

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-307-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the continued nonconforming use status for a two apartment dwelling of 530 Windwood Road, Baltimore, MD, 21212.

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

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

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

Contract Purchaser: _____
(Type or Print Name)

Signature: _____
Date: 11/15/91

Address: _____
City and State: _____

Legal Owner(s): _____
Name or Print Name: RICHARD SCHWARZ
Signature: _____
Date: 11/15/91

Address: _____
City and State: _____

Attorney for Petitioner: _____
Name: THEODORE LEVIN
Address: 530 Windwood Road, Baltimore, MD, 21212
Phone No: 377-0824

Name, address and phone number of legal owner, contract purchaser or representative to be contacted: _____
Name: RICHARD SCHWARZ
Address: 530 Windwood Road, Baltimore, MD, 21212
Phone No: 377-0824

Attorney's Telephone No.: 486-7996

ORDERED By The Zoning Commissioner of Baltimore County, this 29 day of 10/19, 1991, 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 5 day of Feb, 19, 90, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ZONING DESCRIPTION
OF
530 Windwood Road
Baltimore County, Maryland

BEGINNING at a point on the north side of Windwood Road which is 50 feet from the center line of Holly Lane, with the right of way on Windwood Road being 50 feet. Being lots 37 & 38 of Section "R" Anneslie Windwood Road, as shown on a plat of Anneslie, recorded among the Plat Records of Baltimore County in Plat Book Liber W.P.C. 7, Folio 40, and known as 530 Windwood Road, and located in the 9th Election District.

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

J. Robert Haines
Zoning Commissioner

May 13, 1990

Dennis F. Rasmussen
County Executive

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

RE: Petition for Special Hearing
N/S of Windwood Road, 50' from the c/l of Holly Lane
(530 Windwood Road)
9th Election District, 4th Councilmanic District
RICHARD SCHWARZ - Petitioner
Case No. 90-307-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 30, 1990 by Theodore Levin, Attorney on behalf of the Petitioner. 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: Richard Schwarz, 530 Windwood Road, Baltimore, MD 21212
Theodore Levin, 114 Slade Avenue, Baltimore, MD 21208
Diane Schatz, 501 Murdock Road, Baltimore, MD 21212
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

APPEAL
Petition for Special Hearing
N/S of Windwood Road, 50' from the c/l of Holly Lane
(530 Windwood Road)
9th Election District - 4th Councilmanic District
RICHARD SCHWARZ - Petitioner
Case No. 90-307-SPH

Petition for Special Hearing
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
Petitioner's Exhibits: 1. House Location
2. Affidavit
3. Photographs
4. Affidavit
5. Deed
6. Agreement between Owner and Tenants
Protestant's Exhibits: 1. Letter of Opposition from Diane Schatz
Deputy Zoning Commissioner's Order dated April 19, 1990 (Denied)
Notice of Appeal received April 30, 1990 from Theodore Levin, Attorney on behalf of the Petitioner

cc: Richard Schwarz, 530 Windwood Road, Baltimore, MD 21212
Theodore Levin, 114 Slade Avenue, Baltimore, MD 21208
Diane Schatz, 501 Murdock Road, Baltimore, MD 21212
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
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, County Attorney

IN RE: PETITION FOR SPECIAL HEARING
N/S of Windwood Road, 50' from the c/l of Holly Lane
(530 Windwood Road)
9th Election District
4th Councilmanic District
RICHARD SCHWARZ
Petitioner

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO: 90-307-SPH

ORDER FOR APPEAL BY RICHARD SCHWARZ PETITIONER

MR. COMMISSIONER:

Please enter an appeal on behalf of RICHARD SCHWARZ, Petitioner, from the Order of the Deputy Zoning Commissioner dated April 19, 1990 for Special Hearing to approve nonconforming use of the subject property.

Theodore Levin
THEODORE LEVIN, Esquire
114 Slade Avenue
Baltimore, MD 21208
486-7996
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27 day of April, 1991, I mailed a copy of the foregoing Order for Appeal to Gerald P. Uehlinger, Esq., Suite 1401, 7 North Calvert Street, Baltimore, MD 21202, attorney for protestants.

Theodore Levin
THEODORE LEVIN, Esquire

4-30-90
ZONING OFFICE

90-307-SPH Richard Schwarz

8/12/91 - Received letter from G. Uehlinger, Esq. counsel for Anneslie Comm Anns requesting reopening of matter for taking of additional testimony from Protestants.

8/15/91 - Received telephone call from Mr. Schwarz /in response to above letter -- he will address letter to Mr. Hackett; however, wanted to call in today --his attorney is out of town until August 26; asks that his attorney be given opportunity to review this and respond to same on his behalf; this is request he will put in writing to Board chairman. Is concerned and does not understand above request. kcw

8/21/91 - Letter from Theodore Levin, Esq., objecting to request to reopen and reconsider.

8/23/91 - Letter to Mr. Uehlinger denying request for reconsideration and reopening of this matter.

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

August 23, 1991

Gerard P. Uehlinger, Esquire
The Munsey Building, Suite 1631
7 North Calvert Street
Baltimore, MD 21202

Re: Case No. 90-307-SPH
Richard Schwarz

Dear Mr. Uehlinger:

The Board is in receipt of your letter dated August 9, 1991, in which you request reconsideration and reopening of the above-referenced matter.

After due consideration of your correspondence and reasons given therein, it is the decision of this Board to deny your request for reconsideration and reopening of Case No. 90-307-SPH. Your only remedy at this point would be to file an appeal to the Circuit Court for Baltimore County within 30 days from the date of this Board's original Order issued July 29, 1991.

Very truly yours,
Michael B. Sage
Michael B. Sage
County Board of Appeals

cc: Mr. Christopher Moore
Ms. Diane Schatz
Mr. Robert Vanzani
Theodore Levin, Esquire
Mr. Richard Schwarz
Docket Clerk - Zoning

LAW OFFICES
THEODORE LEVIN
114 SLADE AVENUE
BALTIMORE, MARYLAND 21208

August 23, 1991

Mr. William Hackett
Chairman
Baltimore County Board of Zoning Appeals
Room 315 County Office Building
111 W. Chesapeake Avenue
Towson, MD 21284

RE: CASE NO. 90-307-SPH
530 WINDWOOD ROAD
RICHARD SCHWARZ

Dear Mr. Hackett:

I am responding to Mr. Uehlinger's letter of August 9, 1991, requesting a reopening of the hearing for the above-captioned case. I wish to offer several comments regarding this request. The hearing was originally scheduled for December 12, 1990 at 10:00 A.M. On the date of the hearing all witnesses were present and ready to proceed however the case was postponed at the request of the Community Association due to Mr. Uehlinger's inability to attend the hearing.

As for the Community Association's inability to attend additional testimony, I believe that offering is weak due to the fact that the Community's prime witness before the Zoning Commissioner was Ms. Alden, who has since the hearing, passed away.

However, my prime objection is based upon the fact that my client is being financially drained by these proceedings and to appear for a third time before the board will be onerous.

Sincerely yours,
Theodore Levin
THEODORE LEVIN

TL:mg
cc: Gerald P. Uehlinger
Richard Schwarz

8/23/91 12:00 PM

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

J. Robert Haines
Zoning Commissioner

January 23, 1990



Theodore Levin, Esquire
114 Slade Avenue
Baltimore, MD 21208

RE: Item No. 164, Case No. 90-307-SPH
Petitioner: Richard Schwartz
Petition for Special Hearing

Dennis F. Rasmussen
County Executive

Dear Mr. Levin:

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 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. 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

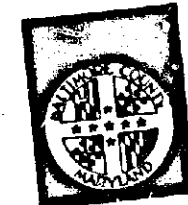
JEP:fw

Enclosures

cc: Mr. Richard Schwartz
530 Windwood Road
Baltimore, MD 21212

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

J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this
29th day of November, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: Richard Schwartz
Petitioner's Attorney: Theodore Levin

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3354

November 29, 1989



Dennis F. Rasmussen
County Executive

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

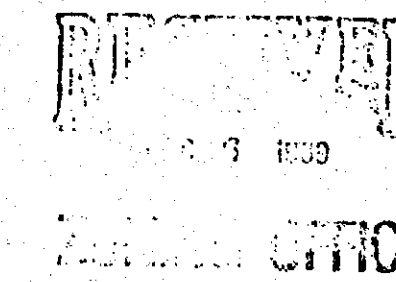
Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 163, 164, 165, 166, 168, & 169.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lwv



Baltimore County
Fire Department
800 West Road
Towson, Maryland 21204-8536
(301) 887-4500

Paul H. Reische
Chief

DECEMBER 1, 1989



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 SCHWARZ

Location: #530 WINDWOOD ROAD

Item No.: 164 Zoning Agenda: NOVEMBER 28, 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.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *John J. Kelly* 12-1-89
Planning Group
Special Inspection Division

Noted and Approved
Capt. Tom Brady
Fire Prevention Bureau

JK/REK

DEC 05 1989

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: December 19, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for November 28, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for items 163, 164, 165, 166, 167, and 168.

For Item 169 the property dimensions shown do not agree with plat 13/86.

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

RWB:

EX 27 898

LAW OFFICE OF
GERARD P. UEHLINGER
THE HANSEY BUILDING, SUITE 1401
7 NORTH CALVERT STREET
BALTIMORE, MARYLAND 21202
TELEPHONE (301) 538-0033
FAX (301) 782-8831

December 10, 1990

HAND DELIVERED

Mr. Jun Fernando
Baltimore County Zoning

Re: Petition for Special Hearing -
530 Windwood Road
Richard Schwarz, Petitioner

Before the Deputy Zoning Commissioner
of Baltimore County
Case No. 90-307-SPH - File

Dear Mr. Fernando:

This letter will confirm our telephone conversation of December 10, 1990 wherein I requested you prepare a tape of the proceedings in the referenced matter which occurred on April 16, 1990. You advised that the tape for that hearing will cost \$15.00. My check in that amount is enclosed.

Thank you for your assistance in that regard.

Very truly yours,

Gerard P. Uehlinger
Gerard P. Uehlinger

GPU/s

Encl.

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

J. Robert Haines
Zoning Commissioner

July 9, 1991



Dennis F. Rasmussen
County Executive

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

RE: Petition for Special Hearing
N/S of Windwood Road, 50' from the c/1 of Holly Lane
(530 Windwood Road)
9th Election District, 4th Councilmanic District
RICHARD SCHWARZ - Petitioner
Case No. 90-307-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 30, 1990 by Theodore Levin, Attorney on behalf of the Petitioner. 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:ca

Enclosures

cc: Richard Schwarz, 530 Windwood Road, Baltimore, MD 21212

Theodore Levin, 114 Slade Avenue, Baltimore, MD 21208

Diane Schatz, 501 Murdock Road, Baltimore, MD 21212

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

File

LAW OFFICE OF
GERARD P. UEHLINGER
THE HANSEY BUILDING, SUITE 1401
7 NORTH CALVERT STREET
BALTIMORE, MARYLAND 21202
TELEPHONE (301) 538-0033
April 11, 1990

Ms. Gwinn Stevens
Baltimore County Zoning Commissioner's Office
Office of Planning & Zoning
Towson, MD 21204

Re: 530 Windwood Road
Case No. 190-307-SPH

Dear Ms. Stevens:

As I have related to your office, as counsel for Anneslie Community, Inc., one of the protesters in the referenced matter, I am telling you that I cannot get to the hearing much before 11 a.m. on Monday, April 16, 1990. The property itself is posted for 11 a.m. although I observed the notice for reassignment is for 10 a.m. For these circumstances, please delay the hearing until 11 a.m. Thanks.

Very truly yours,

Gerard P. Uehlinger
Gerard P. Uehlinger

GPU/s

P.S. I will get there as soon as possible, hopefully closer to 10:30 a.m.

cc: Ms. Diane Schatz, 501 Murdock Road, Baltimore, MD 21212
Timothy Rotocco, Esq.
Mr. Kevin Connor, Zoning Inspector
Theodore Levin, Esq.

RECEIVED
APR 12 1990
ZONING OFFICE

ANNESLIE COMMUNITY, INC.

ROBERT LOUIS VENANZI
SECRETARY-ANNESLIE COMM. ASSOC.
513 WINDWOOD ROAD
BALTIMORE, MARYLAND 21212

ZONING COMMISSIONER,
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

RECEIVED
MAR 29 1990
ZONING OFFICE

DEAR SIR OR MADAM:

I WOULD LIKE TO REQUEST A COPY OF THE CASSETTE TAPE OF THE HEARING FROM MONDAY, FEBRUARY 5, 1990 AT 9:30AM IN ROOM 106. THE ZONING HEARING WAS IN REFERENCE TO THE RESIDENCE OF 530 WINDWOOD ROAD - THE 9TH ELECTION DISTRICT - 4TH COUNCILMANIC. THE ZONING ISSUE NUMBER IS 90-307-SPH. 530 WINDWOOD ROAD IS LOCATED ON THE NORTH SIDE OF WINDWOOD ROAD - 50 FEET WEST OF C-K HOLLY LANE.

I WOULD LIKE A COPY OF THIS TAPE AS SOON AS POSSIBLE. COULD YOU PLEASE CALL WHEN IT IS READY? MY HOME PHONE NUMBER IS 377-4418. MY WORK PHONE NUMBER IS 291-4735. I AM ENCLOSE A CHECK TO COVER THE COST OF THE TAPE.

THANK YOU,
ROBERT L. VENANZI
Robert L. Venanzi

Maryland Venanzi
830-12 AM 337-1020

LAW OFFICE OF
GERARD P. UEHLINGER
THE HANNEY BUILDING, SUITE 1401
7 NORTH CALVERT STREET
BALTIMORE, MARYLAND 21202
TELEPHONE (410) 538-0305
April 11, 1990

RECEIVED
APR 12 1990
ZONING OFFICE

Ms. Gwinn Stevens
Baltimore County Zoning Commissioner's Office
Office of Planning & Zoning
Towson, MD 21204

Re: 530 Windwood Road
Case No.: 90-307-SPH

Dear Ms. Stevens:

As I have related to your office, as counsel for Anneslie Community, Inc., one of the protestants in the referenced matter, I am telling you that I cannot get to the hearing much before 11 a.m. on Monday, April 16, 1990. The property itself is posted for 11 a.m. although I observed the notice for reassignment is for 10 a.m. Under these circumstances, please delay the hearing until 11 a.m. Thanks.

Very truly yours,
Gerard P. Uehlinger

GPU/s

P.S. I will get there as soon as possible, hopefully closer to 10:30 a.m.

cc: Ms. Diane Schatz, 501 Murdock Road, Baltimore, MD 21212
Timothy Kotroco, Esq.
Mr. Kevin Connor, Zoning Inspector
Theodore Levin, Esq.

LAW OFFICE OF
GERARD P. UEHLINGER
THE HANNEY BUILDING, SUITE 1401
7 NORTH CALVERT STREET
BALTIMORE, MARYLAND 21202
TELEPHONE (410) 538-0305
April 4, 1990

RECEIVED ZONING OFFICE
DATE: 4/15/90

Mr. J. Robert Haines, Zoning Commissioner
Baltimore County Office of
Planning & Zoning
Towson, MD 21204

Re: Case No.: 90-307-SPH
Petitioner: Richard Schwarz
Location: 530 Windwood Road
H/O: April 16, 10 a.m.

Dear Mr. Haines:

Please enter my appearance as counsel for Anneslie Community, Inc., a protestant in the referenced matter.

Thank you for your cooperation in this matter.

Very truly yours,
/s/ Gerard P. Uehlinger

GPU/s

cc: Ms. Diane Schatz
Timothy Kotroco, Esq.
Mr. Kevin Connor, Zoning Inspector
Theodore Levin, Esq.

LAW OFFICE
THEODORE LEVIN
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-788

March 1, 1990

District Court for
Baltimore County
111 Allegheny Avenue
Towson, MD 21204

RE: Case No.: 1881-89 SP/T
Citation # 90129
Zoning Comm. v. Schwarz

Dear Mr./Ms. Clerk:

The above captioned case is scheduled for trial on April 18, 1990 at 1:30PM for violation of the Zoning code.

The identical subject matter is currently pending before the Baltimore County Zoning Commissioner with the hearing scheduled for April 16, 1990, (see enclosed copy of hearing notice). For the convenience of all parties, I must respectfully request a postponement in that the District Case can not be solved until the zoning issues are decided.

Thank you for your consideration in this matter.

Sincerely yours,
Theodore Levin

TL:mg
cc: Kevin Connor, Zoning Inspector
Timothy Kotroco, Esq.
Diane Schatz

LAW OFFICE
THEODORE LEVIN
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-788

October 10, 1989

Ms. Julie Winiarski
Office of Planning & Zoning
111 W. Chesapeake Avenue
Baltimore, MD 21204

RE: 530 Windwood Road - RICHARD SCHWARTZ
Case No: 89-2337 9th Election District

Dear Ms. Winiarski:

This letter is to confirm our application for filing a Petition for Special Hearing for October 25, 1989 at 3:00PM in reference to the above-captioned case.

Sincerely yours,
Theodore Levin

TL:mg
cc: Richard Schwartz
Kevin R. Connor
Zoning Enforcement

RECEIVED
OCT 11 1989
ZONING OFFICE

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

Ms. Maryland W. Slade
O'Connor, Piper & Flynn
22 West Padonia Road
Timonium, Maryland 21093

Dear Ms. Slade:

Based upon the Notarized Affidavits signed by Edna Kellbar and Dorothy Lauber, this office conditionally accepts the above-referenced property/use, zoned Density, Residential (D.R.5.5), as having a nonconforming use status for a two-apartment dwelling. Said acceptance is subject, however, to the following conditions:

- It is understood by all concerned that this acceptance does not establish an irrefutable presumption of a legal non-conforming use status for this property.
- This decision is based upon the understanding that the use in question presently exists and the Notarized Affidavits establish a reasonable basis to permit a continuance of the use pending a challenge by any interested citizen of this conditional acceptance.
- In the event of a challenge, this approval is automatically rescinded, and to be reestablished, a public hearing would be required.
- In the event of a challenge, the burden of proof is entirely upon the owner of the property in question.

Sincerely,
Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

AJ:JED:kkb
MS001
cc: Mr. James E. Dyer, Zoning Supervisor

ZONING COMMISSIONER . . . IN THE . . . COURT

vs. RICHARD SCHWARTZ . . . Case No. 90-129
File No. 89-2337

SUMMARY OF CASE

This case proceeded to trial on the 24th day of January, 1989, before Judge Wilkstat. Representing Baltimore County was Assistant County Attorney Ed Soback. The disposition of this case was as follows:

Nolle Prosequit Trial Other
Remarks: CONTEMP PAPERS FILED FOR FAILURE TO SHOW

Kevin Connor
ZONING INSPECTOR

Section 402--CONVERSION OF DWELLINGS [B.C.Z.R., 1955.]
For residential use: [B.C.Z.R., 1955.]

- 402.1--The converted dwelling must be located on a lot that will meet the dimensional requirements shown in the schedule which follows. [B.C.Z.R., 1955.]
- 402.2--Separate cooking facilities and a separate bathroom shall be provided for each family unit. [B.C.Z.R., 1955.]

CONVERSION OF ONE-FAMILY DWELLINGS
MINIMUM DIMENSIONS

Zone	Width of lot in Feet at Front Building Line			Lot Area in Square Feet		Side Yards--Feet	
	Duplex	Semi-Detached	Each Family	Two Families	Each Family	Min. for One	Sum of Both
R-40 ¹	175	175	25	50,000	10,000	Interior-25 Corner-50	Interior-50 Corner-75
R-20 ²	125	125	25	25,000	7,500	Interior-20 Corner-35	Interior-40 Corner-40
R-10 ³	70	100	15	12,500	4,000	Interior-20 Corner-30	Interior-40 Corner-30
R-5.5 ⁴	70	90	15	10,000	3,000	Interior-15 Corner-25	Interior-35 Corner-40
R-G ⁵	70	80	10	8,000 Corner-9,200	2,500	Interior-15 Corner-25	Interior-30 Corner-40
R-A ⁶	70	80	10	Interior-8,000 Corner-9,200	2,500	Interior-15 Corner-25	Interior-30 Corner-40

Creation of a dwelling unit without the proper lot line and area requirements.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

90-307-SP4

District: 9th Date of Posting: 1/16/90

Posted for: Special Hearing

Petitioner: Richard Schwarz

Location of property: 530 Windwood Rd, 2nd W of Holly Lane

Location of Sign: Living Windwood Rd, corner 15th St

Remarks: M. Hines

Posted by: M. Hines Date of return: 1/16/90

Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

90-307-SP4

District: 15th Date of Posting: 3/30/90

Posted for: Special Hearing

Petitioner: Richard Schwarz

Location of property: 530 Windwood Rd, 2nd W of Holly Lane

Location of Sign: Living Windwood Rd, corner 15th St

Remarks: M. Hines

Posted by: M. Hines Date of return: 3/30/90

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD, January 4, 1990

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 Jan 4, 1990.

THE JEFFERSONIAN,
S. Zebe Olson
Publisher

CERTIFICATE OF PUBLICATION

TOWSON, MD, January 4, 1990

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 Jan 3, 1990.

TOWSON TIMES,
S. Zebe Olson
Publisher

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(410) 887-3333

J. Robert Hines
Zoning Commissioner

December 15, 1989

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 Zoning Variance
Case Number: 90-307-SP4
1/8 Windwood, 2nd W of Holly Lane
530 Windwood Road
9th Election District - 4th Constituents
Petitioner(s): Richard Schwarz
HEARING ROOM, FEBRUARY 6, 1990 at 9:00 a.m.

Special Hearings Continued from Planning use status for a two apartment dwelling.

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.

NOTE:
(If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.)

J. Robert Hines
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

PROTESTANT(S) SIGN-IN SHEET 2/05/90

NAME	ADDRESS
* Diane Schatz	50 Murdock Rd 3775463
* Richard Schwarz	530 Windwood Rd
Monica Morgan	518 WINDWOOD ROAD
J. Clark Morgan	616 Windwood Rd.
Henry C. Magarity	719 Dunkirk Rd.
Fredrick Thompson	634 Murdock Rd
CORONIA K. THOMPSON	627 Ombrosa Rd
Donna Tracy	529 Murdock Road
John Laska	1st Ombrosa Rd
Robert L. Laska	

NOTE: Notice of 1/16/90 hearing date mailed to all parties listed above on 2/24/90

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Adelaide L. Olson	
J. Diane Schatz	510 Dunkirk Rd
Thomas A. Church P.E.	
GERARD P. WELSHAGEN	

PETITIONER(S) SIGN-IN SHEET 2/05/90

PLEASE PRINT CLEARLY

NAME	ADDRESS
Richard Schwarz	530 Windwood Rd Balt. MD 21212
Attorney Theodore Lewis	

NOTE: Notice of 1/16/90 hearing date mailed to the above on 2/24/90

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Richard Schwarz	530 Windwood Rd

August 15, 1991

Mr. William Hackett
Chairman
Baltimore County Board of Zoning Appeals
Room 315 County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Case No. 90-307-SPH
530 Windwood Road
Richard Schwarz

Dear Mr. Hackett:

I have recently received notification that counsel for the Anneslie Community Association has moved for a reopening of the referenced case. My attorney, Ted Levin, is on vacation until August 26 and I would appreciate it if he could have the opportunity to respond on my behalf before a decision is made to reopen this case.

Thank you for your consideration in this matter.

Very truly yours,

Richard Schwarz
Richard Schwarz

RECEIVED
COUNTY BOARD OF APPEALS
16 AUG 16 1991

LAW OFFICE OF
GERARD P. UEHLINGER
THE MARKET BUILDING, SUITE 1331
7 NORTH CALVERT STREET
BALTIMORE, MARYLAND 21202
TELEPHONE (301) 838-0009

August 9, 1991

Mr. William Hackett
Chairman
Baltimore County Board of Zoning Appeals
Room 315 County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Case No. 90-307-SPH
530 Windwood Road
Richard Schwarz

Dear Mr. Hackett:

As counsel for Anneslie Community Association, by and through its past and present Presidents Diane Schatz and Christopher Moore respectively, we hereby move for a reconsideration and reopening of hearing of the referenced matter.

Representatives and potential witnesses from the community, some of whom were present and testified before the deputy zoning commissioner, did not attend the July 9th hearing because of a letter and other communication from Mr. Schwarz, the homeowner, which led them to believe that the matter had been dropped. See the letter from Mr. Schwarz attached hereto as Exhibit A. Moreover, we believe that the property was not posted for this hearing date, which would have indicated to interested persons the matter had not been dropped.

So that the Board will have all of the evidence, especially that produced by the Community Association before the Deputy Zoning Commissioners (see findings of fact attached hereto as Exhibit B) we respectfully request that the board hearing be reopened, for a taking of a small amount additional testimony and exhibits. I do not expect such a reopening would take more than one hour. That will enable the Board to have all of the information and would probably avoid a costly and time-consuming appeal for all parties.

RECEIVED
COUNTY BOARD OF APPEALS
12 AUG 12 1991

Mr. William Hackett
August 9, 1991
Page two

The Anneslie Community Association, whose members constitute the 550 homeowners of the Anneslie community, thank you for your prompt consideration of this motion.

Very truly yours,

Gerard P. Uehlinger
Gerard P. Uehlinger

GPU/s

Encl.

cc: Docket Clerk, Zoning
Mr. Christopher Moore
Ms. Diane Schatz
Mr. Robert Vananzi
Mr. Richard Schwarz
Theodore Levin, Esq.

Richard Schwarz
530 Windwood Rd.
Baltimore, MD 21212

February 19, 1991

Diane Schatz
Anneslie Community Inc.
501 Murdock Rd.
Baltimore, MD 21212

Dear Mrs. Schatz,

As you know my zoning case comes up for appeal this summer and, due to my financial situation, it looks as though I will be unable to carry the appeals process much further.

I think that my father may have come up with a possible solution to our dilemma, however. He has offered to loan me the money required for the reconstruction of the interior of my house (to meet Zoning requirements) and has also given me the option of moving back to his house. My father also says he knows of a family that would be delighted to rent my home in Anneslie. I would like to stay in Anneslie and someday raise a family here but at the present time cannot afford the mortgage payments by myself.

I have discussed this matter with some of the neighbors on my street and, while they point out that a home and property values are maintained better when the owner lives on the premises, they understand my situation.

As you are a realtor I thought that perhaps you might be able to offer additional insight into this situation (although selling the house is not an option available to me at the present time.) If you have any ideas I would be very interested to hear them and I do want to stress that I really do want to stay in Anneslie if at all possible.

Thank you for your consideration in this matter and I look forward to hearing from you soon.

Yours truly,

Richard Schwarz
Richard Schwarz

IN RE: PETITION FOR SPECIAL HEARING
N/3 of Windwood Road, 50' from
the c/l of Holly Lane
(530 Windwood Road)
9th Election District
4th Councilmanic District

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-307-SPH

Richard Schwarz
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the nonconforming use of the subject property as a two apartment dwelling in accordance with Petitioner's Exhibit 1.

The hearing on this matter originally commenced on February 5, 1990. At that hearing, the Petitioner appeared, testified and was represented by Theodore Levin, Esquire. Appearing as Protestants in the matter were: Adelaide Alban, adjoining property owner, Diane Schatz, President of the Anneslie Community Association, Inc., and Robert Ritter, all residents of the area. Numerous other residents appeared in opposition to the relief requested.

Testimony presented at the February 5, 1990 hearing indicated that the subject property, known as 530 Windwood Road, consists of .143 acres zoned D.R. S-5 and is improved with a dwelling which was purchased by Petitioner in May, 1987. Mr. Schwarz testified that at the time of his purchase, the property was being utilized as a two apartment dwelling, with access to the first floor via the front door, and access to the second floor via a side entrance as depicted in photographs submitted as Petitioner's Exhibit 3. Testimony presented indicated there is no access within the dwelling from the first floor to the second floor apartment. He testified that he has resided in the first floor apartment and has continuously

rented out the second floor unit since his purchase of the property. Mr. Schwarz testified that as a result of a complaint filed in the Zoning Office, he was advised to file the instant Petition to establish the non-conforming use of the property as two apartments. In support of his position, Mr. Schwarz introduced a signed affidavit from Maryland W. Slade, which indicates that her parents, Charles W. and Mazie Bolden Werking, built the subject property in 1949 as a two apartment dwelling (See Petitioner's Exhibit 4). Additionally, Petitioner submitted signed affidavits from Dorothy M. Lauber and Edna L. Keilbar, identified as Petitioner's Exhibits 2A and 2B, indicating the subject property has been occupied continuously and without interruption as two apartments since November, 1949.

Mrs. Alban testified she has resided on the adjoining property at 532 Windwood Road since March, 1939. She testified that the original owners of the subject property, Mr. & Mrs. Charles W. Werking, built the subject dwelling as two apartments. Mrs. Alban further testified that the occupancy of the subject property as two apartments has not been continuous and without interruption. She testified that to the best of her recollection, there was a vacancy of the second floor apartment for an extended period of time between 1982 and 1986. Mrs. Alban distinctly remembered that in November, 1986, Mrs. Werking was rushed to the hospital and that there was no upstairs tenant at that time. Mrs. Alban was advised by another neighbor shortly thereafter that Mrs. Werking had passed away.

A number of the other Protestants, testified in opposition to Petitioner's request due to the unpleasant condition of the property as maintained by Mr. Schwarz.

Mr. Ritter testified that he resides at 526 Overbrook Road and that his property had two apartments at the time of his purchase. He indicated that his property was reconverted to a single family dwelling as he understood that to be the proper zoning of the property.

Due to the contested nature of the hearing and the inability of the Protestants to cross-examine the witnesses who submitted affidavits in support of Petitioner's request, the hearing was continued and reset for April 16, 1990.

At the April 16, 1990 hearing, Petitioner and his Counsel, Theodore Levin, Esquire, appeared and testified. Also appearing on behalf of the Petition was Maryland W. Slade. Appearing as Protestants in the matter were: Adelaide Alban, the adjoining property owner, Diane Schatz, President of the Anneslie Community Association, Inc., and Christopher Moore, all residents of the area. Appearing as Counsel for the Protestants was Gerard P. Uehlinger, Esquire.

Mrs. Slade testified that her parents, Charles W. and Mazie Bolden Werking purchased the subject property in 1949 and completed construction of the subject dwelling as two apartments in April, 1950. She testified that her mother occupied the property from April, 1950 until her hospitalization in November, 1986. The property was sold to Mr. Schwarz in May, 1987. Mrs. Slade testified that her mother is 96 years of age and continues to reside in the nursing home she moved to upon her release from the hospital in December 1986. She testified that to the best of her knowledge and belief, her parents continuously rented the second floor apartment to various tenants without interruption from April 1950 until approximately May 19, 1986, at which time the tenant who had resided there for a number of years vacated the premises. Mrs. Slade testified that her moth-

er managed the property herself until hospitalized and wanted to rent the property again; however, the family did not want Mrs. Werking to have that responsibility due to her age. Mrs. Slade testified that she visited her mother often when she resided on the subject property and from time to time, would see the tenants of the second floor apartment. Mrs. Slade had no documentation evidencing the continued use of the upstairs apartment, other than her mother's diaries that dealt with the 1960s and a bank book, in which the last entry was made in 1979. Through his Counsel, Petitioner indicated that the bank book did not present clear evidence as to whether or not rent was deposited into the account through 1979.

Counsel for the Protestants recalled Mrs. Alban who testified again that she firmly believes that the subject property was vacant for an extended period of time prior to Mrs. Werking vacating the property. Additionally, the Protestants called Christopher Moore who resides at 612 Murdock Road. Mr. Moore is presently 35 years of age and testified that he rented the upstairs apartment from July 1979 through March 1979. He testified that at the time he rented the property, he had been advised by Mrs. Werking that the apartment had been vacant for approximately 18 months prior to he and his wife's tenancy.

Mrs. Slade was then recalled and she testified that her mother had clear recollections of the late 1970s and early 1980s prior to her hospitalization and that the subject apartment was never vacant for an extended period of time.

The Petitioner seeks relief pursuant to Sections 10-1 and 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The burden of proving a nonconforming use is on the claimant of the use. Calhoun v. Board of Appeals of Baltimore County, 277 A2d. 589 (1971).

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. It is not disputed that the dwelling when built was a legal, two apartment dwelling.

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 or any abandonment or discontinuance of such nonconforming use for a period of one year or more. In the event of abandonment or discontinuance for one year or more, the nonconforming use is deemed to have been lost.

After due consideration of the testimony and evidence presented, there is insufficient evidence to support that the use of the property as two apartments has been continuous and without interruption since its development in 1950. While it is evident the subject property was constructed as a two apartment dwelling, as of right, the testimony presented regarding its continuous use as such was inconsistent. The burden of proving its continuous use as such was inconsistent. The burden of proof is upon the Petitioner to present testimony and evidence which clearly supports his position. In this instance, the testimony and evidence presented by the Protestants would indicate that there was a break in the use of the property as two apartments for an extended period of time, and as such, the nonconforming use of the property ceased. Therefore, the relief requested in the special hearing should be denied.

- 5 -

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 19th day of April, 1990 that the Petition for Special Hearing to approve the nonconforming use of the subject property as two apartments dwelling in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

IN THE MATTER OF THE APPLICATION OF RICHARD SCHWARZ FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH SIDE OF WINDWOOD LANE, 50' FROM THE CENTERLINE OF HOLLY LANE (530 WINDWOOD ROAD) 9TH ELECTION DISTRICT 4TH COUNCILLMANIC DISTRICT

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 90-307-SPH

OPINION

This case comes before the Board on appeal from a decision of the Deputy Zoning Commissioner on April 19, 1990, denying the Petitioner for a Special Hearing to determine the nonconforming use of 530 Windwood Road as a two-apartment dwelling. This case was heard this day de novo and in its entirety.

Petitioner Richard Schwarz was represented by Theodore Levin, Esquire; no protestants appeared and the County was not represented in this case. Petitioner's first witness was Mrs. Maryland Slade, 104 Murdock Road. Mrs. Slade testified that her parents, the Werkings, had the subject dwelling constructed in 1949 as a two-apartment residence. The Werkings moved into the first floor of the residence in April 1950, immediately renting the second floor. Mrs. Slade further testified that the building remained under family ownership until May 1987, when it was sold to the Petitioner. Mrs. Slade related the rental history of the second-floor apartment which was of a continuous nature until shortly before the sale of the building to Mr. Schwarz. Mrs. Werking, the original owner, was confined to a nursing facility and Mrs. Slade, as her Personal Representative, sold the property for her mother's

Case No. 90-307-SPH Richard Schwarz

benefit.

Richard Schwarz, the Petitioner, then testified that he had a lease signed by potential tenants prior to his settlement on the property in May 1987. He submitted photographs of the exterior and interior of the subject dwelling which depicted a side entrance to the second-floor apartment as well as appliances and furnishings. Mr. Schwarz, who lives in the first-floor apartment on the property, further testified the second-floor apartment has been rented continuously since his purchase.

The Petitioner also submitted photocopies of the Baltimore County Area Map and Zoning Regulations which were in effect when the dwelling was constructed. Counsel closed the Petitioner's case by stating that the proof of continuous nonconforming use had been established by the testimony of both the Petitioner and the sole witness.

From the testimony and evidence submitted, the Board finds that 530 Windwood Road (presently zoned D.R. 5.5) is now and has been continuously occupied as a two-apartment dwelling since its original occupancy in April 1950. There was no evidence or testimony to the effect that the use has changed through the years and the Board so finds.

ORDER

IT IS THEREFORE this 29th day of July, 1991 by the County Board of Appeals of Baltimore County ORDERED that the

Case No. 90-307-SPH Richard Schwarz

Petition for Special Hearing for a nonconforming use be and is hereby GRANTED.

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

Michael B. Sawyer
Michael B. Sawyer, Acting Chairman

John G. Disney
John G. Disney

Lynn B. Moreland
Lynn B. Moreland



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21284
(301) 887-3180

July 29, 1991

Theodore LEVIN, Esquire
114 Slade Avenue
Baltimore, MD 21208

RE: Case No. 90-307-SPH
Richard Schwarz

Dear Mr. Levin:

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

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl

cc: Mr. Richard Schwarz
Ms. Diane Schatz
Mr. Robert Venanzi
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Timothy M. Kotzco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director
of Zoning Administration

8/21/90 - Following parties notified of hearing set for December 12, 1990 at 10:00 a.m.:

Theodore Levin, Esquire
Mr. Richard Schwarz
Ms. Diane Schatz
Mr. Robert Venanzi
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

12/12/90 - Above parties notified of postponement on the record at request of Counsel for Protestants. Reset for July 9, 1991 at 10:00 a.m.

LAW OFFICES
THEODORE LEVIN
114 SLADE AVENUE
BALTIMORE, MARYLAND 21208
438-7888

July 3, 1991

Kathie Weidenhammer
County Board of Appeals
Room 315
County Office Bldg.
111 W. Chesapeake Avenue
Towson, MD 21284

RE: RICHARD SCHWARZ/530 WINDWOOD ROAD
CASE NO: 90-307-SPH

Dear Kathie:

Enclosed please find a request for subpoena, one original and two copies, for the above-captioned case.
Thank you for your attention in this matter.

Sincerely yours,

Theodore Levin
THEODORE LEVIN

TL:reg
Encl.

7/08/91

T/C w/Mr. Levin --

Request for subpoena received too late for service by Sheriff (received 7/08/91; hearing scheduled for 7/09/91).

He will resolve matter; advised this office to hold attached.

k

RICHARD SCHWARZ
N/S of Windwood Rd.,
50' from the c/l of
Holly La. (530 Windwood Rd.)
9th Election District
4th Councilmanic District
CASE NO: 98-307-SPH

COUNTY BOARD
OF
APPEALS
OF BALTIMORE COUNTY

REQUEST FOR SUBPOENA

SHERIFF:

Please issue a subpoena for the Zoning Commissioner, J. Robert Haines, at the County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21284 to produce the zoning maps, dated 1945 to 1950 on the property known as 530 Windwood Road, Baltimore, MD 21202, 9th Election District, 4th Councilmanic District at the Appeal of the D.Z.C.'s Order Denying Petition to be held on July 9, 1991 at 10:00 A.M. AT 111 W. Chesapeake Avenue, Room 301, Towson, MD 21204.

THEODORE LEVIN, ESQUIRE
114 Slade Avenue
Baltimore, MD 21208
486-7996
Attorney for Mr. Schwarz

RICHARD SCHWARZ
N/S of Windwood Rd.,
50' from the c/l of
Holly La. (530 Windwood Rd.)
9th Election District
4th Councilmanic District
CASE NO: 98-307-SPH

COUNTY BOARD
OF
APPEALS
OF BALTIMORE COUNTY

REQUEST FOR SUBPOENA

SHERIFF:

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THEODORE LEVIN, ESQUIRE
114 Slade Avenue
Baltimore, MD 21208
486-7996
Attorney for Mr. Schwarz

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
HEARING ROOM - Room 301 (301) 887-3180
County Office Building August 21, 1990

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. 90-307-SPH RICHARD SCHWARZ
N/S of Windwood Rd., 50' from the c/l
of Holly La. (530 Windwood Rd.)
9th Election District
4th Councilmanic District

SPH -nonconforming use - 2 apt. dwelling
4/19/90 - D.Z.C.'s Order DENYING Petition.

ASSIGNED FOR: WEDNESDAY, DECEMBER 12, 1990 at 10:00 a.m.

cc: Theodore Levin, Esquire Counsel for Petitioner/Appellant

Mr. Richard Schwarz
Ms. Diane Schatz
Mr. Robert Venanzi

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
Gerald P. Uehlwecker

LindaLee M. Kusznau
Legal Secretary

LAW OFFICES
THEODORE LEVIN
114 SLADE AVENUE
BALTIMORE, MARYLAND 21208
486-7996

November 28, 1990

County Board of Appeals of Baltimore County
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

RE: RICHARD SCHWARZ
CASE NO: 90-307-SPH

Dear Mr./Ms. Clerk:

Enclosed please find one original and two copies of a Request for Subpoena.

Thank you for your attention in this matter.

Sincerely yours,
THEODORE LEVIN

TL:mg
Encl.

68-2148 92 ACHOS
COUNTY BOARD OF APPEALS
RECEIVED

RICHARD SCHWARZ
N/S of Windwood Rd.,
50' from the c/l of
Holly La. (530 Windwood Rd.)
9th Election District
4th Councilmanic District
CASE NO: 90-307-SPH

COUNTY BOARD
OF
APPEALS
OF BALTIMORE COUNTY

REQUEST FOR SUBPOENA

SHERIFF:

Please issue a subpoena for the Zoning Commissioner, J. Robert Haines, at the County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204 to produce the zoning maps, dated 1945 to 1950 on the property known as 530 Windwood Road, Baltimore, MD 21202, 9th Election District, 4th Councilmanic District at the Appeal of the D.Z.C.'s Order Denying Petition to be held on December 12, 1990 at 10:00 A.M. AT 111 W. Chesapeake Avenue, Room 301, Towson, MD 21204.

THEODORE LEVIN, ESQUIRE
114 Slade Avenue
Baltimore, MD 21208
486-7996
Attorney for Mr. Schwarz

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
HEARING ROOM - Room 301 (301) 887-3180
County Office Building August 21, 1990

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. 90-307-SPH RICHARD SCHWARZ
N/S of Windwood Rd., 50' from the c/l
of Holly La. (530 Windwood Rd.)
9th Election District
4th Councilmanic District

SPH -nonconforming use - 2 apt. dwelling
4/19/90 - D.Z.C.'s Order DENYING Petition.

ASSIGNED FOR: WEDNESDAY, DECEMBER 12, 1990 at 10:00 a.m.

cc: Theodore Levin, Esquire Counsel for Petitioner/Appellant

Mr. Richard Schwarz
Ms. Diane Schatz
Mr. Robert Venanzi

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. Kusznau
Legal Secretary

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

Hearing Room - Room 301, County Office Bldg. December 12, 1990

NOTICE OF POSTPONEMENT AND REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH 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. 90-307-SPH RICHARD SCHWARZ
N/S of Windwood Rd., 50' from the c/l
of Holly La. (530 Windwood Rd.)
9th Election District
4th Councilmanic District

SPH -nonconforming use - 2 apt. dwelling
4/19/90 - D.Z.C.'s Order DENYING Petition.

which was scheduled for hearing on December 12, 1990 has been POSTPONED on the record at request of Counsel for Protestants and with no objection from Counsel for Petitioner has been

REASSIGNED FOR: TUESDAY, JULY 9, 1991 at 10:00 a.m.

cc: Theodore Levin, Esquire Counsel for Petitioner/Appellant

Mr. Richard Schwarz
Ms. Diane Schatz
Mr. Robert Venanzi

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. Kusznau
Legal Secretary

IN RE: PETITION FOR SPECIAL HEARING BEFORE THE
N/S of Windwood Road, 50' from the c/l of Holly Lane
(530 Windwood Road) DEPUTY ZONING COMMISSIONER
9th Election District OF BALTIMORE COUNTY
4th Councilmanic District CASE NO. 90-307-SPH
Richard Schwarz
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the nonconforming use of the subject property as a two apartment dwelling in accordance with Petitioner's Exhibit 1.

The hearing on this matter originally commenced on February 5, 1990. At that hearing, the Petitioner appeared, testified and was represented by Theodore Levin, Esquire. Appearing as Protestants in the matter were: Adelaide Alban, adjoining property owner, Diane Schatz, President of the Anneslie Community Association, and Robert Ritter, all residents of the area. Numerous other residents appeared in opposition to the relief requested.

Testimony presented at the February 5, 1990 hearing indicated that the subject property, known as 530 Windwood Road, consists of .143 acres zoned D.R. 5.5 and is improved with a dwelling which was purchased by Petitioner in May, 1987. Mr. Schwarz testified that at the time of his purchase, the property was being utilized as a two apartment dwelling, with access to the first floor via the front door, and access to the second floor via a side entrance as depicted in photographs submitted as Petitioner's Exhibit 3. Testimony presented indicated there is no access within the dwelling from the first floor to the second floor apartment. He testified that he has resided in the first floor apartment and has continuously

ORDER RECEIVED FOR FILING
Date: 11/28/90
By: [Signature]

151
C.B. of A.
RECEIVED
COUNTY BOARD OF APPEALS
NOV 29 PM 12:40

RECEIVED
COUNTY BOARD OF APPEALS
NOV 21 PM 4:31
AC 207
initial

RECEIVED
COUNTY BOARD OF APPEALS
NOV 21 PM 10:00

rented out the second floor unit since his purchase of the property. Mr. Schwarz testified that as a result of a complaint filed in the Zoning Office, he was advised to file the instant Petition to establish the non-conforming use of the property as two apartments. In support of his position, Mr. Schwarz introduced a signed affidavit from Maryland W. Slade, which indicates that her parents, Charles W. and Mazie Bolden Werking, built the subject property in 1949 as a two apartment dwelling (See Petitioner's Exhibit 4). Additionally, Petitioner submitted signed affidavits from Dorothy M. Ueber and Edna L. Keilbar, identified as Petitioner's Exhibits 2A and 2B, indicating the subject property has been occupied continuously and without interruption as two apartments since November, 1949.

Mrs. Alban testified she has resided on the adjoining property at 532 Windwood Road since March, 1999. She testified that the original owners of the subject property, Mr. & Mrs. Charles W. Werking, built the subject dwelling as two apartments. Mrs. Alban further testified that the occupancy of the subject property as two apartments has not been continuous and without interruption. She testified that to the best of her recollection, there was a vacancy of the second floor apartment for an extended period of time between 1982 and 1986. Mrs. Alban distinctly remembered that in November, 1985, Mrs. Werking was rushed to the hospital and that there was no upstairs' tenant at that time. Mrs. Alban was advised by another neighbor shortly thereafter that Mrs. Werking had passed away.

A number of the other Protestants testified in opposition to Petitioner's request due to the unpleasant condition of the property as maintained by Mr. Schwarz.

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By [Signature]

Mr. Ritter testified that he resides at 526 Overbrook Road and that his property had two apartments at the time of his purchase. He indicated that his property was reconverted to a single family dwelling as he understood that to be the proper zoning of the property.

Due to the contested nature of the hearing and the inability of the Protestants to cross-examine the witnesses who submitted affidavits in support of Petitioner's request, the hearing was continued and reset for April 16, 1990.

At the April 16, 1990 hearing, Petitioner and his Counsel, Theodore Levin, Esquire, appeared and testified. Also appearing on behalf of the Petition was Maryland W. Slade. Appearing as Protestants in the matter were: Adelaide Alban, the adjoining property owner, Diane Schatz, President of the Anneslie Community Association, Inc., and Christopher Moore, all residents of the area. Appearing as Counsel for the Protestants was Gerard P. Uehlinger, Esquire.

Mrs. Slade testified that her parents, Charles W. and Mazie Bolden Werking purchased the subject property in 1949 and completed construction of the subject dwelling as two apartments in April, 1950. She testified that her mother occupied the property from April, 1950 until her hospitalization in November, 1986. The property was sold to Mr. Schwarz in May, 1987. Mrs. Slade testified that her mother is 96 years of age and continues to reside in the nursing home she moved to upon her release from hospital in December 1986. She testified that to the best of her knowledge and belief, her parents continuously rented the second floor apartment to various tenants without interruption from April 1950 until approximately May 19, 1986, at which time the tenant who had resided there for a number of years vacated the premises. Mrs. Slade testified that her mother

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managed the property herself until hospitalized and wanted to rent the property again; however, the family did not want Mrs. Werking to have that responsibility due to her age. Mrs. Slade testified that she visited her mother often when she resided on the subject property and from time to time, would see the tenants of the second floor apartment. Mrs. Slade had no documentation evidencing the continued use of the upstairs apartment, other than her mother's diaries that dealt with the 1960s and a bank book, in which the last entry was made in 1979. Through his Counsel, Petitioner indicated that the bank book did not present clear evidence as to whether or not rent was deposited into the account through 1979.

Counsel for the Protestants recalled Mrs. Alban who testified again that she firmly believes that the subject property was vacant for an extended period of time prior to Mrs. Werking vacating the property. Additionally, the Protestants called Christopher Moore who resides at 612 Harlock Road. Mr. Moore is presently 35 years of age and testified that he rented the upstairs' apartment from July 1978 through March 1979. He testified that at the time he rented the property, he had been advised by Mrs. Werking that the apartment had been vacant for approximately 18 months prior to he and his wife's tenancy.

Mrs. Slade was then recalled and she testified that her mother had clear recollections of the late 1970s and early 1980s prior to her hospitalization and that the subject apartment was never vacant for an extended period of time.

The Petitioner seeks relief pursuant to Sections 104.1 and 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

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The burden of proving a nonconforming use is on the claimant of the use. *Calhoun v. Board of Appeals of Baltimore County*, 277 A2d. 589 (1971).

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. It is not disputed that the dwelling when built was a legal, two apartment dwelling.

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 or any abandonment or discontinuance of such nonconforming use for a period of one year or more. In the event of abandonment or discontinuance for one year or more, the nonconforming use is deemed to have been lost.

After due consideration of the testimony and evidence presented, there is insufficient evidence to support that the use of the property as two apartments has been continuous and without interruption since its development in 1950. While it is evident the subject property was constructed as a two apartment dwelling, as of right, the testimony presented regarding its continuous use as such was inconsistent. The burden of proof is upon the Petitioner to present testimony and evidence which clearly supports his position. In this instance, the testimony and evidence presented by the Protestants would indicate that there was a break in the use of the property as two apartments for an extended period of time, and as such, the nonconforming use of the property ceased. Therefore, the relief requested in the special hearing should be denied.

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Date 4/19/90
By [Signature]

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 19th day of April, 1990 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a two apartment dwelling in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

ORDER RECEIVED FOR FILING
Date 4/19/90
By [Signature]

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21284
(301) 887-3353
J. Robert Haines
Zoning Commissioner

April 19, 1990



Theodore Levin, Esquire
114 Slade Avenue
Baltimore, Maryland 21208

RE: PETITION FOR SPECIAL HEARING
N/S of Windwood Road, 50' from the c/l of Holly Lane
(530 Windwood Road)
9th Election District - 4th Councilmanic District
Richard Schwarz - Petitioner
Case No. 90-307-SPH

Dear Mr. Levin:

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

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

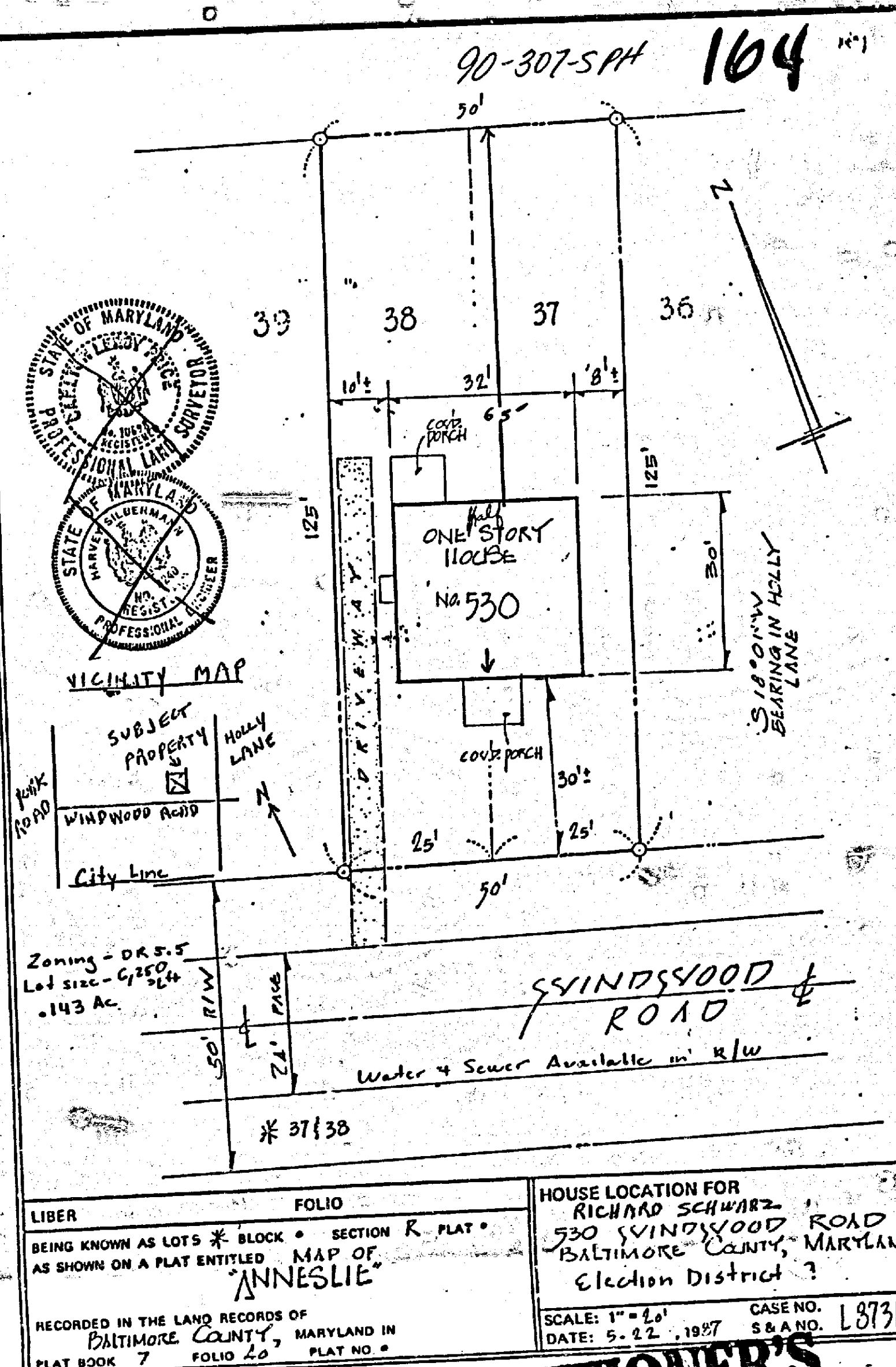
Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

cc: Gerard P. Uehlinger, Esquire
7 N. Calvert Street, Suite 1401, Baltimore, Md. 21202
People's Counsel

File



LIBER FOLIO
BEING KNOWN AS LOTS * BLOCK * SECTION R. PLAT *
AS SHOWN ON A PLAT ENTITLED MAP OF ANNESLIE *
RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND IN PLAT BOOK 7 FOLIO 22

HOUSE LOCATION FOR RICHARD SCHWARZ 530 WINDWOOD ROAD BALTIMORE COUNTY, MARYLAND Election District 9
SCALE: 1" = 10' CASE NO. 90-307-SPH DATE: 5-12-1987 S&ANO. L87915

PETITIONER'S EXHIBIT 1

AFFIDAVIT 90-307-SPH
The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:
That the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Dorothy M. Lauber
AFFIANT (Handwritten Signature)
Dorothy Lauber
AFFIANT (Printed Name)

Based upon your personal knowledge, please answer the following questions by indicating yes or no in the space provided:

- Can you verify by this affidavit, and/or testify in Court if necessary, that the home located at 530 Windwood Road, Baltimore, MD 21212 has been occupied as a two apartment dwelling since November 1949 (month) 1949 (year) (answer) Yes
- Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since November 1949 (year) 1949 (year) (answer) Yes
- Will you realize any gain from the sale of this Property? no (answer)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:
I HEREBY CERTIFY, this 28th day of April, 1990, before me, a Notary Public of the State of Maryland, in and for the County of Baltimore, personally appeared Dorothy M. Lauber, the Affiant herein, personally known to me and correctly identified to me as such Affiant, and made oath in due form that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notary Seal.
Carmel Hermanin Backes
NOTARY PUBLIC
My Commission Expires: 7-1-1990

PETITIONER'S EXHIBIT 2A

90-307-SPH

AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereon in the event that a public hearing is scheduled in the future with regard thereto.

Edna L. Keilbar
AFFIANT (Handwritten Signature)

Edna Keilbar
AFFIANT (Printed Name)

Based upon your personal knowledge, please answer the following questions by indicating yes or no in the space provided:

1. Can you verify by this affidavit, and/or testify in Court if necessary, that the home located at 530 Windwood Road, Baltimore, MD 21212 has been occupied as a two apartment dwelling since November 1949 (month) YES (year) YES (answer)

2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since November 1949 (month) YES (year) YES (answer)

3. Will you realize any gain from the sale of this Property? no (answer)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 20th day of April, 1987 before me, a Notary Public of the State of Maryland, in and for the County of Baltimore, personally appeared Edna Keilbar who is personally known and identified to me as such Affiant herein, personally known or satisfied by me as such Affiant, and made oath in due form of law that the contents and facts hereinabove set forth are true and correct to the best of her personal knowledge and belief.

AS WITNESS my hand and Notary Seal this 20th day of April, 1987.


Arnold Jablon
ARNOLD JABLON
NOTARY PUBLIC
My Commission Expires: 7-1-1990

PETITIONER'S EXHIBIT 4

90-307-SPH

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
444-3353
Arnold Jablon
Zoning Commissioner

May 6, 1987


Dennis F. Rasmussen
County Executive

Ms. Maryland W. Slade
O'Connor, Piper & Flynn
22 West Padonia Road
Timonium, Maryland 21093

RE: Conditional Acceptance of
Alleged Nonconforming Use
530 Windwood Road
9th Election District

Dear Ms. Slade:

Based upon the Notarized Affidavits signed by Edna Keilbar and Dorothy Lauber, this office conditionally accepts the above-referenced property/use, zoned Density, Residential (D.R.5-5), as having a nonconforming use status for a two-apartment dwelling. Said acceptance is subject, however, to the following conditions:

- It is understood by all concerned that this acceptance does not establish an irrefutable presumption of a legal non-conforming use status for this property.
- This decision is based upon the understanding that the use in question presently exists and the Notarized Affidavits establish a reasonable basis to permit a continuance of the use pending a challenge by any interested citizen of this conditional acceptance.
- In the event of a challenge, this approval is automatically rescinded, and to be reestablished, a public hearing would be required.
- In the event of a challenge, the burden of proof is entirely upon the owner of the property in question.

Sincerely,
Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

cc: Mr. James E. Dyer, Zoning Supervisor

90-307-SPH

PETITIONER'S EXHIBIT 4

I, MARYLAND W. SLADE, do hereby affirm under penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

- That the information herein given is within my personal knowledge and that I am at least 18 years of age and competent to testify at a hearing or in Court; if necessary.
- That I am the daughter of Mazie Bolde Working and Charles W. Working (who departed this life on December 8, 1970) who owned the property known as 530 Windwood Road continuously from 1949 until approximately May 1987 at which time title was transferred to the present owner, Richard Schwartz.
- That the property was built by my parents with the intention of having the second floor used as an apartment rental unit.
- That, while my parents owned the property, the second floor had been occupied continuously as a rental unit since being built in 1949, with the exception of an approximately 8 to 11 month period when my mother became ill. My mother lived on the first floor.

Maryland W. Slade
MARYLAND W. SLADE

STATE OF MARYLAND: BALTIMORE COUNTY: TO WIT:

Before me, a Notary Public in and for the State and County aforesaid, personally appeared MARYLAND W. SLADE, and made oath in due form of law that she executed the foregoing Affidavit as her voluntary act and deed, and that the matters set forth herein are true and correct as stated therein.

WITNESS my hand and Notarial Seal this 2nd day of FEBRUARY, 1987.

Arnold Jablon
ARNOLD JABLON
NOTARY PUBLIC
My commission expires 7-1-1990

(1) 262
DEED 90-307-SPH

FROM
Maryland W. Slade, Appointed Guardian for Mazie Bolde Working

TO
Richard Schwartz

Block No.

Received for Record, 19.....
at o'clock M. Same day recorded
in Liber No. Folio &c.
one of the Land Records of
....., and examined per
....., Clerk.

Cost of Record, \$.....

FIDELITY TITLE COMPANY, INC.
3635 OLD COURT ROAD
BALTIMORE, MD 21208

PETITIONER'S EXHIBIT 5

(1) 252
90-307-SPH

DEED - FEE SIMPLE - INDIVIDUAL GRANTEE - LONG FORM

This Deed, MADE THIS 22nd day of May by and between Richard Lee Schwarz of the County of Baltimore, State of Maryland, and Wendy Deal of the County of Baltimore, State of Maryland, the said PARTY OF THE FIRST PART do as grant and convey to the said party of the second part, his heirs, personal representatives and assigns, in fee simple, all that one lot of ground situate in the County of Baltimore, State of Maryland, and described as follows, that is to say:

All those lots of ground situate in Baltimore County, State of Maryland, and described as follows, to wit: Lots 37, 38 Section "B" Anneslie Windwood Road, Baltimore County, Maryland, as shown on a plat of Anneslie, recorded among the Plat Records of Baltimore County in Plat Book Liber W.P.C. 7, folio 40.

BEING the same property which by Deed dated November 14, 1949 and recorded among the Land Records of Baltimore County in Liber 1802, folio 220 was granted and conveyed by Charles H. Staffey, incorporated unto Charles R. Werking and Mazie B. Werking, his wife. The said Charles R. Werking has since departed this life on or about the 8th day of December, 1970 thereby vesting absolute title in his wife, Mazie B. Werking. See Appointment of Guardian wherein Maryland W. Slade was appointed Guardian of Mazie Bolde Working in Docket 6, page 91.

STATE DEPARTMENT OF ASSESSMENTS & TAXATION
JR 6-5-87
CLERK DATE

AGRICULTURAL USE TAX NOT APPLICABLE
SIGNATURE *JR* DATE 6-5-87

This agreement made this day of May 5, 1987 by and between Richard Lee Schwarz, hereinafter called Owner, and Scott Davidson and Wendy Deal, hereinafter called tenants:

Witnesseth that the owner, for and in consideration of three thousand six hundred dollars (\$3,600) rent does hereby let and rent to the tenants the second floor apartment at 530 Windwood Avenue for the term of one year to commence on the first (1st) day of June 1987 and to end on the thirty-first (31st) day of May 1988 at the said rent of three thousand six hundred dollars (\$3600) payable without demand in monthly installments of three hundred, (\$300) dollars in advance on the first (1st) day on each and every month during the said term.

Tenants will pay a security deposit of three hundred dollars (\$300) before occupying premises. Within 30 days after departure, if all obligations have been paid in full and if the premises have been maintained in satisfactory condition, as determined by the owner, the deposit will be returned to the tenants. Tenants will assume full responsibility for electric bills and telephone bills of the second floor apartment and one half of the gas bill for the house.

The owner will assume expenses for the maintenance, cleaning, and repair of the furnace, roof, water heater, gutters, outside plumbing, and repairs to equipment and appliances, if they have been used in a proper manner.

Tenants cannot sublet the premises without the express consent of the owner.

No pets are permitted on the premises without the express written consent of the owner.

No alterations, additions, or improvements shall be made on the premises without the express consent of the owner. Any alterations, additions, or improvements will become the property of the owner when the tenants depart unless the premises are restored to its original condition.

(Page one (1) of two (2) pages)

Scott Davidson
Scott Davidson
Tenant

Wendy Deal
Wendy Deal
Tenant

Richard Schwarz
Richard Schwarz
Owner

PETITIONER'S EXHIBIT 6

No waterbeds are allowed without the express written consent of the owner.

Tenants agree to allow owner at any reasonable hour, by appointment, to enter the premises to inspect same, to make repairs, or to show the premises to any parties.

This agreement is immediately null and void should closing (settlement) not occur on or before May 29, 1987 between Maryland W. Slade (guardian for M. B. Werking) and Richard L. Schwarz.

Scott Davidson
Scott Davidson
Tenant

Wendy Deal
Wendy Deal
Tenant

Richard Schwarz
Richard Schwarz
Owner

PETITIONER'S EXHIBIT 6

(Page two (2) of two (2) pages)

ANNESLIE COMMUNITY, INC.
February 4, 1990

TO: J. Robert Haines, Zoning Commissioner
Baltimore County Office of Planning & Zoning
111 W. Chasapeake Avenue
Townson, Maryland 21204

FROM: Diane Schatz, President
Anneslie Community Association, Inc.
601 Beardock Road
Baltimore, Maryland 21212

SUBJECT: Zoning Issue 90-307-SPH
N/S Windwood, 30' W of O/I Holly Lane
530 Windwood Road
9th Election District - 4th Concomitant
Special Hearing - Continued nonconforming use status for a two apartment dwelling.

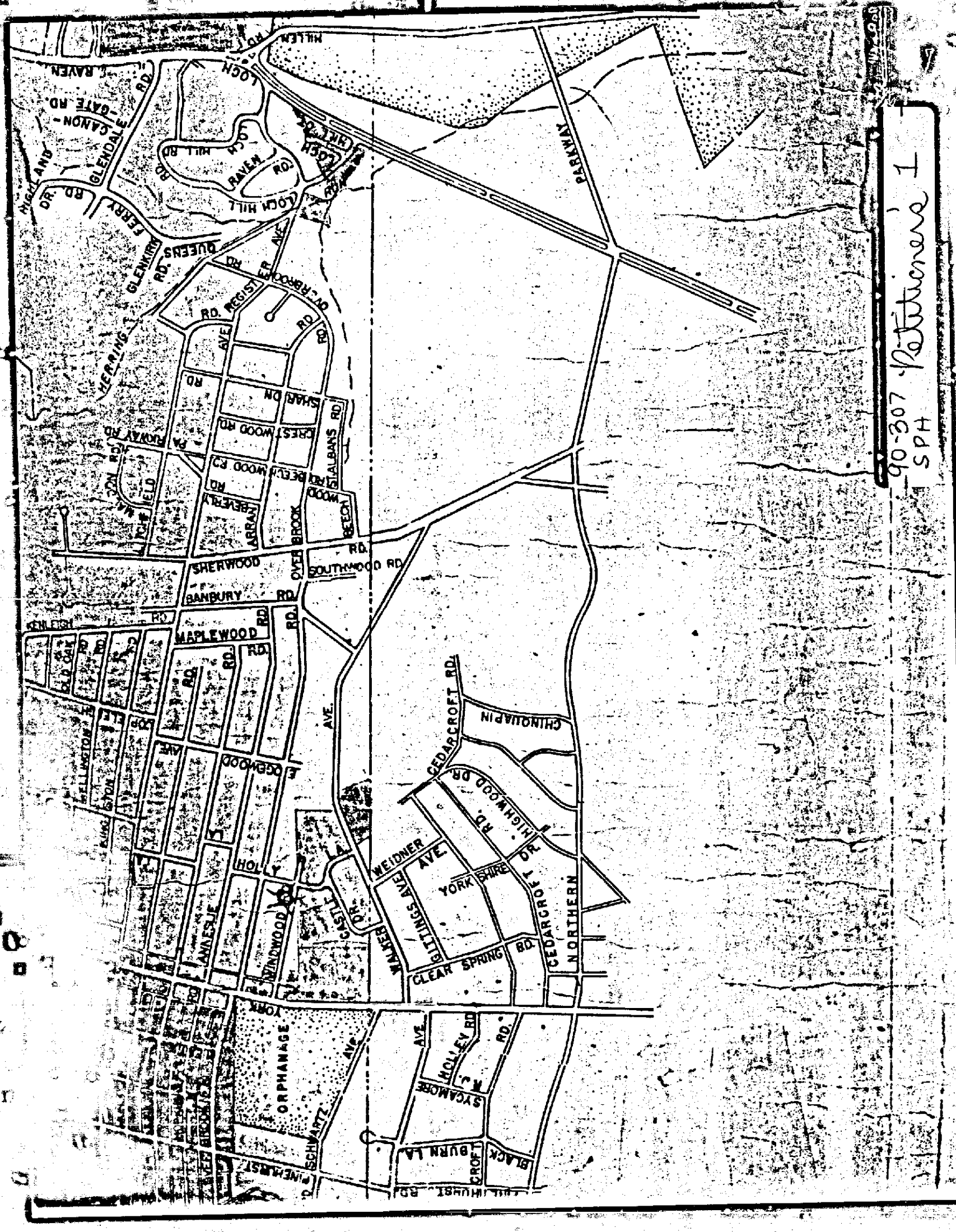
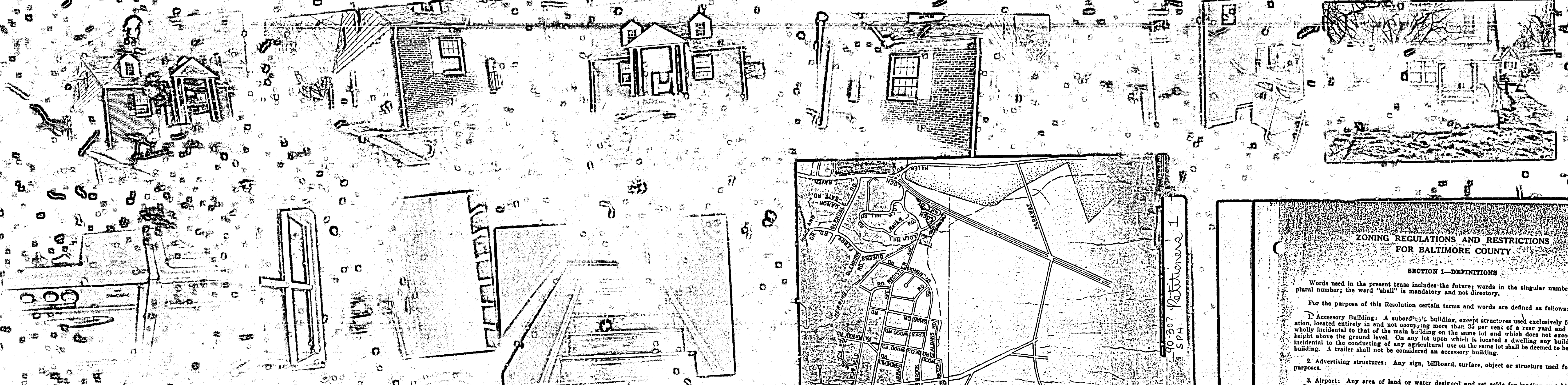
The Community of Anneslie is comprised of approximately 500 homes, all primarily single family dwellings, in a residential DR 5.3 zone. The dwelling at 530 Windwood Road recently was found to be in violation of Baltimore County Zoning Regulations by the Office of Zoning Enforcement.

The Board of Directors of this association have been apprised of and are in full opposition to Zoning Issue 90-307-SPH.

Our decision is based on the following:

- The overwhelming opposition of community members thus far polled. Attached are over 100 signatures representing over 125 households in Anneslie Community; these signatures are in opposition to granting nonconforming multifamily use status for any dwelling in the community including 530 Windwood Road.
- A concern for the ability of primary and secondary street systems to absorb additional traffic generation and distribution patterns, as well as parking which would result should the subject home be allowed nonconforming use status for a two apartment dwelling.
- A concern for the ability of the water distribution and sanitary sewer systems in this area to absorb the additional loads which would result should the subject home be allowed nonconforming use status for a two apartment dwelling.

PROTESTANT'S EXHIBIT 1



**ZONING REGULATIONS AND RESTRICTIONS
FOR BALTIMORE COUNTY**

SECTION I—DEFINITIONS

Words used in the present tense includes the future; words in the singular number include the plural number; the word "shall" is mandatory and not directory.

For the purpose of this Resolution certain terms and words are defined as follows:

- Accessory Building:** A subordinate building, except structures used exclusively for farm operation, located entirely in and not occupying more than 35 per cent of a rear yard and whose use is height above the ground level. On any lot upon which is located a dwelling any building which is incidental to the conducting of any agricultural use on the same lot shall be deemed to be an accessory building. A trailer shall not be considered an accessory building.
- Advertising structures:** Any sign, billboard, surface, object or structure used for advertising purposes.
- Airport:** Any area of land or water designed and set aside for landing or taking-off of aircraft and utilized or to be utilized for such purposes.
- Alley:** A public way less than 30 feet in width and designated as an alley on either an unrecorded or recorded plat or dedicated as such by deed.
- Apartment House:** A detached building used and/or arranged for occupancy as dwellings for three or more families as separate housekeeping units. All such housekeeping units shall have utility in use and be supplied, in common, with heat, sewerage and/or other public conveniences or utilities.
- Basement or Celler:** That portion of a building below the first floor joists the floor of which is more than one-half the clear ceiling height below the adjacent ground.
- Building:** A structure having a roof supported by columns or walls for the shelter, support or inclosure of persons, animals or objects. When any portion thereof is completely separated from other portions by a division wall from the ground up to the roof and without any door or other openings, such portion shall be deemed a separate building.
- Building Line:** A line beyond which the foundation wall of a building shall not project.
- Courts:** An open, unoccupied space, other than a yard, on the same lot with a building, opening upon a street, alley, yard, lot line or setback, and which is bounded on two or more sides by such building.
- Depth of Lot:** The mean horizontal distance between the front line and the rear lot line.
- Dwelling, Single Family:** A detached dwelling arranged or used for occupancy by one family.
- Dwelling, Two-Family:** A detached dwelling arranged or used for occupancy by not more than two families as separate housekeeping units, and with not more than one entrance on any side. Such a dwelling shall have one housekeeping unit over the other.
- Dwelling, Semi-detached:** Two (single or two-family) dwelling designed and erected, side by side, as a single detached building and with not more than two entrances on any one side, such (single or two-family) dwellings shall be separated by a solid fire-proof partition wall from foundation to roof.
- Dwelling, Group House:** Not less than three or more than seven (single or two-family) dwellings designed and erected as a single detached building and with not more than one entrance for each (single or two-family) dwelling on any one side, such (single or two-family) dwellings shall be separated by a solid fireproof partition wall from foundation to roof.

SECTION II—ZONES

For the purposes of these regulations, the County is hereby divided into Seven (7) Zones as follows:

- "A" Residence Zone (Cottages)
- "B" Residence Zone (Semi-detached)
- "C" Residence Zone (Apartment)
- "D" Residence Zone (Group)
- Commercial Zone
- Light Industrial Zone
- Heavy Industrial Zone

SECTION III—"A" RESIDENCE ZONE

The Regulations: In any "A" Residence Zone, except as hereinafter expressly provided, no building or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

- Church, parochial school, convent or monastery.
- Dwelling, single family.
- Dwelling, two-family.
- Farming and buildings incidental thereto.
- Home Occupations, provided that no sign or signs shall be displayed on the lot so used exceeding a total of two square feet in area, not projecting more than one foot beyond the building, and not illuminated.

SECTION IV—"B" RESIDENCE ZONE

No portion of an alley shall be considered as any part of any side or rear yard.

No dwelling shall be built on a lot which does not abut upon and front directly on a public street, or adequate rural right-of-way.

Use Regulations: Except as hereinafter expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

- Any use permitted in an "A" Residence Zone, any such use to be subject to the same conditions and limitations set forth as to such use in section III-A of these regulations.
- Children's Home.
- Dwelling—semi-detached.
- Fraternity or Sorority House.
- Orphanage.
- Tea Room, when operated as a home occupation.
- Height Regulations: Same as in an "A" Residence Zone, as set forth in Section III-B.
- Area Regulations: Same as in an "A" Residence Zone, as set forth in Section III-C, provided, however, that any semi-detached house erected under this Section shall be considered as one building.

SECTION V—"C" RESIDENCE ZONE

Use Regulations: Except as hereinafter expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

- Any use permitted in the "B" Residence Zone; any such use to be subject to the same conditions and limitations as provided in Section IV-A.
- Apartment house.
- Public storage garage where no repair facilities are maintained and when located not less than sixty feet from the front lot line and, in the case of a corner lot, thirty feet from the side street line except when contained within the main building and provided further that any accessory building and any detached garage which is erected on a corner lot within sixty feet of any side street line, shall be distant not less than ten feet from the party lot line intersecting such side street line.
- Height Regulations: Building height unlimited.
- Area Regulations: The minimum dimension of yards and the minimum lot area per family, except as provided in Section X, shall be as follows:
 - Lot Area Per Dwelling Unit. Same as in "B" Residence Zone, Section IV, except in the case of apartments the minimum gross lot area per dwelling unit shall be six hundred twenty-five square feet.
 - Front Yard: Minimum front yards for single-family or semi-detached dwellings shall be the same as hereinafter specified in "A" Residence Zone and "B" Residence Zone respectively, except apartment buildings shall set back to provide for a front yard of not less than 35 feet in depth, measured from the center of the front street, in no case less than 25 feet from the front lot line, and when the building is more than 40 feet in height such front yard depth shall be increased 4 inches for each additional foot of height.

Petitioner's Exhibit 3

90-307-SPH
3

