal for certain reasons.

That Motion has been answered by counsel for the appellees.

This is to formally request a hearing on this matter, but I would suggest that said hearing take place on the date the Board sets for the hearing on the merits. It is my opinion that this will save all parties time and grief.

If everyone is in agreement, please advise.

Very truly yours,

S. ERIC DiNENNA

SED:cjc
cc: Mr. Russell White
John C. Murphy, Esquire

89 OCT 30 Fri 1:57
COUNTY BOARD OF APPEALS
RECEIVED

89 OCT 29 PM 3:15
COUNTY BOARD OF APPEALS
RECEIVED

89-534-X
490

HEARING DATE: 7/13/89

A. Area Planning: Sent --/--/-- Received --/--/--
Planner: Diane

Comments: Special Exception is not desirable use here. Parking does not work - there isn't adequate turn around area. The lot is only 30' wide & parking for parking isn't to be provided. A substantial addition was recently added to the house and it has room for parking.

B. Current Planning Sent --/--/-- CRG ___Yes ___No
Received --/--/-- Waiver ___Yes ___No

Comments: Mary Gwinn has been waiting for this one!

its office appearance that of a office. A map request, Issue 4-089, for R.O. on this site was not approved by County Council (1988 Comprehensive Maps) Southland Hills Board of Directors opposes the granting of the S.E. West Towson Board of Directors also opposes the granting of the S.E.

-site is not adequate for non-residential use

recommend against approval

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

GERALDINE A. KLAUSER
FRANCIS X. BORGERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508

SUITE 600
MERCANTILE-TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

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

July 18, 1989

Ms. Phyllis Friedman
People's Counsel for Baltimore County
County Office Building
Towson, Maryland 21204

RE: Petition of Russell White, et ux
Case No.: 89-534-X

Dear Ms. Friedman:

Enclosed herewith please find a verification of the square footage of the residence of Mr. and Mrs. Russell White concerning the above captioned matter as sealed by Robert E. Spellman, resident of Spellman, Larson and Associates, registered surveyers.

This was forwarded by Mr. Spellman to the Deputy Zoning Commissioner on July 17, 1989.

If you have any questions concerning the same please do not hesitate to call upon me.

Very truly yours,

/s/
S. ERIC DiNENNA

SED:saw
Enclosure
cc: Susan A. Schenning, Esquire
Ann Nastarowicz
Mr. and Mrs. Russell White

RECEIVED
JUL 20 1989
ZONING OFFICE

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

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

August 3, 1989

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

RE: PETITION FOR SPECIAL EXCEPTION
S/S Chesapeake Avenue, 25' E of Florida Road
(309 West Chesapeake Avenue
9th Election District - 4th Councilmanic District
Russell J. White, et ux - Petitioners
Case No. 89-534-X

Dear Mr. DiNenna:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted 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: All Protestants
People's Counsel
File

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

HEARING ROOM - Room 301, County Office Bldg.

December 1, 1989

NOTICE OF ASSIGNMENT

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

CASE NO. 89-534-X — RUSSELL J. WHITE, ET UX
S/s Chesapeake Ave., 25' E of Florida Rd.
(309 W. Chesapeake Ave.)
9th Election District
4th Councilmanic District

SE - Law office in D.R.5.5 zone in residence

8/3/89 - D.Z.C.'s Order GRANTING Petition with restrictions.

ASSIGNED FOR: FRIDAY, APRIL 6, 1990 at 10:00 a.m.

cc: Mr. and Mrs. Russell J. White — Petitioners/Appellants
S. Eric DiNenna, Esquire — Counsel for Petitioners/Appellants
Ms. Sue Schenning, Southland Hills Improvement Assoc. — Protestant/Appellant
Mr. Wilbert Boehm — " "
Mr. Charles Culbertson — " "
Mr. Timothy C. Kolarick — " "
John C. Murphy, Esquire — Counsel for Protestants/Appellants
Susan McMillan Davis
E.J. Fitzsimmons, Jr.
Michael Ruby
Robert E. Spellman
Mical Wilmoth, West Towson Neighborhood Assoc.
Robert W. Lindsay
Mary Laura Kalista
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

89-534-X

District 9th

Date of Posting June 23-89

Posted for: Special Exception

Petitioner: Russell J. White, et ux

Location of property: S/S of Chesapeake Ave. 25 ft. E of Florida Road

309 W. Chesapeake Ave

Location of Signs: In front of 309 W. Chesapeake Avenue

Remarks:

Posted by: L. J. Roth (Signature)

Date of return: July 7-89

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 8, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 7, 1989

TOWSON TIMES,

S. Zeke Orlinsky

Publisher

95.29

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 8, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 8, 1989

THE JEFFERSONIAN,

S. Zeke Orlinsky

Publisher

PO 13609

Req M30980

cc 89-534-X

price $ 95.29

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 23, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 22, 1989

THE JEFFERSONIAN

TOWSON TIMES,

S. Zeke Orlinsky

Publisher

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

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

DATE 7-7-89

Mr. & Mrs. Russell J. White
309 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Special Exception
S/S of Chesapeake Avenue, 25' E of Florida Road
309 W. Chesapeake Avenue
9th Election District - 4th Councilmanic
Petitioner(s): Russell J. White, et ux
HEARING SCHEDULED: THURSDAY, JULY 13, 1989 at 2:15 p.m.
CASE NUMBER: 89-534-X

Dear Petitioner:

Please be advised that $ 67.58 is due for advertising and posting of the above captioned property.

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

DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

...post set(s), there ...for each such set.

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

No. 068329

DATE 7/19/89 ACCOUNT R-01-615-000

AMOUNT $ 220.58

RECEIVED R. J. White

FOR Posting & Advertising (#89-534-X)

B 0115 ***** 22058F 2067

VALIDATION OR SIGNATURE OF CASHIER

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

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

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

June 14, 1989

NOTICE OF REASSIGNMENT

Case #: 89-534-X
S/S Chesapeake Avenue, 25 ft. E of Florida Road
390 W. Chesapeake Avenue
9th Election District - 4th Councilmanic
Petitioner(s): Russell J. White, et ux

THE ABOVE MATTER, SCHEDULED TO BE HEARD ON July 5, 1989, HAS BEEN REASSIGNED.

THE HEARING WILL NOW TAKE PLACE AS FOLLOWS:

THURSDAY, July 13, 1989 at 2:15 p.m.
BALTIMORE COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE, ROOM 106
TOWSON, MARYLAND 21204

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY

JRH:gs

cc: Russell J. White, Esq.
S. Eric DiNenna, Esq.
Susan McMillan Davis, Esq.
File

File

Tlc 6/12/89

Scheduling 7/13

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

GERALDINE A. KLAUBER
FRANCIS X. BORGERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508

SUITE 600
MERCANTILE-TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

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

RECEIVED
JUN 13 1989
ZONING OFFICE

June 12, 1989

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

RE: Case No.: 89-534-X
Russell J. White, et ux.,
Petitioners

Dear Mr. Commissioner:

On June 7, 1989 I filed with you an original of an Amended Petition for Special Exception.

I was advised by your office that the above-captioned matter had already been advertised as of June 7, 1989, for a hearing on July 5, 1989.

I feel there is sufficient time to advertise the Amended Petition.

The purpose of the Amended Petition is that when this matter was filed with your office, upon confusion, only the provision of "one non-resident employee" was placed on the Petition. This was a typographical error as well as confusion on the part of all parties.

The absolute intent of the Petitioners is to comply with the provisions of the zoning regulations in allowing one non-resident professional associate and two non-resident employees.

Thank you for your cooperation.

Very truly yours,

S. ERIC DiNENNA

SED:cjc
cc: Mr. and Mrs. Russell White

p.s.: For the purposes of your file, enclosed herewith please find two (2) copies of the Amended Petition.

SED

PETITION FOR SPECIAL EXCEPTION
CASE NUMBER: 89-534-X
S/S OF CHESAPEAKE AVENUE, 25 ft. E of Florida Road
309 W. CHESAPEAKE AVENUE
9th ELECTION DISTRICT - 4th COUNCILMANIC
Petitioner(s): RUSSELL J. WHITE, ET UX.

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY

AMENDED PETITION

Mr. Commissioner:

Please amend the above-captioned Petition to read as follows:

Law office of Resident Attorney and one non-resident professional associate and two non-resident employees in a DR 5.5 zone.

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 7th day of June, 1989, a copy of the aforegoing Amended Petition was mailed, postage prepaid to People's Counsel, County Office Building, Towson, Maryland 21204.

S. ERIC DINENNA

PETITION FOR SPECIAL EXCEPTION
CASE NUMBER: 89-534-X
S/S OF CHESAPEAKE AVENUE, 25 ft. E of Florida Road
309 W. CHESAPEAKE AVENUE
9th ELECTION DISTRICT - 4th COUNCILMANIC
Petitioner(s): RUSSELL J. WHITE, ET UX.

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY

AMENDED PETITION

Mr. Commissioner:

Please amend the above-captioned Petition to read as follows:

Law office of Resident Attorney and one non-resident professional associate and two non-resident employees in a DR 5.5 zone.

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 7th day of June, 1989, a copy of the aforegoing Amended Petition was mailed, postage prepaid to People's Counsel, County Office Building, Towson, Maryland 21204.

S. ERIC DINENNA

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

GERALDINE A. KLAUBER
FRANCIS X. BORGERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508

SUITE 600
MERCANTILE-TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

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

RECEIVED
JUN 8 1989
ZONING OFFICE

June 7, 1989

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

RE: Case No.: 89-534-X
Russell J. White, et ux.
Petitioner

Dear Mr. Commissioner:

Enclosed herewith please find an Amended Petition concerning the above-captioned matter.

It is my understanding that the original Petition has already been forwarded to the newspaper for publication but I wish this amendment to be published at least 15 days prior to July 5, 1989. My clients will bear the cost of the additional advertisement.

Very truly yours,

S. ERIC DiNENNA

SED:bk
Enclosure

PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
CASE NUMBER: 89-534-X	*	ZONING COMMISSIONER
S/S OF CHESAPEAKE AVENUE, 25 ft. E of Florida Road	*	FOR
309 W. CHESAPEAKE AVENUE	*	BALTIMORE COUNTY
9th ELECTION DISTRICT - 4th COUNCILMANIC		
Petitioner(s): RUSSELL J. WHITE, ET UX.	*	

AMENDED PETITION

Mr. Commissioner:

Please amend the above-captioned Petition to read as follows:

Law office of Resident Attorney and one non-resident professional associate and two non-resident employees in a DR 5.5 zone.

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 2nd day of June, 1989, a copy of the aforegoing Amended Petition was mailed, postage prepaid to People's Counsel, County Office Building, Towson, Maryland 21204.

S. ERIC DINENNA

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

J. Robert Haines
Zoning Commissioner

May 24, 1989

Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulation 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 Exception
CASE NUMBER: 89-534-X
S/S of Chesapeake Avenue, 25 ft. E of Florida Road
309 W. Chesapeake Avenue
9th Election District - 4th Councilmanic
Petitioner(s): Russell J. White, et ux
HEARING SCHEDULED: WEDNESDAY, JULY 5, 1989 at 9:30 a.m.

Special Exceptions: Law office of resident attorney and one(1) nonresident associate and one (1) non-resident employee in a DR5.5 zone.

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

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Mr. & Mrs. White
Susan McMillan Davis, Esq.
S. Eric DiNenna, Esq.
File

TO: Item #490
Petitioner: Russell White, et ux

From: Gwen 5/15/89

Spoke with Eric DiNenna regarding his May 10th request for an early hearing in this matter. Informed him that such request was received and that the case was given the earliest possible date, that date being June 29, 1989.

He advised that his schedule did not permit his representation on this date. Working together, Eric and I scheduled the matter on the next work date his schedule would permit.

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

J. Robert Haines
Zoning Commissioner

September 13, 1989

Dennis F. Rasmussen
County Executive

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

RE: Petition for Special Exception
S/S Chesapeake Avenue, 25' E of Florida Road
(309 W. Chesapeake Avenue)
9th Election District, 4th Councilmanic District
RUSSELL J. WHITE, ET UX - Petitioner
Case No. 89-534-X

Dear Board:

Please be advised that the following appeals of the above referenced case were filed in this office:

1. August 30, 1989 by John C. Murphy, attorney on behalf of the Protestants.

2. September 1, 1989 by S. Eric DiNenna, attorney on behalf of the Petitioners.

All materials relative to the case are being forwarded herewith.

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

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Russell and Mirta White
309 W. Chesapeake Avenue, Towson, MD 21204

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

Appeal Cover Letter - Case No. 89-534-X
RUSSELL J. WHITE, ET UX - Petitioner
September 13, 1989
Page 2

Susan McMillan Davis, 9925 Tuscarora Road, Randallstown, MD 21133

E. J. Fitzsimmons, Jr., 409 W. Chesapeake Ave., Towson, MD 21204

Michael Ruby, 7 Florida Road, Towson, MD 21204

Robert E. Spellman, 107 Jefferson Building, Towson, MD 21204

John C. Murphy, Esquire, 516 N. Charles Street, Balto., MD 21201

Mical Wilmoth, West Towson Neighborhood Association
582 Woodbine Avenue, Towson, MD 21204

Timothy C. Kolarick, 404 Carolina Road, Towsor, MD 21204

Sue Schenning, Southland Hills Improvement Association
308 Dixie Drive, Towson, MD 21204

Bert Boohm, 200 Bosley Avenue, Towson, MD 21204

Robert W. Lindsay, 413 Georgia Court, Towson, MD 21204

Charles Culbertson, 412 Carolina Road, Towson, MD 21204

Mary Laura Kalista, 521 Allegheny Avenue, Towson, MD 21204

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

File

APPEAL

Petition for Special Exception
S/S Chesapeake Avenue, 25' E of Florida Road
(309 W. Chesapeake Avenue)
9th Election District - 4th Councilmanic District
RUSSELL J. WHITE, ET UX - Petitioner
Case No. 89-534-X

Petition for Special Exception

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (None submitted)

Petitioner's Exhibits: 1. Plat to accompany Petition
2. Petition of support from neighbors

Protestant's Exhibits: 1. Letter of opposition

Deputy Zoning Commissioner's Order dated August 3, 1989 (Granted with restrictions)

Notice of Appeal received August 30, 1989 from John C. Murphy, attorney on behalf of the Protestants.

Notice of Appeal received September 1, 1989 from S. Eric DiNenna, attorney on behalf of the Petitioner.

cc: Russell and Mirta White
309 W. Chesapeake Avenue, Towson, MD 21204

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

Susan McMillan Davis, 9925 Tuscarora Road, Randallstown, MD 21133

E. J. Fitzsimmons, Jr., 409 W. Chesapeake Ave., Towson, MD 21204

Michael Ruby, 7 Florida Road, Towson, MD 21204

Robert E. Spellman, 107 Jefferson Building, Towson, MD 21204

John C. Murphy, Esquire, 516 N. Charles Street, Balto., MD 21201

Mical Wilmoth, West Towson Neighborhood Association
582 Woodbine Avenue, Towson, MD 21204

Timothy C. Kolarick, 404 Carolina Road, Towson, MD 21204

Sue Schenning, Southland Hills Improvement Association
308 Dixie Drive, Towson, MD 21204

Appeal Checklist - Case No. 89-534-X
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Bert Boohm, 200 Bosley Avenue, Towson, MD 21204

Robert W. Lindsay, 413 Georgia Court, Towson, MD 21204

Charles Culbertson, 412 Carolina Road, Towson, MD 21204

Mary Laura Kalista, 521 Allegheny Avenue, Towson, MD 21204

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

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

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TOWSON, MARYLAND 21204

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

May 10, 1989

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

RE: Item No. 490
Petition/Special Exception
White, et ux.

Dear Mr. Commissioner:

Please enter my appearance as co-counsel with Susan McMillan Davis on behalf of Mr. and Mrs. Russell J. White in their Request for Special Exception for a law office within the confines of the Petitioners' bona fide residence.

Mr. White and his partner are presently leasing space which they must vacate by June 30, 1989.

Mr. and Mrs. White live in the residence known as 309 W. Chesapeake Avenue and it is their desire to have a hearing before the Commissioner or his Deputy as soon as possible in light of the fact that Mr. White must vacate his present offices by June 30th.

I know that the Commissioner receives numerous requests for speedy hearings but, if Mr. White cannot obtain a hearing before the Commissioner as soon as possible, he will be in a dire drastic position with reference to office space.

Accordingly, the purpose of this letter is to respectfully request that the Commissioner set this matter in as soon as possible for a hearing.

Thank you for your cooperation.

Very truly yours,

S. ERIC DINENNA

SED:cjc
cc: Mr. and Mrs. Russell White

RECEIVED
MAY 10 1989
ZONING OFFICE