

IN THE MATTER OF THE APPLICATION OF TIMOTHY W. FROST, ET AL FOR A ZONING VARIANCE ON PROPERTY LOCATED ON THE NORTHEAST CORNER OF McPHERSON COURT AND OTHORIDGE ROAD (1301 McPHERSON COURT) 9TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 90-350-A

OPINION

Mr. and Mrs. Timothy W. Frost appealed from a decision of the Zoning Commissioner denying the placement of a satellite dish antenna in the rear yard of a corner lot, not within the rear one-third of the lot farthest removed from any street. At a hearing on November 30, 1990, Mr. and Mrs. Frost appeared and testified as did John Gregory Trueschler of 39 Othoridge Road. Additionally, Mr. Frost called Walter Frazier of the Stansbury Satellite Company, the firm that sold the satellite and installed it on Mr. Frost's property as an expert witness. On behalf of the Protestants, Dale Rauschenberg, 29 Othoridge Road, Timonium, Maryland 21093, testified as did Robert Anderson and George Krom, 28 Othoridge Road. Various photographs were placed into evidence showing the satellite dish antenna where it has been installed on Mr. and Mrs. Frost's property. Those photographs, as well as testimonial evidence, reveal that the dish has been installed at a position behind the line drawn directly from the rear back corner of the Frost dwelling, to Othoridge Road, but that it has been placed in the site of the yard nearest Othoridge Road. The satellite dish antenna remains visible to all persons travelling on McPherson Court and Othoridge Road as they approach and travel through that

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intersection. Furthermore, it is placed in a location that is near to and within a very short distance of the sidewalk and steps leading to the house facing on Othoridge Road which is the immediate neighbor to the rear of the Frost house which faces on McPherson Court.

Appellant offered testimony that the Stansbury Satellite Company placed the dish at the location that it did since that was the best location on the McPherson lot for the optimum performance of the dish. Mr. Frost testified that the dish could also be placed on the roof of the property, but that would require the removal or the reduction of a large tree which sits in front of the Frost home on the McPherson Court side of the property. Mr. Frost testified about various maintenance problems that would be encountered, including increased costs, if it were placed on the roof, and other potential problems resulting from a roof placement of the satellite dish antenna.

The Baltimore County Zoning Regulations (BCZR), Section 429, entitled "Satellite Receiving Dishes" and 400.1 entitled "accessory buildings in Residence Zones" govern the installation of satellite dish antennae. Those regulations designate satellite dish antennae as accessory structures in all zones. They may be placed on the roof of the dwelling as a right. Under Section 400.1, Accessory Buildings in Residence Zones, on corner lots, shall be located only in one-third of the lot farthest removed from any street and shall not occupy more than fifty percent (50%) of such third.

The testimony indicates that Mr. Frost installed the dish in

Timothy W. Frost, et al, Case No. 90-350-A

his rear yard but it is not located in the one-third portion of the rear yard farthest removed from any street. An area variance may be granted where strict application of the zoning regulations will cause practical difficulty to the Petitioner and his property. To prove practical difficulty for an area variance, the Petitioner needs to satisfy three criteria which would be summarized as follows:

1. whether strict compliance would unreasonably prevent the use of the property or render conformance unnecessarily burdensome;
2. whether the granting of a variance would due substantial injustice to the applicant as well as other property owners or whether a lesser relaxation than that applied for would give substantial relief;
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Upon consideration of the testimony and evidence presented, we do not find that Mr. Frost carried his burden of proof in demonstrating a practical difficulty or unreasonable hardship which would compel us to grant the variance requested. Mr. and Mrs. Frost may relocate the subject satellite dish to the roof of their property where it is permitted as of right, pursuant to the Baltimore County Zoning Regulations. While Mr. Frost offered testimony as to the increased maintenance and cost associated with that, these costs and maintenance procedures are not greater than those encountered by any other person who, as a matter of right,

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has placed a satellite dish antenna on his roof. Furthermore, with respect to the removal or the reduction of the tree, the testimony before the Board indicated only that the dish antenna, while placed in the side yard, would achieve the optimum performance, placement of it on the roof would also, while not producing optimum performance, allow the satellite dish to function. Testimony also indicated that in the event that Mr. Frost wished greater reception than that allowed by merely placing the satellite dish on the roof, it would be necessary for him to reduce or remove the tree in the front yard. At that point, Mr. Frost must weigh the cost versus benefit in deciding whether or not it is worth it to him to enjoy the use of this dish, which he can place on his roof as a matter of right, to incur the expense of reducing or removing the tree. We do not see that as an unnecessarily burdensome requirement since it appears that other dish owners with a dish installed on their roof would encounter interference from trees as well.

ORDER

For the reasons as set forth herein, it is this 8th day of January, 1991 by the County Board of Appeals of Baltimore County ORDERED that the requested Petition for Zoning Variance to permit placement of a satellite dish antenna in a position on the lot which is in the rear yard but not within the third of the lot farthest removed from any street, as indicated on the Petitioner's

Timothy W. Frost, et al, Case No. 90-350-A

Exhibit B be and the same is hereby DENIED; and

IT IS FURTHER ORDERED, that the subject satellite dish be removed or relocated on or before February 15, 1991.

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

Arnold G. Foreman, Acting Chairman
C. William Clark

Harry E. Buchheiser, Jr.

IN RE: PETITION FOR ZONING VARIANCE NE/corner McPherson Court and Othoridge Road 1301 McPherson Court 9th Election District 4th Councilmanic District

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 90-350A

Timothy W. Frost, et al Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 400.1 to permit the placement of a satellite dish antenna in the rear yard of a corner lot, but not within the rear 1/3 of the lot farthest removed from any street, as more particularly described on Petitioner's Exhibit No.1.

The Petitioners, Timothy W. Frost and Carol Ann Frost, appeared and testified. Appearing and testifying on behalf of the Petition, was Walter R. Frazier, President of Stansbury, Inc. Also appearing on behalf of the Petition, was Rosalie L. Frost. Appearing and testifying as Protestants were Florence Boyer, Helen Williams, Carolen Ensor, John J. Esser, Theresa Rauschenberg, Dale Rauschenberg and George S. Krom. Appearing and testifying for informational purposes was Stephanie J. Boblouch, President, Orchard Hills Community Association, Inc.

Testimony indicated that the subject property, known as 1301 McPherson Court, is a corner lot consisting of .17 acres +/-, zoned D.R.5.5, and improved with a single family dwelling. Testimony indicated that the Petitioners have erected a 15' high satellite dish in the rear yard portion of their corner lot along Othoridge Road, as indicated on Petitioners' Exhibit No. 1.

Mr. Frost testified that Stansbury, Inc., the seller of the subject

dish advised him that there were only two locations on his property that would provide adequate reception; the current location and on the roof of his dwelling. Of those two locations, the Petitioner testified that he was advised the dish's current location would provide superior reception over mounting the dish on the roof. Mr. Frost testified that subsequent to erecting the dish, he was advised by the County that the location of the dish was violative of Sections 429 - "Satellite Receiving Dishes" and 400.1 - "Accessory Buildings in Residence Zones" of the Baltimore County Zoning Regulations (B.C.Z.R.). The aforementioned sections read in pertinent part as follows:

Section 429 --- SATELLITE RECEIVING DISHES

Section 429.1 --- Satellite receiving dishes are permitted as accessory structures in all zones. When located on the roof of a building, an accessory satellite receiving dish shall be considered an accessory radio or television receiving antenna, and it is not subject to the provisions of this section.

Section 429.2 --- When located in residential zones, accessory satellite receiving dishes shall be located only in the rear yard of a lot unless such location hinders reception, and the owner requests a variance. In addition, the dish shall be no larger than 10 feet in diameter.

Section 400 --- ACCESSORY BUILDINGS IN RESIDENCE ZONES

400.1 - Accessory buildings in residence zones, . . . on corner lots . . . shall be located only in one third of the lot farthest removed from any street and shall occupy not more than 50% of such third. . . .

The aforementioned sections clearly indicate, given the facts of this case, that Mr. Frost is permitted to either locate the subject satellite dish in the one-third portion of the rear yard farthest removed from any street or on the roof of his dwelling. While Mr. Frost did locate the satel-

lite dish in his rear yard, it was not located in the required one-third portion of the rear yard farthest removed from any street.

Mr. Walter Frazier testified that it was his understanding, upon speaking with a Baltimore County Zoning Inspector, the current location of the dish was consistent with the requirements of the B.C.Z.R. He indicated, however, that his company would move the subject dish to the roof of Mr. Frost's dwelling if the Zoning Commissioner so required.

Mr. George S. Krom resides at 28 Othoridge Road and testified that, in his opinion, the subject satellite dish was an eyesore and otherwise out of character for this residential neighborhood. Mr. Krom stated that the granting of the Petitioners' request would only serve to depreciate property values in this neighborhood and that such relief will encourage the placing of additional satellite dishes in this neighborhood.

Ms. Stephanie J. Boblouch, President, Orchard Hills Community Association, Inc., testified that her Association was neither in favor of or in opposition to the requested relief, but that she had received many complaints regarding the subject dish. She stated that the dish was not in violation of any Association covenant.

Mrs. Dale Rauschenberg and John J. Esser of 29 and 31 Othoridge Road, respectively, testified that they concurred with Mr. Krom's testimony.

Mrs. Helen Williams, of 1322 Malbay Drive, indicated that the satellite dish is an eyesore and inappropriate for this neighborhood.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the proper-

BALTIMORE COUNTY, MARYLAND
Office of the Buildings Engineer

JOB LOCATED AT 1301 McPherson Ct
DISTRICT 9 PCT 8
PERMIT NO. None OTHER

BLDG INSP - 494-3953
ELEC INSP - 494-3620
SED CON INSP - 494-3226
BLDG ENG - 494-3373

Notice No. I-001682

CORRECTION NOTICE

I HAVE THIS DAY INSPECTED THIS STRUCTURE AND THESE PREMISES AND HAVE FOUND THE FOLLOWING VIOLATIONS OF THE LAWS OF BALTIMORE COUNTY CODE: BCCB, SEC. 627.1

Permit is required for all satellite dish antennas more than three feet in diameter.
THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN DATE: 9-22-89
VIOLATION OF COUNTY LAW.

DATE: 9-15-89 SIGNED INSPECTOR: ALH

ALL CORRECTIONS COMPLETE AND APPROVED
DATE: _____ SIGNED INSPECTOR: _____

DO NOT REMOVE THIS TAG

BALTIMORE COUNTY, MARYLAND
Office of the Buildings Engineer

JOB LOCATED AT 1301 McPherson Ct
DISTRICT 9 PCT 8
PERMIT NO. None OTHER

BLDG INSP - 494-3953
ELEC INSP - 494-3620
SED CON INSP - 494-3226
BLDG ENG - 494-3373

Notice No. I-001327

CORRECTION NOTICE

I HAVE THIS DAY INSPECTED THIS STRUCTURE AND THESE PREMISES AND HAVE FOUND THE FOLLOWING VIOLATIONS OF THE LAWS OF BALTIMORE COUNTY CODE: BCCB, SEC. 111.12.2

SATELLITE DISH ANTENNA

NO PERMIT REQUIRED

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN DATE: 9-25-89
VIOLATION OF COUNTY LAW.

DATE: 9-18-89 SIGNED INSPECTOR: D. J. HOGAN

ALL CORRECTIONS COMPLETE AND APPROVED
DATE: _____ SIGNED INSPECTOR: _____

DO NOT REMOVE THIS TAG

COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1988, Legislative Day No. 21
Bill No. 158-88

Mr. DALE WELZ, Chairman
By Request of County Executive

By the County Council, November 7, 1988

A BILL
ENTITLED

AN ACT concerning
The Building Code of Baltimore County

FOR the purpose of adopting with certain amendments, deletions and additions, the BOCA Basic National Building Code, Tenth Edition, 1987; the CBO One and Two Family Dwelling Code, 1986 Edition, the BOCA Basic National Mechanical Code, Sixth Edition, 1986; and the BOCA National Energy Conservation Code, 1984, all as the "Building Code of Baltimore County, Maryland".

BY Repealing

The Building Code of Baltimore County, Maryland
as adopted by Bill No. 17-85

BY Adopting

The BOCA Basic National Building Code, Tenth Edition, 1987,
with amendments,

The CBO One and Two Family Dwelling Code, 1986 Edition,
with amendments,

The BOCA Basic National Mechanical Code, Sixth Edition,
with amendments, and

The BOCA National Energy Conservation Code, 1984

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

Ref #3

THIS REQUIREMENT SHALL BE MADE KNOWN TO THE APPLICANT PRIOR TO THE PERMIT BEING ISSUED.

SECTION 109.0 BUILDING INSPECTION

109.1 BUILDING OFFICIAL: WHEN USED IN THIS CODE, THE TERM "BUILDING OFFICIAL" SHALL MEAN THE BUILDINGS ENGINEER OF BALTIMORE COUNTY OR HIS DESIGNEE, AS PROVIDED FOR IN THE BUILDING COUNTY CODE, 1978, AS AMENDED, UNDER TITLE 5 "BUILDINGS" THE BUILDINGS ENGINEER'S OFFICE AND DUTIES SHALL BE AS SET FORTH IN THAT TITLE AND IN THIS CODE.

109.2 DEPARTMENT OF BUILDING INSPECTION: AS USED IN THIS CODE, THE TERM "DEPARTMENT OF BUILDING INSPECTION" SHALL MEAN THE OFFICE OF THE BUILDINGS ENGINEER.

109.4 ASSISTANT BUILDINGS ENGINEER: THE POSITION OF ASSISTANT BUILDINGS ENGINEER SHALL BE AS SET FORTH IN THE BALTIMORE COUNTY CODE, 1978, AS AMENDED, UNDER TITLE 5, "BUILDINGS" THE OFFICE OF ASSISTANT BUILDINGS ENGINEER SHALL EXERCISE ALL THE POWERS OF THE BUILDINGS ENGINEER DURING THE TEMPORARY ABSENCE OR DISABILITY OF THE BUILDING OFFICIAL OR AS THE BUILDING OFFICIAL MAY DESIGNATE.

SECTION 110.0 DUTIES AND POWERS OF THE BUILDING OFFICIAL

110.6 RULE MAKING AUTHORITY: THE BUILDING OFFICIAL SHALL HAVE POWER, AS MAY BE NECESSARY IN THE INTEREST OF PUBLIC HEALTH, SAFETY AND GENERAL WELFARE, TO INTERPRET AND IMPLEMENT THE PROVISIONS OF THIS CODE SO AS TO SECURE THEIR INTENT AND SHALL HAVE POWER TO DESIGNATE REQUIREMENTS APPLICABLE BECAUSE OF LOCAL CLIMATIC OR OTHER CONDITIONS. NO SUCH INTERPRETATIONS SHALL HAVE THE EFFECT OF WAIVING WORKING STRESSORS OR FIRE RESISTIVE REQUIREMENTS SPECIFICALLY PROVIDED IN THIS CODE OR SHALL HAVE THE EFFECT OF VIOLATING ACCEPTED ENGINEERING PRACTICE INVOLVING PUBLIC SAFETY. RULES OR REGULATIONS SHALL BE ADOPTED AS PROVIDED IN SECTION 5.8 BALTIMORE COUNTY CODE, 1978, AS AMENDED, UNDER TITLE 5 "BUILDINGS".

SECTION 111.0 APPLICABILITY FOR PERMIT

111.1 WHEN PERMIT IS REQUIRED: IT SHALL BE UNLAWFUL TO CONSTRUCT, REAR, ALTER, REMOVE OR DEMOLISH A BUILDING OR STRUCTURE, OR CHANGE THE OCCUPANCY OF A BUILDING OR STRUCTURE FROM ONE USE GROUP TO ANOTHER, OR TO CHANGE TO A PROHIBITED USE, OR TO CLOSE UP ANY EXISTING WINDOW OPENING OR EXIT, OR TO INSTALL OR ALTER ANY EQUIPMENT FOR WHICH PROVISION IS MADE OR THE INSTALLATION OF WHICH IS REGULATED BY THIS CODE, OR TO PERFORM ANY EXCA-

-4-

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

J. Robert Haines
Zoning Commissioner

November 22, 1989

Mr. and Mrs. Timothy Frost
1301 McPherson Court
Timonium, Maryland 21093

RE: Case No. C-90-758
1301 McPherson Court
9th Election District

Dear Mr. and Mrs. Frost:

In regards to the above referenced case, a letter was recently sent to the complainants indicating that this matter would be closed. However, after discussing this issue with my supervisor, James Thompson, this case will be re-opened per Section 400.1 of the Baltimore County Zoning Regulations, (copy enclosed). A satellite dish, which constitutes an accessory structure, in a residential zone on a corner lot shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50 percent of such third.

The location of this satellite dish violates Section 400.1 and a variance is required. I will allow you thirty (30) days to either obtain a petition review date or correct the violation by relocating the satellite dish.

Failure to comply by December 26, 1989 will result in the issuance of a citation, wherein, you are subject to a civil penalty of \$200.00 for each violation and each day shall be considered a separate violation.

If you have any questions, please contact me at 887-8092.

Sincerely,

Kevin R. Connor
Kevin R. Connor
Zoning Inspector

KRC:ljls



Dennis F. Rasmussen
County Executive

March 20, 1990

Devonshire Forest Community Association
Lutherville, Maryland 21093

TO WHOM IT MAY CONCERN:

Relating to the matter of the satellite dish, located at the corner of McPherson Court and Othoridge Road, we wish to state our opinion.

Since the dish is located on property adjoining our's, we are most annoyed at its unsightly appearance and proximity to the front of our house!

We feel also, that if this type of dish is permitted to remain at this location and approved by the association, that future one's will also be permitted, creating an unsightly clutter of our well maintained neighborhood.

It is our desire to request immediate removal of this satellite dish.

Thanking you in advance for your attention to this matter, we remain....

Sincerely,

Fletcher R. Anderson, Jr.
Gladys V. Anderson

Fletcher R. Anderson, Jr. Date: March 22, 1990

Gladys V. Anderson Date: March 22, 1990

Witnessed By: Kevin R. Connor

Date: March 22, 1990

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES MAY 11, 1993
BOOKED TWO SEALS 110, 100

Ref #3

Baltimore County
Department of Permits & Licenses
111 West Chesapeake Avenue
Towson, Maryland 21204
(301) 887-3610
Ted Zaleski, Jr.
Director

September 19, 1989



TO WHOM IT MAY CONCERN:

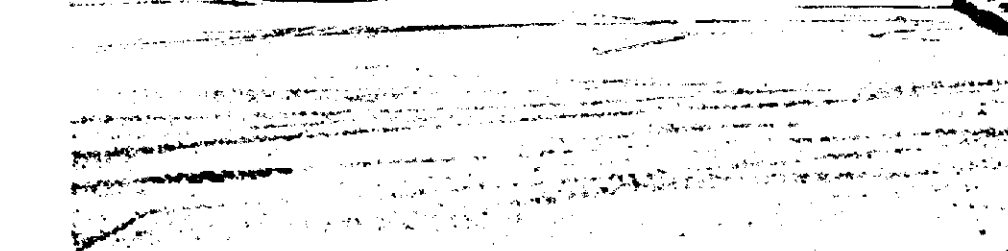
Permits are not required for Satellite Dishes unless they are mounted on a roof and are three feet or more in diameter.

Sincerely,
John R. Reisinger
John R. Reisinger, P.E.
Buildings Engineer

JRR:hml

EX 4

PROTESTANT(S) EXHIBIT (2)



PROTESTANT(S) EXHIBIT (2)



Wiring Requirements:

Finished Basement _____ Regular cable runs ☒
Drop ceiling _____ Fish cable runs _____
Open ceiling _____
House is prewired NO if no central location for wires is LR
Loop thru: ☒
Home run: Bring in thru back wall

Microwave Survey (C) (F) (P) 0 divisions high 0 # of carriers

Special filters: ESP 30 _____ ASP 130 _____
40 _____ M.F.W. trap _____
50 _____

Special equipment: .3P/D Antenna _____
LNA/BDC _____
Filter Ring _____
Guide wire feed kit ☒

Comments:

Back yard location suggested
Customer to plant bushes to reduce view
Blowing off Jim Thompson } Wait 9:45pm (Thurs 4:00pm)
PE Permits and Mr. Reisinger

Special Comments:

Customer has been informed of PE zoning and
has permit requirements.
Ground mount under 15ft tall in rear yard
Requires no zoning or BOCA permits.
Wait 9/19/90 Fri 9:45pm
Customer wants to keep dish on ground to reduce impact
on neighborhood. Thinks that neighborhood would not want
roof location. (Very viewable from rear yard impact on ground with
bushes landscaped)
Wait 9/19/90 Sat 10:45pm

SITE CHECK ANALYSIS

Salesman Wes Butler

Date 8-16-89 WJG
Name: Mr. Timothy Frost
Address: 1301 McPherson Ct. 21093 Phone (H) 321-1392
BAH-Co. Page 27 B-3 (W) 965-2193

ROOF (G) (F) (P) Problems Trees to top 1 Ft. Fruit and tree
Trees to trim 1 Ft. limits not located
Satellite affected by trees: SW (few branches affected)

Type: Flat _____ Slope in degrees 23 Pole length 5 Ft. _____
(check one) Peak X Stories _____
Access to Rafter: Yes ☒ Type of House: Bi-level _____
No _____ Rancher ☒
Rowhouse _____

Ladders required: 6 _____ 16 _____ 40 _____
10 _____ 32 _____ Hook _____

Scaffolding required _____ # of sections _____

Ground (G) (F) (P) Problems Trees to top N/A Ft. _____
Trees to trim N/A Ft. _____
Satellite affected by trees: N/A

Pole required: 7ft. _____ 15ft. _____ Special requirements: _____
10ft. ☒ 18ft. _____ Wall brace _____
13ft. _____ 20ft. _____ Roof brace _____
Cable ties _____
Guy wires _____
Guy anchors _____

Ladders required: 6ft. ☒ 18ft. _____
10ft. _____
Scaffolding required _____ # of sections _____

Trench length (to penetration point of house): 20ft ft. _____

Access to water yes, outside location

Obstacles to Trenching: Driveways _____ Rocks _____
Sidewalk _____ Roots _____

Ditch witch or plow required: NO Hole hog required: NO

PROTESTANT'S
EXHIBIT 1

90-350-A

PETITIONER'S
EXHIBIT 6
90-350A

PETITIONER'S EXHIBIT 5

90-350A

BALTIMORE COUNTY, MARYLAND Office of the Buildings Engineer

JOB LOCATED AT 1301 McPherson Ct
DISTRICT 9 PCT. 8
PERMIT NO. None OTHER None

Notice No. I-001682

CORRECTION NOTICE

I HAVE THIS DAY INSPECTED THIS STRUCTURE AND THESE PREMISES AND HAVE FOUND THE FOLLOWING VIOLATIONS OF THE LAWS OF BALTIMORE COUNTY CODE B.C.C. SEC. 627.1

Permit is required for all satellite dish antennas more than three feet in diameter.

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN DATE 9-22-89 FAILURE TO COMPLY CONSTITUTES A VIOLATION OF COUNTY LAW.

DATE 9-15-89 SIGNED INSPECTOR AC 440

ALL CORRECTIONS COMPLETE AND APPROVED
DATE _____ SIGNED INSPECTOR _____
DO NOT REMOVE THIS TAG

BALTIMORE COUNTY, MARYLAND Office of the Buildings Engineer

JOB LOCATED AT 1301 McPherson Ct
DISTRICT 9 PCT. 8
PERMIT NO. None OTHER None

Notice No. I-001327

CORRECTION NOTICE

I HAVE THIS DAY INSPECTED THIS STRUCTURE AND THESE PREMISES AND HAVE FOUND THE FOLLOWING VIOLATIONS OF THE LAWS OF BALTIMORE COUNTY CODE B.C.C. SEC. 111.10.2

SATELLITE DISH ANTENNA

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN DATE 9-22-89 FAILURE TO COMPLY CONSTITUTES A VIOLATION OF COUNTY LAW.

DATE 9-15-89 SIGNED INSPECTOR D. J. JONES

ALL CORRECTIONS COMPLETE AND APPROVED
DATE _____ SIGNED INSPECTOR _____
DO NOT REMOVE THIS TAG

PETITIONER'S EXHIBIT 2

90-350A

Baltimore County
Department of Permits & Licenses
111 West Chesapeake Avenue
Towson, Maryland 21204
(801) 887-3610
Ted Zaleski, Jr.
Director

September 19, 1989



Dennis P. Rasmussen
County Executive

TO WHOM IT MAY CONCERN:

Permits are not required for Satellite Dishes unless they are mounted on a roof and are three feet or more in diameter.

Sincerely,

John R. Reisinger, P.E.
Buildings Engineer

JRR:ham

PETITIONER'S EXHIBIT 3

90-350A

January 1, 1990

Dear Neighbor,

I recently received a letter from the Baltimore County Zoning Commissioner stating that my satellite dish was in violation of the Baltimore County Zoning Regulations. When I spoke with the employees of the zoning commission, I learned that you had made a formal complaint to them about my installation. When I learned this, I was quite surprised. I thought that I would take this opportunity to share some thoughts with you about the situation.

I share your concerns about our neighborhood, and believe me, I would never have made such a sizeable investment in the dish and the associated equipment in the house if I had not first checked with the county to ensure that the installation would be made in accordance with all applicable building and zoning codes. Although the inspectors from the Office of the Buildings Engineer initially cited me as being in violation, after I pointed out the error of their judgement and referred them to the applicable section of the building code, section 627.1 of the building code, the letter attached, and signed by John R. Reisinger, the county Buildings Engineer, underscored and confirmed what I already knew. Namely that I did not require a building permit for my dish. However, a new situation has occurred for which I need your support.

PETITIONER'S EXHIBIT 4A

90-350A

I have never been to one of these variance hearings, but I was told by an employee in the zoning office that if I brought some neighbors to the hearing, especially those who complained about the dish in the first place, and explained to the zoning commissioner that the concerns of the complainants had been mollified, then the variance would be immediately be granted, and there would be no need to move the dish to the roof of the house.

Sincerely,
Tim Frost

PETITIONER'S EXHIBIT 4B

90-350A

PETITIONER'S EXHIBIT 5

90-350A

SITE CHECK ANALYSIS

Date 8-16-89 Walt
Name Mr. Timothy Frost
Address 1301 McPherson Ct. 21093 Phone (H) 321-1392
B.M.C. Page 27 B-3 (W) 965-2493

ROOF (G) (F) (P) Problems Trees to top 1 Ft. Front yard trees
Trees to trim 1 Ft. Unit's front yard
Satellite Effected by Trees: Slight (exchanges effected)
Type: Flat Slope in degrees 28 Pole length 5 Ft. ✓
(check one) Peak X Stories 7 Ft. ✓

Access to Rafter: Yes ✓ Type of House: Bi-level ✓
No Rancher ✓
Rowhouse

Ladders required: 6 16 40
10 32 Hook
Scaffolding required 0 of sections

Ground (G) (F) (P) Problems Trees to top N/A Ft.
Trees to trim N/A Ft.

Satellite Effected by Trees: N/A
Pole required: 7ft. 15ft. Special requirements:
10ft. ✓ 18ft. Wall brace
13ft. 20ft. Roof brace

Ladders required: 6ft. ✓ 18ft. ✓
10ft. ✓

Scaffolding required 0 of sections
Trench length (to penetration point of house): 20 ft.

Access to water yes, outside location
Obstacles to Trenching: Driveways ✓ Rocks ✓
Sidewalk ✓ Roots ✓

Ditch witch or plow required: No Hole hog required: No

PETITIONER'S EXHIBIT 6

90-350A

ty for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the evidence and testimony in this case that Petitioners moved forward with the construction of the subject satellite dish in good faith, believing that they had met the requirements of the B.C.Z.R. for the placement of such a dish in a residential zone. However, it is equally clear that regardless of Petitioners good intentions, the current location of the dish is in violation of the B.C.Z.R. The Petitioners' dish, being an accessory structure pursuant to Section 429.1, is permitted in all zones, and Section 429.2 would permit the dish in a residential rear yard. However, the Petitioners' lot is a corner lot, and Section 400.1 requires the dish to "be located only in the 1/3 of the lot farthest removed from any street . . .". It is clear, upon examining the exhibits, that Petitioners have not properly located the dish in the rear yard. However, in view of Petitioners' offer to move the dish to the roof and Mr. Frazier's reassurance that the relocation could be accomplished without any cost to Petitioners, relocating the dish on Petitioners' roof would appear to be an equitable solution. Section 429.1 permits satellite dishes on the roofs of buildings as a matter of right. This course of action will eliminate the need to variance the B.C.Z.R. and will entirely remove the dish from Petition-

ers' yard. Although the esthetic issues generated by placing a 15 foot high satellite dish on one's roof, in a residential zone, is certainly debatable, the Zoning Commissioner is without authority to prohibit same. Section 429.1, of the B.C.Z.R., aforementioned, is abundantly clear on this point. The B.C.Z.R. does not allow the Zoning Commissioner to create a level of desirability in these cases. The matter is one controlled by regulations and not community wishes.

Therefore, after due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would not result if the variance was denied. The Petitioners may, at no cost to themselves, relocate the subject satellite dish on their roof where it is permitted as of right, pursuant to the B.C.Z.R. Consequently, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variance was denied. The testimony presented by the Petitioner was in support of a matter of a preference rather than of the necessity for the variance. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 5th day of April, 1990 that a Petition for a Zoning Variance to permit placement of a satellite dish antenna in a position on the lot which is in the rear yard, but not within the third of the rear yard far-

thest removed from any street, as indicated on Petitioners' Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED, that the subject satellite dish shall be removed or relocated on or before June 30, 1990.

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

JRH/mnn
cc: Peoples Counsel

#201
PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY 90-350-A
The undersigned, legal owner(s) of the property situated in Baltimore County, and described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.1 TO PERMIT PLACEMENT OF A SATELLITE DISH ANTENNA IN A POSITION IN THE LOT, WHICH IS IN THE REAR YARD BUT NOT WITHIN THE THIRD OF THE LOT, FARTHEST FROM ANY STREET.
of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

SEE ATTACHED

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

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

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

Contract Purchaser: Legal Owner(s):
(Type or Print Name) MR. TIMOTHY W. FROST
Signature J. Robert Haines
Address 1301 McPHERSON CT. N. 341-1222
City and State LUTHERVILLE, MD. 21093
Attorney for Petitioner: 945-2193
(Type or Print Name) Address Phone No.
Signature LUTHERVILLE, MD. 21093
City and State
Address Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State Name
Attorney's Telephone No. Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of March, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 105, County Office Building in Towson, Baltimore County, on the 14th day of March, 1990, at 9:30 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County
(over)
Filed on 12/17/89 JRD
any day but Wed.
1st day Jan.
Please schedule in AM as early as possible

ORDER RECEIVED FOR FILING
Date 4/1/90
By J. Robert Haines

ORDER RECEIVED FOR FILING
Date 4/1/90
By J. Robert Haines

ORDER RECEIVED FOR FILING
Date 4/1/90
By J. Robert Haines

#201
Moving the satellite dish antenna from its present location to one which is in conformance with section 400.1, B.C.Z.R. would constitute undue hardship for the following reasons:
1. I would be unable to secure a reasonable return or make reasonable use of my property because the satellite dish antenna would not function completely if it was placed in the permitted third of the lot. Only 2 of the available 18 satellites are visible from the permitted area and placement in that area would render the satellite dish antenna functionally useless.
2. The difficulties with the placement of the satellite dish antenna are peculiar to the subject property. This is due to the fact that the existing dwelling on the subject property and trees located on other lots on the north side of Othoridge Road to the west of the subject property block the view to the south and the southwest necessary for the proper operation of the satellite dish antenna.
3. This hardship is not the result of the applicant's own actions since all trees and dwellings existed prior to the installation of the satellite dish antenna and, in fact, were the causative factors in the selection of the installation site.
Granting of the requested variance will not result in an increase in residential density beyond that allowed by the Zoning Regulations. The present installation follows all current Zoning Regulations and Guidelines pertaining to the installation and placement of satellite dish antennas except for Section 400.1 in strict harmony with the spirit and intent of height, area and all other regulations. From the beginning of this installation, special care was taken to ensure that all B.O.C.A. building code and B.C.Z.R. guidelines were followed. Granting of the requested variance will grant relief without any injury to public health, safety and general welfare.

201
ZONING DESCRIPTION 90-350-A
Beginning at a point on the east side of McPherson Court which is 30 feet wide at the distance of 126 feet north of the centerline of the nearest improved intersecting street Ot. ridge Road which is 36 feet wide. Being Lot #3, Block E, Section #2 in the subdivision of Devonshire Forest as recorded in Baltimore County Plat Book #28, Folio #132, containing 7,314 square feet. Also known as 1301 McPherson Court and located in the #9 Election District.

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

J. Robert Haines
Zoning Commissioner

March 7, 1990

Mr. & Mrs. Timothy W. Frost
1301 McPherson Court
Lutherville, MD 21093

RE: Item No. 201, Case No. 90-350-A
Petitioner: Timothy W. Frost, et ux
Petition for Zoning Variance

Dear Mr. & Mrs. Frost:

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 WNIARSKI. 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

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

J. Robert Haines
Zoning Commissioner

Your petition has been received and accepted for filing this 10th day of January, 1999.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

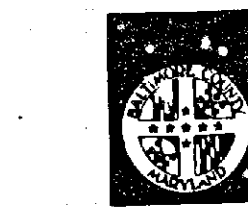
James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Timothy W. Frost

Petitioner's Attorney:

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

January 11, 1990



Dennis F. Rasmussen
County Executive

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 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 210 and 212.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan,
Traffic Engineer Assoc. II

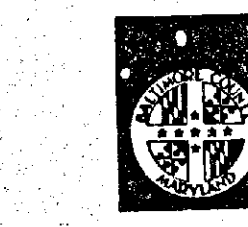
MSF/lab

RECEIVED
JAN 11 1990

ZONING OFFICE

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3553

May 22, 1990



Dennis F. Rasmussen
County Executive

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

RE: Petition for Zoning Variance
NE/corner McPherson Court and Othoridge Road
(1301 McPherson Court)
9th Election District, 4th Councilmanic District
TIMOTHY W. FROST, ET AL - Petitioner
Case No. 90-350-A

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 27, 1990 by Timothy W. Frost, 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: Mr. & Mrs. Timothy Frost, 1301 McPherson Court, Timonium, MD 21093

Mr. Walter R. Frazier, 1013 Robe Farm Lane, Baltimore, MD 21220

Mr. & Mrs. Dale Rauschenberg (Representatives for protestants)
29 Othoridge Road, Timonium, MD 21093

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

File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: January 18, 1990
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Timothy W. Frost, Item 201

The Petitioner requests a Variance to permit a satellite dish antenna in the rear yard outside the third farthest from any street.

In reference to the Petitioner's request, staff offers no comment.

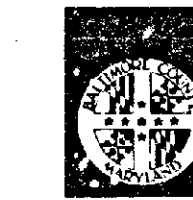
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

JAN 19 1990

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500
Paul H. Reincke
Chief

JANUARY 11, 1990



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: TIMOTHY W. FROST
Location: NE CORNER OF MCPHERSON COURT
Item No.: 201 Zoning Agenda: JANUARY 9, 1990

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.

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

REVIEWER: *Pat Keller* 1/11/90 Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

JAN 18 1990

APPEAL

Petition for Zoning Variance
NE/corner McPherson Court and Othoridge Road
(1301 McPherson Court)
9th Election District - 4th Councilmanic District
TIMOTHY W. FROST, ET AL - Petitioner
Case No. 90-350-A

Petition for Zoning Variance

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. Plat for Zoning Variance
2. Copy of Correction Notice
3. Copy of letter from Building Engineer
4A. & 4B. Letter from Tim Frost to Neighbors
5. Yellow Sheet (Unknown correspondence)
6. Site Check Analysis

Protestant's Exhibits: 1. Drawing of dish location
2. Six (6) photographs of dish

Zoning Commissioner's Order dated April 5, 1990

Notice of Appeal received April 27, 1990 from Timothy W. Frost, Petitioner

cc: Mr. & Mrs. Timothy Frost, 1301 McPherson Court, Timonium, MD 21093

Mr. Walter R. Frazier, 1013 Robe Farm Lane, Baltimore, MD 21220

Mr. & Mrs. Dale Rauschenberg (Representatives for protestants)
29 Othoridge Road, Timonium, MD 21093

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

Baltimore County
Zoning Commissioner
County Office Building
117 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150

Number

receipt

Ne 2320

Date

Appeal 90-350-A

4/27/90

A9000054

APPEAL FEES

QTY

PRICE

140 -OF ALL OTHER ORDERS 1 X \$125.00

150 -POSTING SIGNS / ADVERTISING 1 X \$25.00

TOTAL: \$150.00

LAST NAME OF OWNER: FROST

0 093*****1500016 2304F

Please make checks payable to: Baltimore County

Counter Validation

J. Robert Haines
Zoning Commissioner
Baltimore County

Dear Sir,

In reference to your decision in case number 90-350A, request for variance from B.C.Z.R. section 400.1 for the placement of a satellite dish antenna in the rear yard of my lot, but outside of the 1/3 of the lot which is farthest from both streets, I wish to notify you that I intend to appeal your decision to the County Board of Appeals of Baltimore County. Since two of my witnesses will be out of town during July and August, request that this hearing not be scheduled before September, 1990.

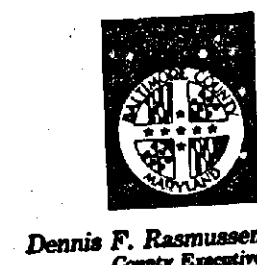
Very truly yours,

Timothy W. Frost
Timothy W. Frost, Petitioner
1301 McPherson Court
Lutherville, MD 21093
(301) 321-1392

RECEIVED
4-27-90
ZONING OFFICE

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

April 3, 1990



Mr. and Mrs. Timothy W. Frost
1301 McPherson Court
Lutherville, Maryland 21093

RE: Petition for Zoning Variance
Case #90-350-A

Dear Mr. and Mrs. Frost:

Enclosed please find the decision rendered on the above captioned case. The Petition for Zoning Variance has been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

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

JRH:mmm
att.
cc: Peoples Counsel

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

January 29, 1990

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

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: 90-350-A
McPherson Court and Othoridge Road
1301 McPherson Court
9th Election District - 4th Councilmanic
Petitioner(s): Timothy W. Frost, et ux
HEARING: WEDNESDAY, MARCH 14, 1990 at 9:30 a.m.

Variance: To permit placement of a satellite dish antenna in a position in the lot which is in the rear yard but within the three (3) feet of the lot line.

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 Haines
J. Robert Haines
Zoning Commissioner
BALTIMORE COUNTY, MARYLAND

cc: Mr. & Mrs. Frost
Dale Rosenberg
Jay Esser
John Trueschler

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 21204 as follows:

Petition for Zoning Variance
CASE NUMBER: 90-350-A
McPherson Court and Othoridge Road
1301 McPherson Court
9th Election District - 4th Councilmanic
Petitioner(s): Timothy W. Frost, et ux
HEARING: WEDNESDAY, MARCH 14, 1990 at 9:30 a.m.

Variance: To permit placement of a satellite dish antenna in a position in the lot which is in the rear yard but within the three (3) feet of the lot line.

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.)

CERTIFICATE OF PUBLICATION

TOWSON, MD., February 15, 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 Feb 15, 1990.

THE JEFFERSONIAN,

S. Zabe Olson

Publisher

CERTIFICATE OF POSTING

90-350-A
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District: 9th
Posted for: Variance
Petitioner: Timothy W. Frost, et ux
Location of property: McPherson Court and Othoridge Road
1301 McPherson Court
Location of Sign: In front of 1301 McPherson Court
Remarks:
Posted by: J. Robert Haines
Number of Signs: 1
Date of Posting: February 20, 1990
Date of return: February 23, 1990

Baltimore County
Zoning Commissioner
County Office Building
211 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001-4150

Number: 1708

90-350

Date: 3/14/90

#19000545

PUBLIC HEARING FEES	QTY	PRICE
080 - POSTING SIGNS / ADVERTISING 1 X		\$101.24
TOTAL:		\$101.24

LAST NAME OF OWNER: FROST

B 8014*****10124:4 3146F
Please make checks payable to: Baltimore County

Cashier Validation:

ZONING ENFORCEMENT

Baltimore County
Zoning Office
Towson, Maryland 21204

90-350-A

INTER-OFFICE CORRESPONDENCE

TO: James E. Dyer
Zoning Supervisor
DATE: December 19, 1989

FROM: James H. Thompson
Zoning Enforcement Coordinator

RE: Item No. 201 (if known)
Petitioner: Frost (if known)

VIOLATION CASE # C-90-758

LOCATION OF VIOLATION 1301 MacPherson Court

DEFENDANT Timothy and Rosalie L. Frost

ADDRESS 1301 MacPherson Court Timonium, MD 21093

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME	ADDRESS
Dale Rosenberg	29 Orthoridge Road Timonium, MD 21093
Jay Esser	21 Orthoridge Road Timonium, MD 21092
John Trueschler	39 Orthoridge Road Timonium, MD 21093

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

ech/

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
111 W. Chesapeake Ave., Rm. 109
Towson, MD. 21204

RE: Variance for Satellite Dish
Case Number: 90-350-A

Dear Mr. Haines:

I wish to offer my support for Mr. Frost's variance request. Although I was one of the complainants, I have since looked more carefully at alternative locations.

The rear yard is typically the only appropriate place for such a structure because of the severe visual impact it has when situated in the side or front yards. And the very idea of being able to mount a satellite dish on a roof as matter of right is unbelievable since it would create an even greater eye-sore. I suggest Baltimore County re-evaluate that portion of its zoning law.

In any case, Mr. Frost is faced with the choice of mounting the dish on the roof or leaving it in the side yard. Because the rear yard is so shallow, placing the dish there: (1) greatly impacts the aesthetics of the neighborhood, Mr. Frost had little choice in its location and attempted to minimize its impact by purchasing one which is black. To mitigate the visual impact, I suggest that Mr. Frost be required to plant four 4'-5" tall white pines or norway spruces. If such a buffer is made part of the order, I would support the variance whole heartedly.

Before concluding, let me say that I am a registered landscape architect and have testified as expert in matters of zoning and site development before the Baltimore County Zoning Commissioner. Although the location of the satellite dish certainly is detrimental to the aesthetics of the neighborhood, Mr. Frost had little choice in its location and attempted to minimize its impact by purchasing one which is black. To mitigate the visual impact, I suggest that Mr. Frost be required to plant four 4'-5" tall white pines or norway spruces. If such a buffer is made part of the order, I would support the variance whole heartedly.

Sincerely,
John G. Trueschler
John G. Trueschler

cc: Mr. Timothy Frost

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

DATE



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Timothy W. Frost
1301 McPherson Court
Lutherville, Maryland 21093

Re: Petition for Zoning Variance
CASE NUMBER: 90-350-A
McPherson Court and Othoridge Road
1301 McPherson Court
9th Election District - 4th Councilmanic
Petitioner(s): Timothy W. Frost, et ux
HEARING: WEDNESDAY, MARCH 14, 1990 at 9:30 a.m.

Dear Mr. & Mrs. Frost:

Please be advised that \$101.24 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.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

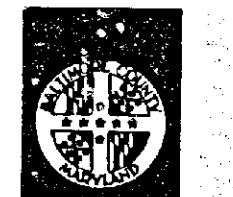
Very truly yours,

J. Robert Haines
J. Robert Haines
ZONING COMMISSIONER

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.)

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

April 17, 1990



Dennis F. Rasmussen
County Executive

Mr. Timothy W. Frost
1301 McPherson Court
Lutherville, Maryland 21093

RE: Petition for Zoning Variance
Case #90-350-A
Motion for Reconsideration

Dear Mr. Frost:

Regarding your correspondence dated April 14, 1990, please be advised that I will not reconsider the decision that was rendered in my Order dated April 5, 1990 regarding the above captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

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

JRH:mmm

RECEIVED
APR 16 1990
ZONING OFFICE

April 14, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
111 W. Chesapeake Ave., Room 109
Towson, MD 21204

RE: Motion for reconsideration of request for variance in the matter of case number 90-350A.

Dear Mr. Haines,

I wish to apply for reconsideration of my request for a variance in the placement of my satellite dish antenna in the above named case. There are a number of points which were brought up at the hearing on March 14, 1990, which you did not mention in your findings that I wish to emphasize and clarify.

1. Both I and my expert witness, Mr. Walter Frazier, stated that if I am not granted the requested variance I will be required to move the dish to the roof of my house if I wish to keep the dish. Further, Mr. Frazier stated that if the dish were moved to the roof of the house, I would have to remove the only tree on my lot to allow the dish to function at an acceptable level of operation. Removal of the tree and placement of the dish on the roof of the house would, indeed, constitute a practical difficulty for me for the following reasons:

a. The cost of removing the tree from my front yard is not covered in the contract stipulation which I made with the installer of the dish, Stansbury Satellite Inc., who Mr. Frazier represents. It will cost me an additional \$1,000.00 to have the tree cut down and removed. In addition, removal of the tree will result in an increase in air conditioning costs during the summer because the tree in question is located on the southwest corner of my property and provides the only shade on my house from the summer sun.

b. Certain routine maintenance needs to be performed on the dish during the course of the year. With the dish on the ground, I will be able to perform this maintenance myself, without danger. However, if the dish is placed on the roof of the house, such maintenance will be too hazardous for me to perform, and I will have to pay someone approximately \$200-\$500 per year for such services.

c. When snow builds up on the dish, the reception on all frequencies is reduced to an unacceptable level. With the dish on the ground, I can easily remove any buildup of snow or ice. If the dish is moved to the roof, after a period of snow, and until the snow melts off by itself, it will be impossible for me to remove such a buildup. Based on the past few winters, I would estimate that the total period of operational outage to be approximately 45 to 60 days per year.

For the above reasons, I believe that I have proved practical difficulty for an area variance as outlined in McLean v. Soley, 270 MD. 208 (1973), to wit:

a. Strict compliance with requirement would unreasonably prevent the use of the property for a permitted use or render conformance unnecessarily burdensome. This is proven by the additional cost which I would incur in the removal of the tree, the additional air conditioning costs, and the additional cost of professional maintenance to the dish if it were moved to the roof of my house. This falls into the category of being unnecessarily burdensome.

b. The grant of this variance would not do substantial injustice to either the applicant or other property owners in the district. On the contrary, failure to grant the variance will worsen the existing conditions by making it impossible for the petitioner to address the aesthetic concerns of the protestors if the dish were moved to the roof.

c. Relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. At no time during the hearing on March 14, 1990, did any of the protestors indicate that granting of this request would fail to observe the spirit of the ordinance or injure the public safety or welfare.

2. It is my understanding from reading your decision in my case, that you rejected my initial request for variance because I can place the dish on the roof as a matter of right. In your view, I have, therefore, failed to prove practical difficulty necessary to obtain the variance I requested. Since it is always possible to place a satellite dish antenna on the roof of any building as a matter of right, then, according to your logic, no one would ever be granted a variance because no one could ever possibly demonstrate the practical difficulty necessary. Your interpretation of this point of law thereby renders section 307.1 B.C.Z.R. void.

I believe that the conditions outlined above constitute a practical difficulty as defined in section 307.1 B.C.Z.R., which should be used to grant the variance which I originally requested. All of the objections which were made by the protestors at my original hearing were made on the basis of the aesthetics of the installation. Your decision to deny my variance will only exacerbate the problem of aesthetics since placement of the dish on the roof of my home will make it impossible to reduce the visual impact of the dish on the neighborhood. Granting of this motion for reconsideration will be in the best interests of both the original protestors and my own needs.

Since the last date on which I can file an appeal of your decision to the County Board of Appeals is May 4, 1990, I request that you respond to this motion so that, if it is denied, I will be able to file an appeal in a timely manner.

Sincerely,

Timothy W. Frost
Timothy W. Frost
1301 McPherson Court
Lutherville, MD 21093-5508

Answered -
12/03/90

Received from the Office of the Zoning Commissioner -

11 photographs not entered or marked as exhibits before the Zoning Commissioner's file and therefore not forwarded to the Board with same on appeal.

Received by the Board of Appeals 12/03/90.

Charles H. Badelger *Kathleen C. Lusk*
Zoning Commissioner's Office Board of Appeals

Timothy Frost 90-350-A

Korke

F C B

90-350A

PLEASE PRINT CLEARLY

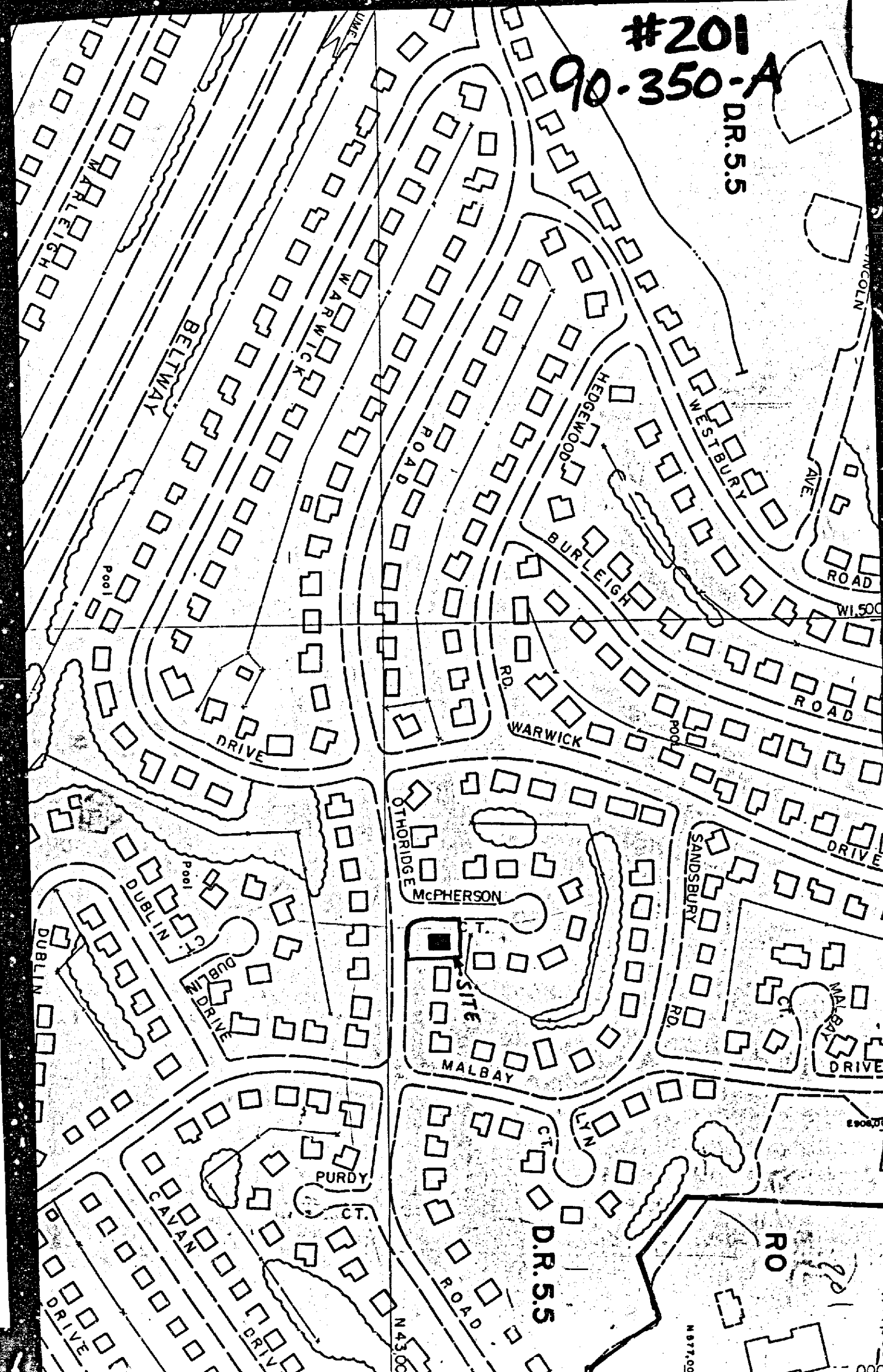
PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Cora Ann M. Frost
Timothy W. Frost
Rosalie L. Frost
Walter K. Frazier

1301 McPherson Court
1301 McPherson Court
1301 McPherson Court
1013 Rock Farm Ln. 21210



90-350A

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Florence Boyer
John Williams
Charles Engel
John J. Breen
Henry Rauschenberg
John Rauschenberg
George A. Fennel

1303 McPherson Ct - Lutherville
1322 Malbay Dr - Lutherville
1321A Malbay Dr - Lutherville
31 Otteridge Rd 21093
29 Otteridge Rd 21093
29 Otteridge Rd 21093
28 Otteridge Rd 21093

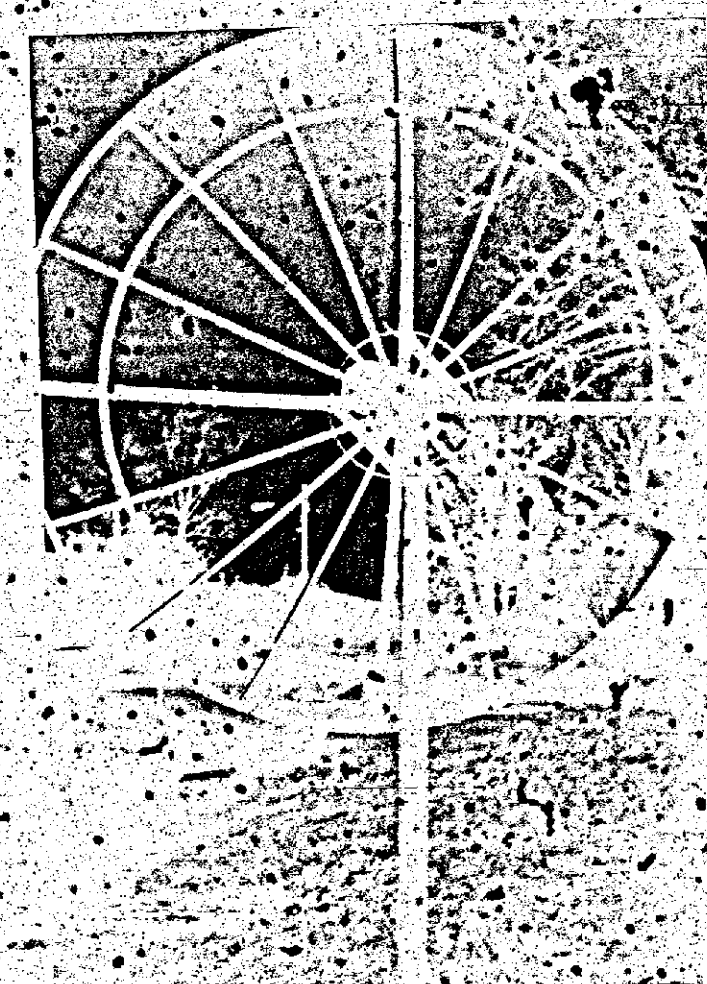
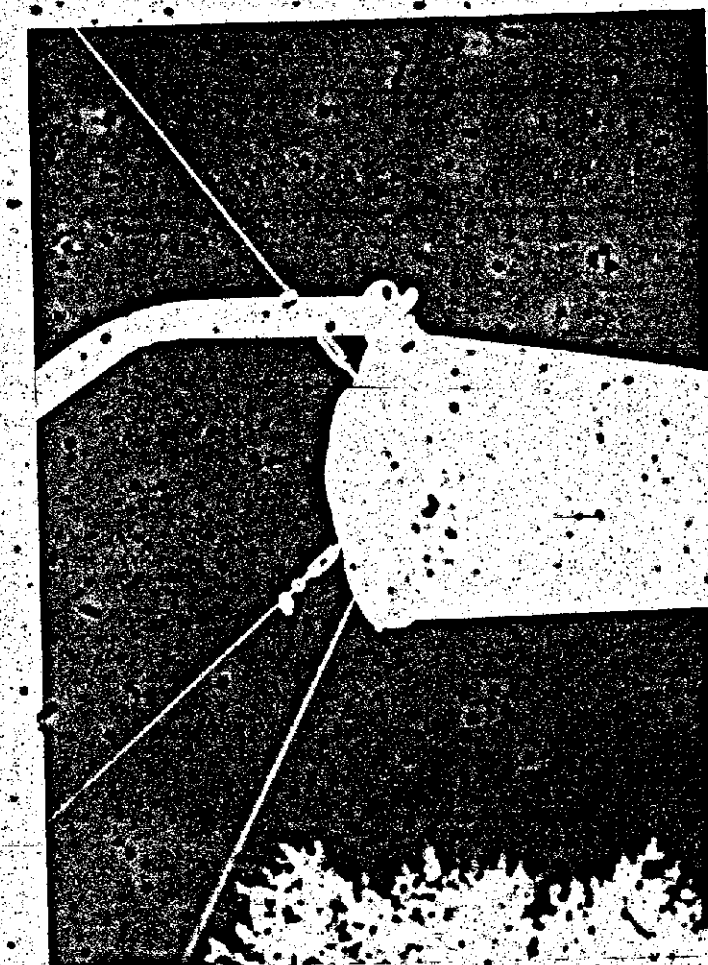
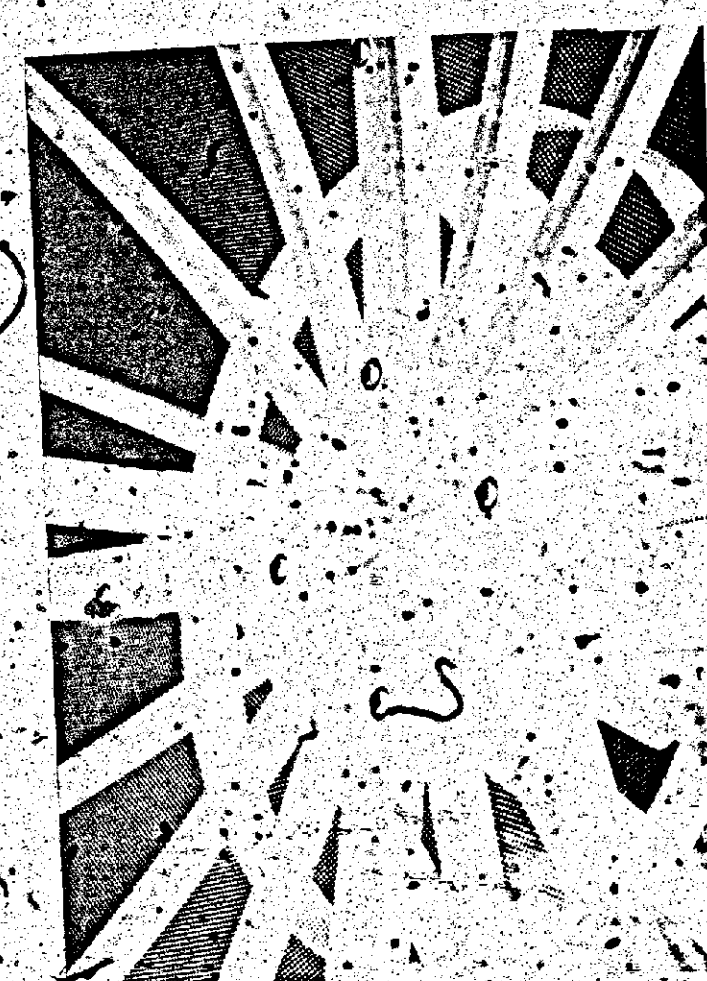
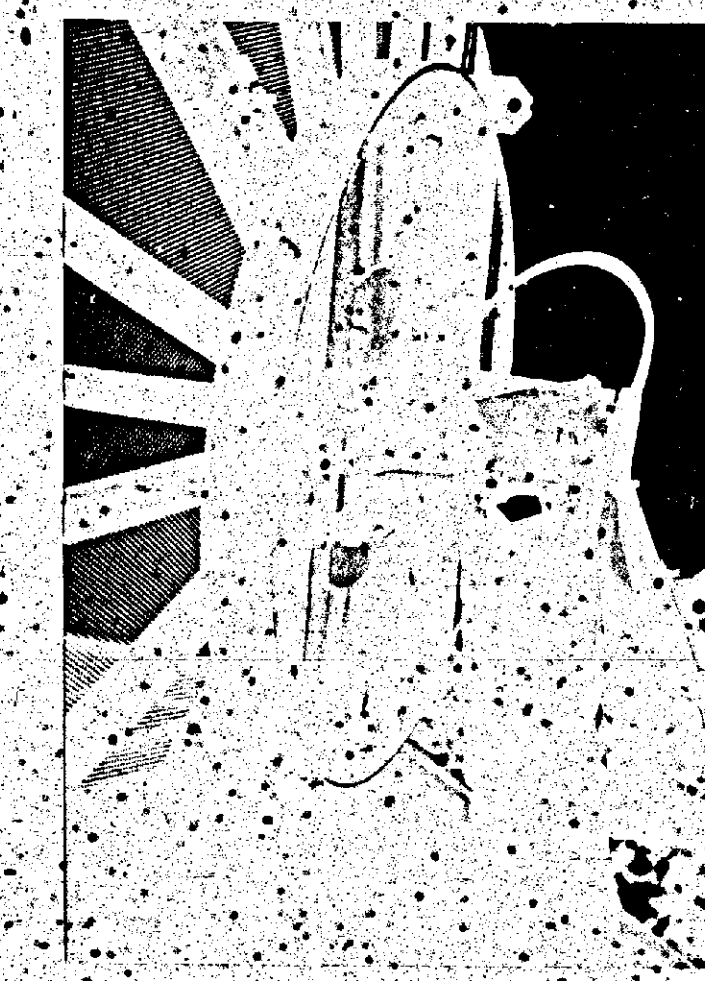
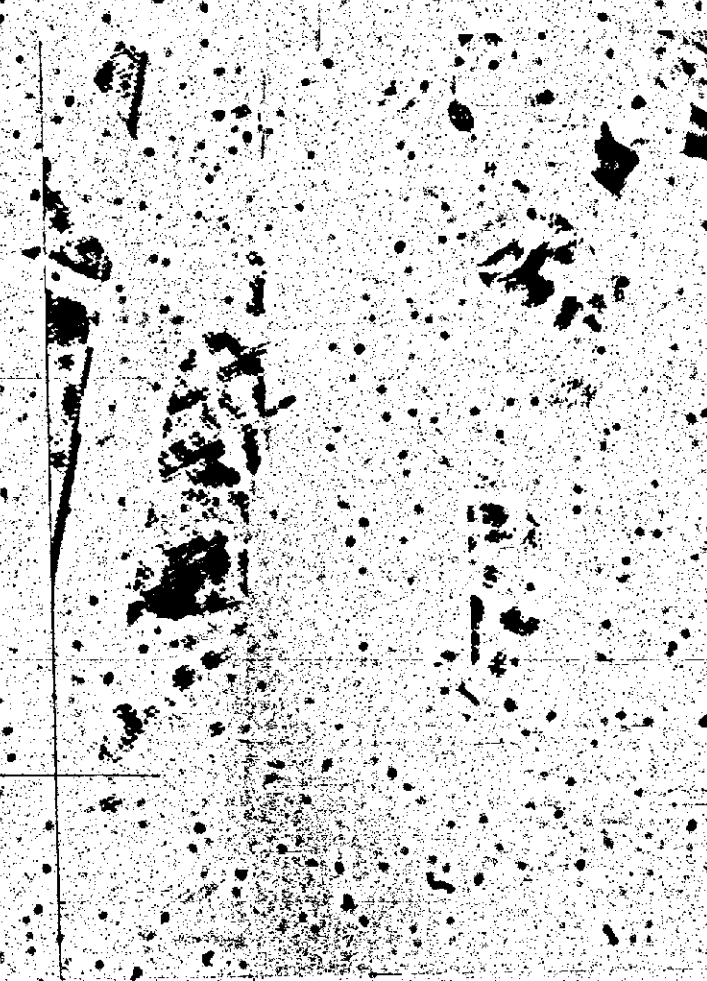
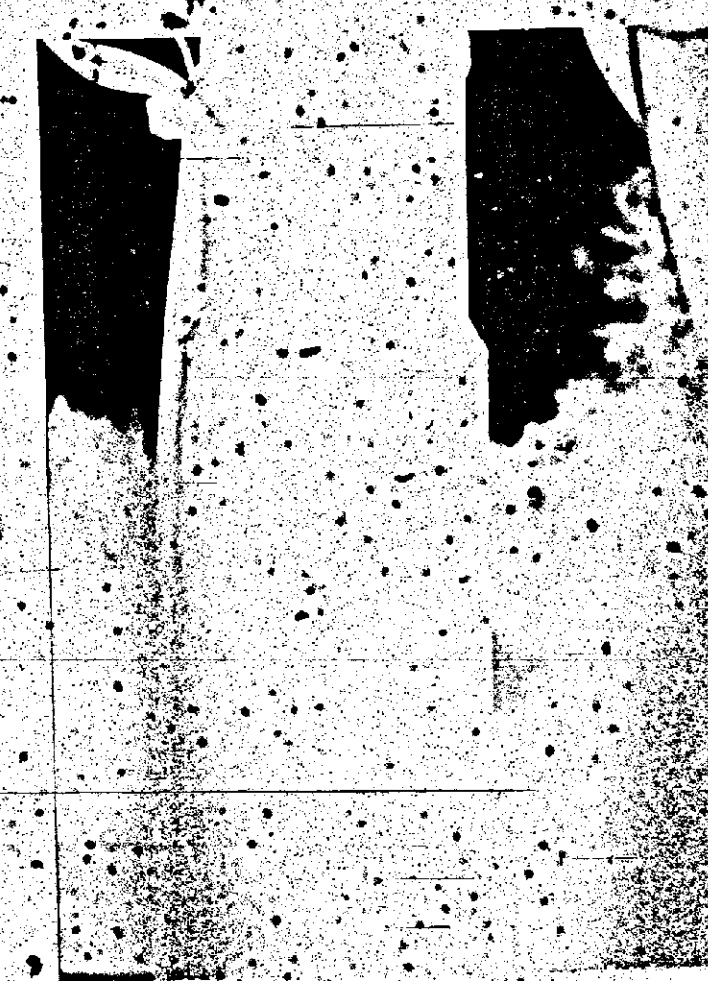
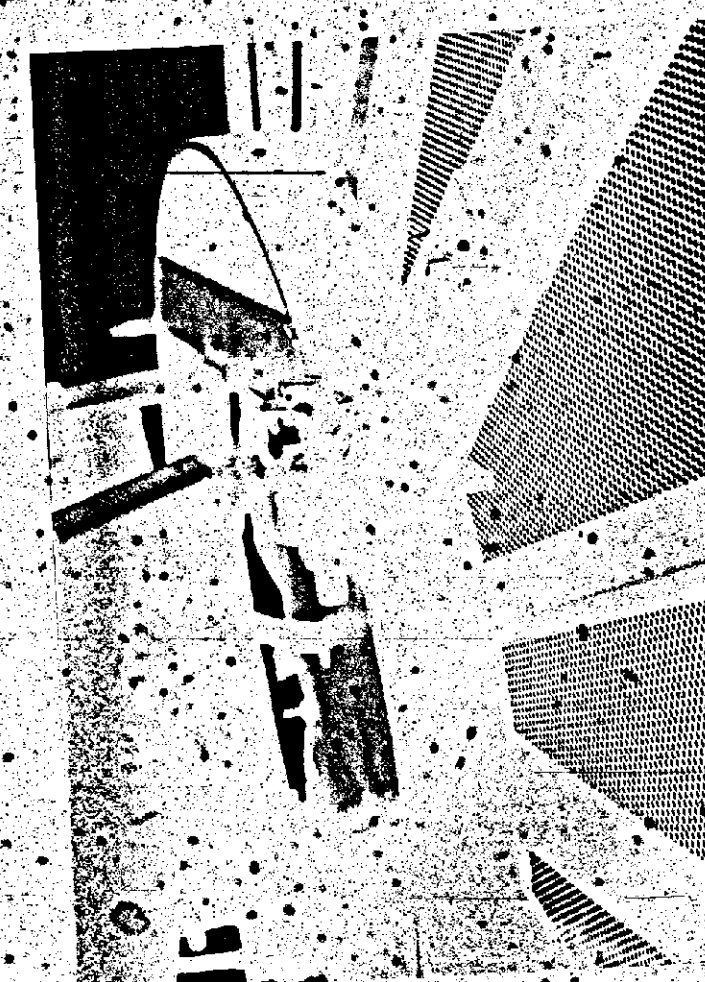
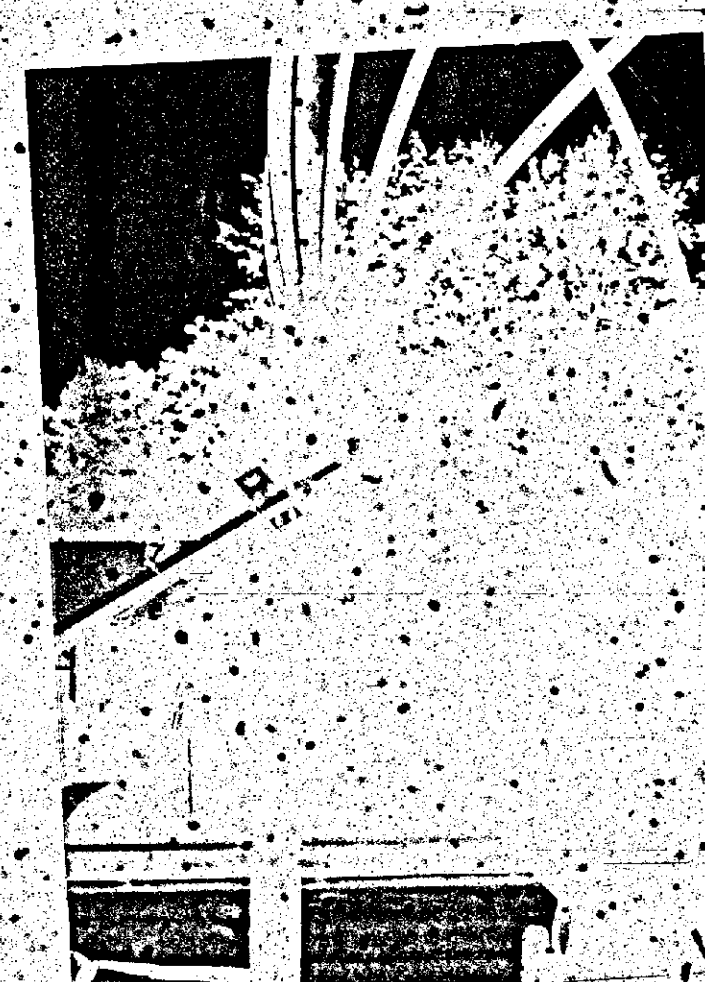
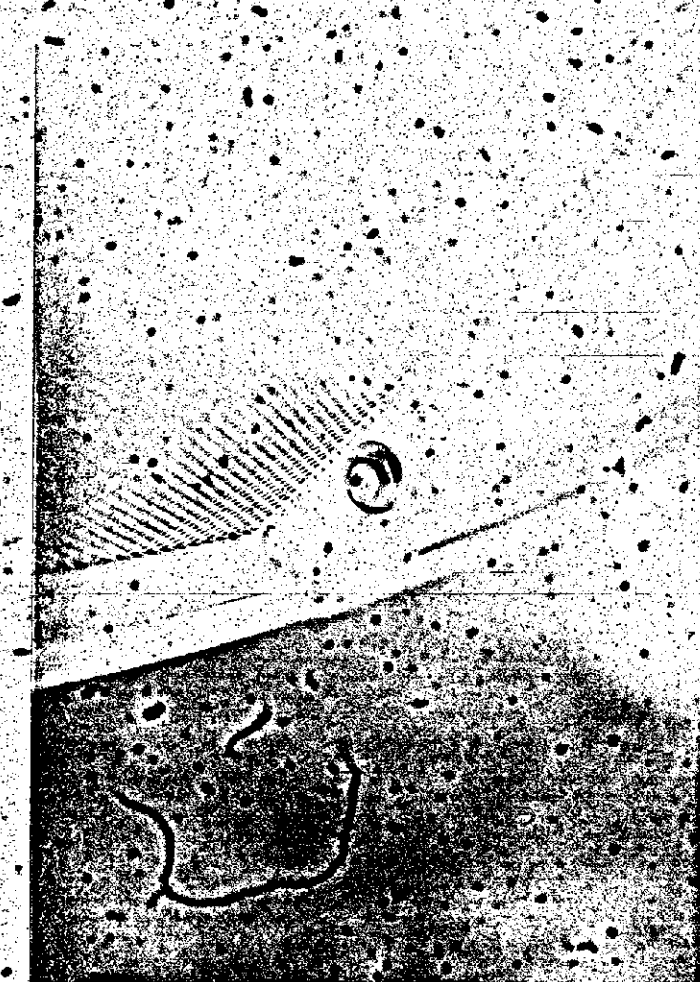
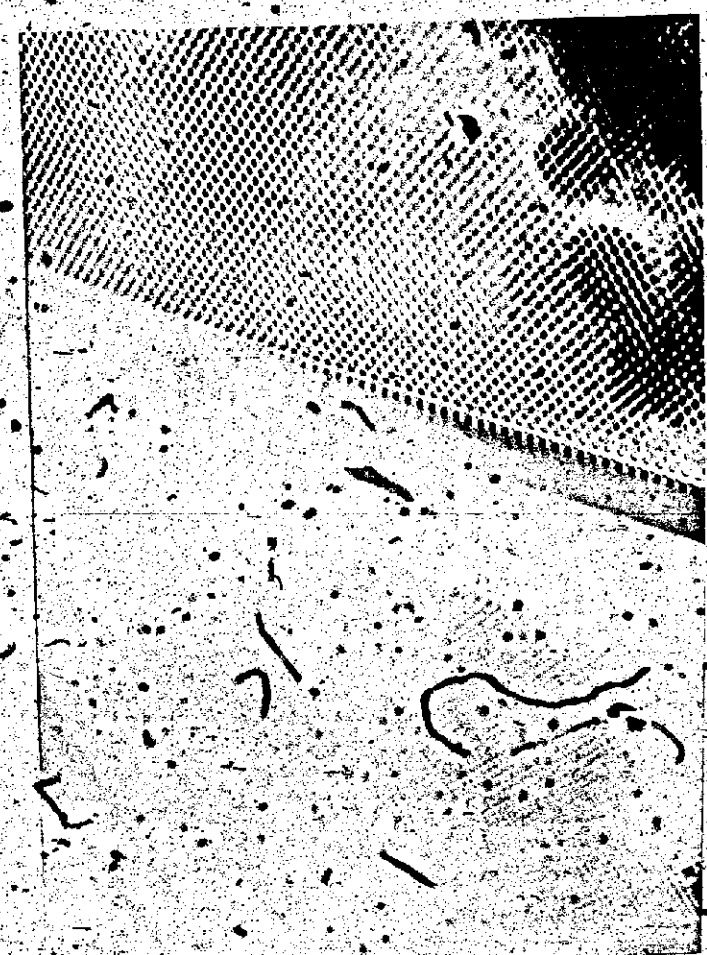
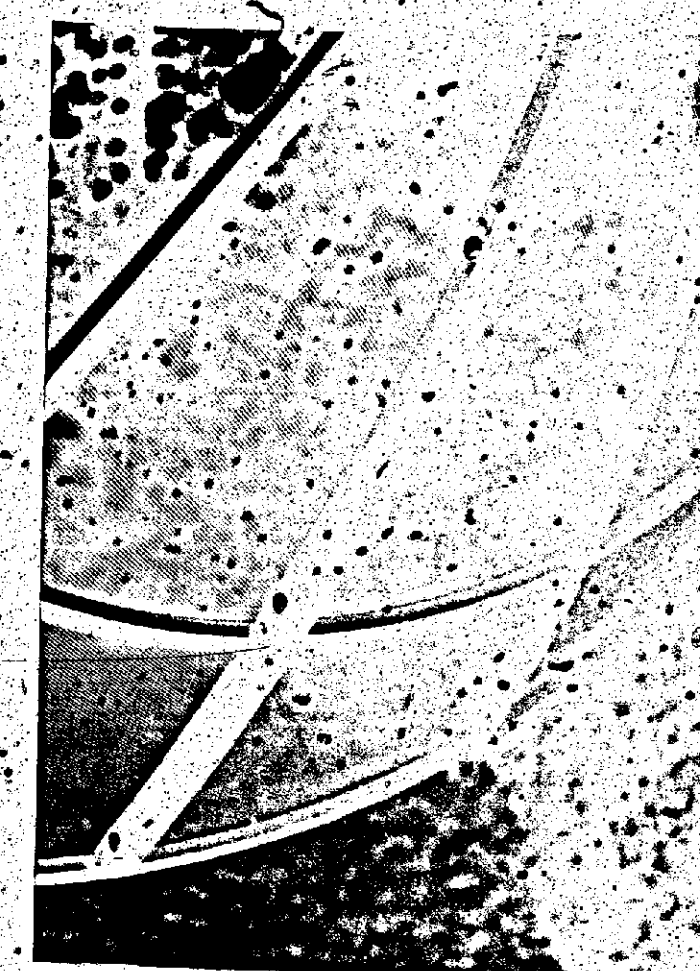
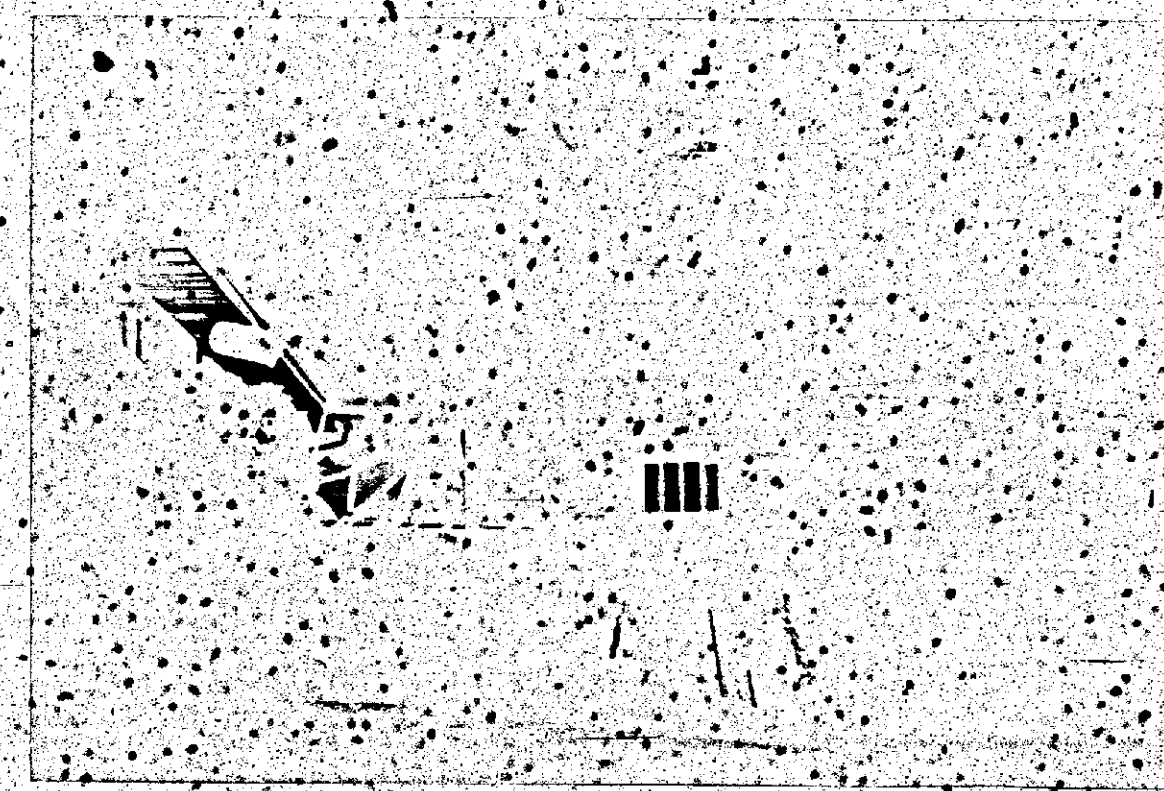
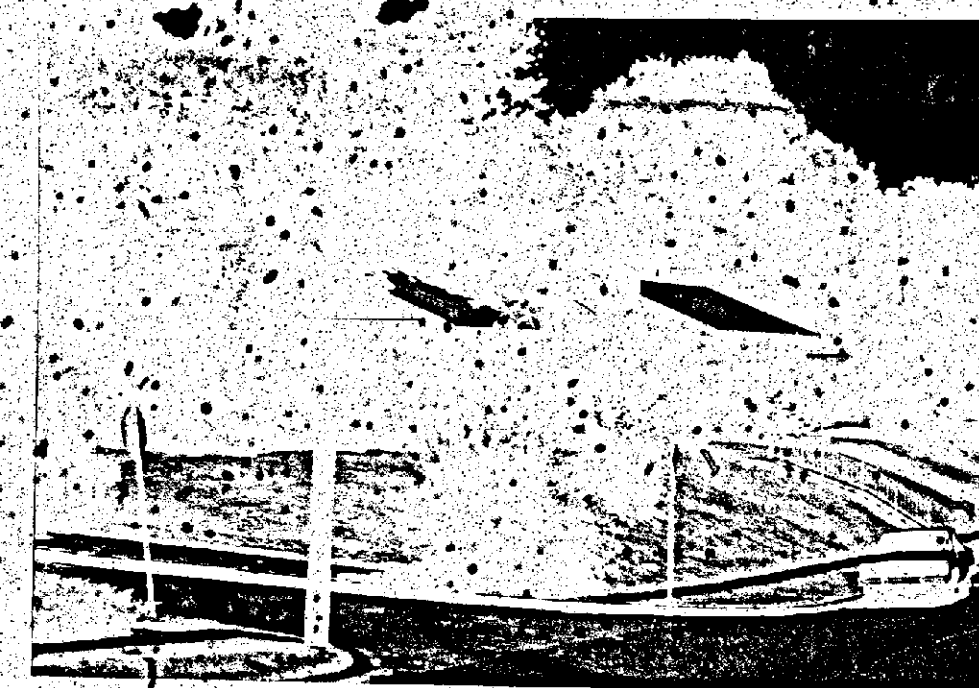
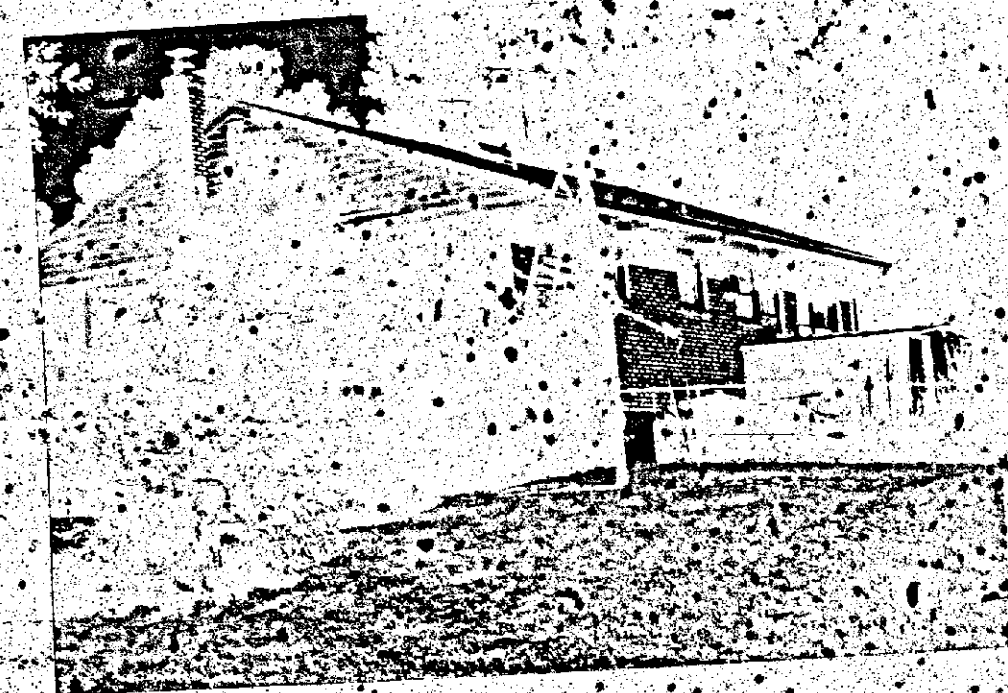
Stephen J. Badelger, Pres.

Richard Hills Comm. Assoc. Sec.
4115 McPherson Road - Lutherville, Md 21093

1/31 90-291

Dr. Arlene Bowes
Lutherville Com. Assoc.
1603 Francke Ave
Lutherville 21093

send copy of order



Baltimore County Zoning Commission
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
No. 764

Date: 12/19/89
119006261

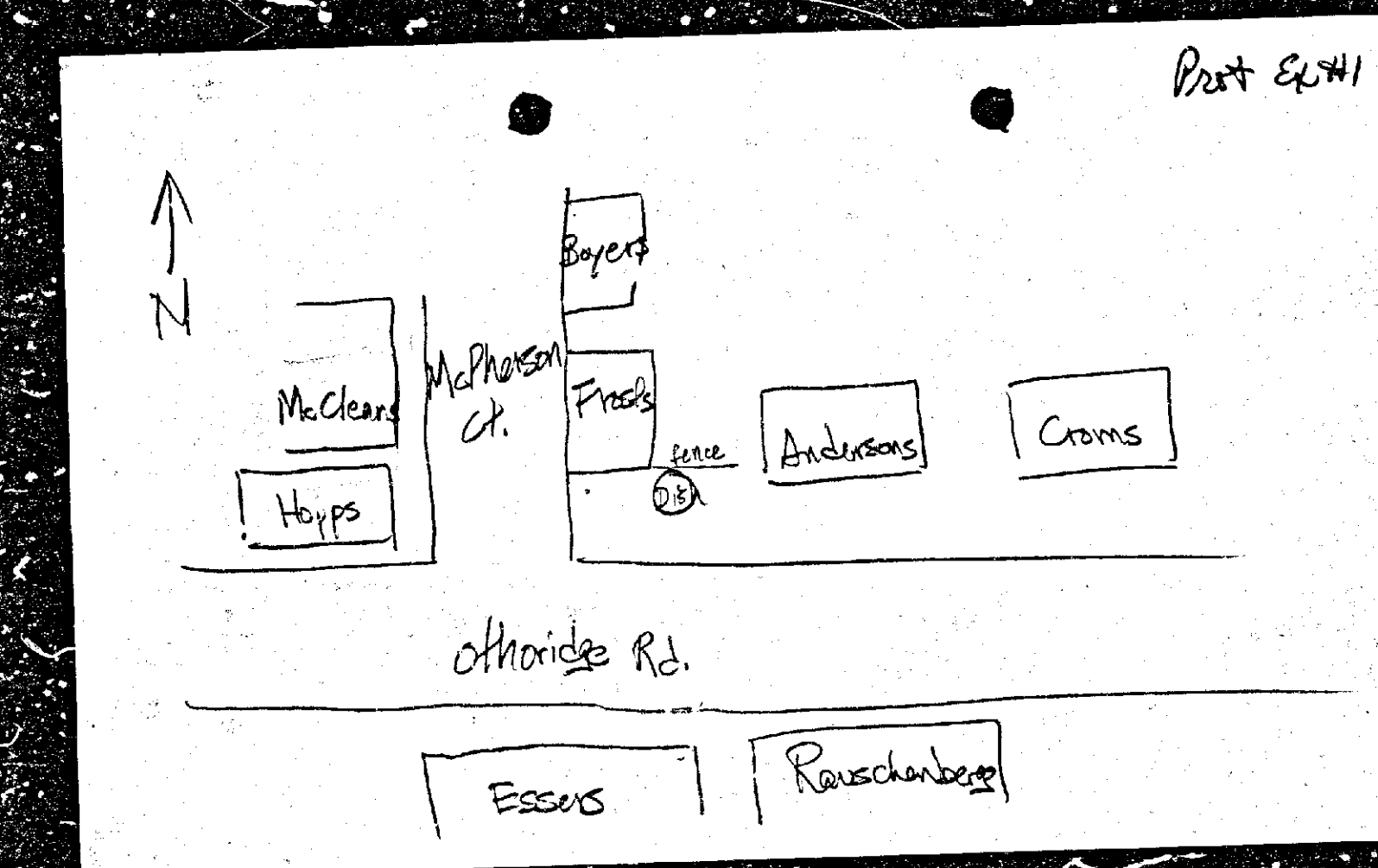
12/19/89

PUBLIC HEARING FEES QTY PRICE
010 - ZONING VARIANCE (1RL) 1 \$25.00
TOTAL: \$25.00

LAST NAME OF OWNER: FROST

072*****350018 21987

Cashier Validation: Please make checks payable to: Baltimore County



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180
January 8, 1991

Mr. and Mrs. Timothy Frost
1301 McPherson Court
Timonium, Maryland 21093

Re: Case No. 90-350-A (Timothy W. Frost, et al)

Dear Mr and Mrs. Frost:

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,
Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. and Mrs. Walter Frazier
Mr. and Mrs. Dale Rauschenberg
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

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 20, 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. 90-350-A

TIMOTHY W. FROST, ET AL
NE/cor McPherson Ct. & Othoridge Rd.
(1301 McPherson Court)
9th Election District
4th Councilmanic District

VAR-Satellite dish (rear yard placement)
4/27/90 - Z.C.'s Order DENYING Petition

ASSIGNED FOR: FRIDAY, NOVEMBER 30, 1990 at 1:00 p.m.

cc: Mr. and Mrs. Timothy Frost Appellant
Mr. and Mrs. Walter Frazier
Mr. and Mrs. Dale Rauschenberg Protestants
People's Counsel for Baltimore County out per Shirley Hess 8/21/90
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

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 20, 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. 90-350-A

TIMOTHY W. FROST, ET AL
NE/cor McPherson Ct. & Othoridge Rd.
(1301 McPherson Court)
9th Election District
4th Councilmanic District

VAR-Satellite dish (rear yard placement)
4/27/90 - Z.C.'s Order DENYING Petition

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cc: Mr. and Mrs. Timothy Frost Appellant
Mr. and Mrs. Walter Frazier
Mr. and Mrs. Dale Rauschenberg Protestants
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

RECEIVED
COUNTY BOARD OF APPEALS
AUG 21 1990

8/20/90 - Following parties notified of hearing set for November 30, 1990 at 1:00 p.m.:

Mr. and Mrs. Timothy Frost
Mr. and Mrs. Walter Frazier
Mr. and Mrs. Dale Rauschenberg
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

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 7th
Posted for: *Timothy W. Frost et al*
Petitioner: *NE/cor 21 McPherson Ct. & Othoridge Rd. (1301 McPherson Ct.)*
Location of property: *NE/cor 21 McPherson Ct. & Othoridge Rd.*
Location of Sign: *In front of 1301 McPherson Court*

Remarks: *J. Robert Haines*
Posted by: *J. Robert Haines*
Number of Signs: *2*

Date of Posting: *June 1 - 90*
Date of return: *June 1 - 90*

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

May 22, 1990

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

RE: Petition for Zoning Variance
NE/cor McPherson Court and Othoridge Road
(1301 McPherson Court)
9th Election District, 4th Councilmanic District
TIMOTHY W. FROST, ET AL - Petitioner
Case No. 90-350-A

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 27, 1990 by Timothy W. Frost, 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: Mr. & Mrs. Timothy Frost, 1301 McPherson Court, Timonium, MD 21093
Mr. Walter P. Frazier, 1013 Rohe Farm Lane, Baltimore, MD 21220
Mr. & Mrs. Dale Rauschenberg (Representatives for protestants)
29 Orthoridge Road, Timonium, MD 21093
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204
File

RECEIVED
COUNTY BOARD OF APPEALS
50 MAY 23 PM 4-41

April 26, 1990

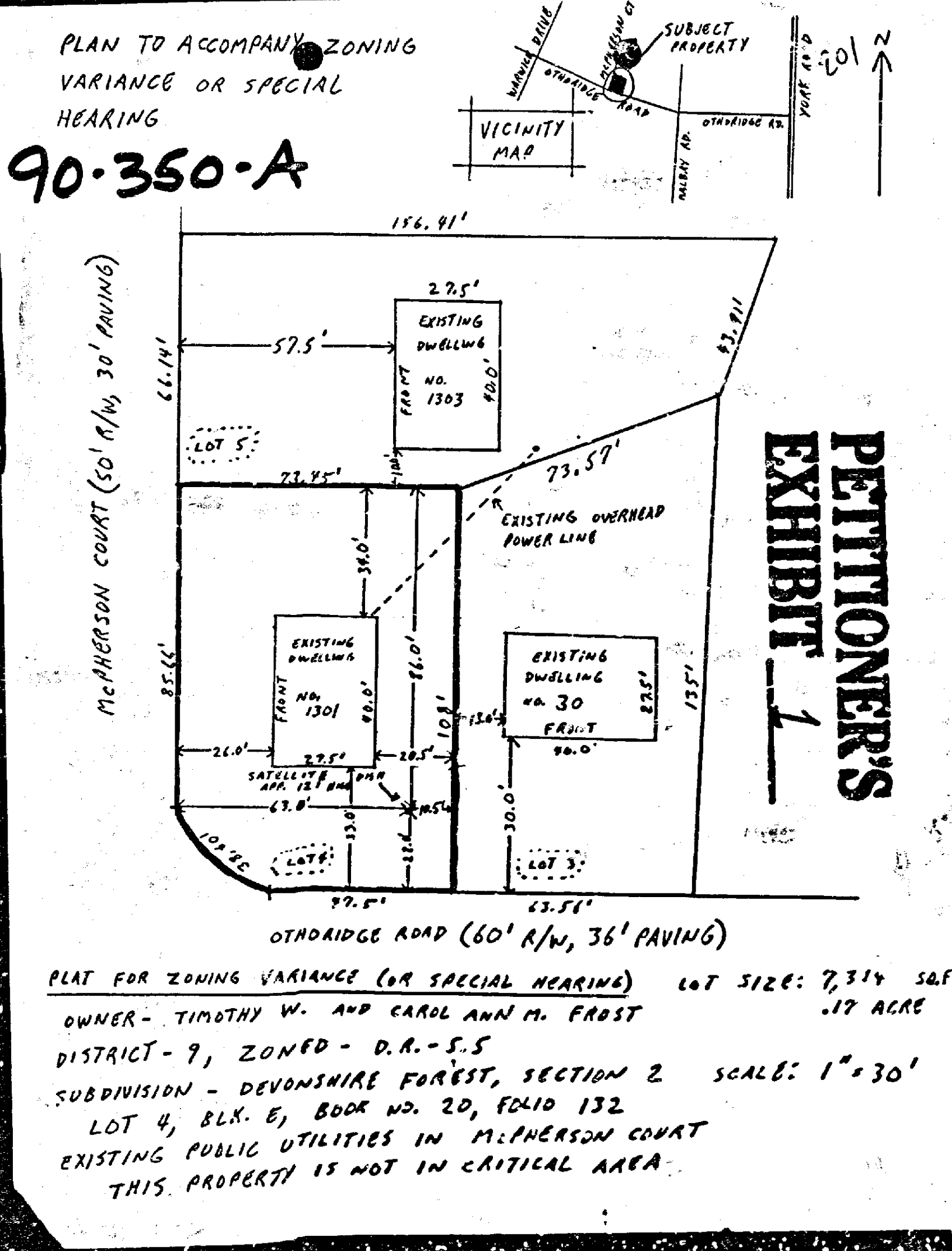
J. Robert Haines
Zoning Commissioner
Baltimore County

Dear Sir,

In reference to your decision in case number 90-350A, request for variance from B.C.Z.R. section 400.1, for the placement of a satellite dish antenna in the rear yard of my lot, but outside of the 1/3 of the lot which is farthest from both streets, I wish to notify you that I intend to appeal your decision to the County Board of Appeals of Baltimore County. Since two of my witnesses will be out of town during July and August, request that this hearing not be scheduled before September, 1990.

Very truly yours,
Timothy W. Frost
Timothy W. Frost, Petitioner
1301 McPherson Court
Lutherville, MD 21093
(301) 321-1392

4-27-90
ZONING OFFICE



IN THE MATTER OF THE
APPLICATION OF TIMOTHY W.
FROST, ET AL FOR A ZONING
VARIANCE ON PROPERTY LOCATED
ON THE NORTHEAST CORNER
MCPHERSON COURT AND OTHORIDGE
ROAD (1301 MCPHERSON COURT)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 90-350-A

OPINION

Mr. and Mrs. Timothy W. Frost appealed from a decision of the Zoning Commissioner denying the placement of a satellite dish antenna in the rear yard of a corner lot, not within the rear one-third of the lot farthest removed from any street. At a hearing on November 30, 1990, Mr. and Mrs. Frost appeared and testified as did John Gregory Trueschler of 39 Othoridge Road. Additionally, Mr. Frost called Walter Frazier of the Stansbury Satellite Company, the firm that sold the satellite and installed it on Mr. Frost's property as an expert witness. On behalf of the Protestants, Dale Rauschenberg, 29 Othoridge Road, Timonium, Maryland 21093, testified as did Robert Anderson and George Krom, 28 Othoridge Road. Various photographs were placed into evidence showing the satellite dish antenna where it has been installed on Mr. and Mrs. Frost's property. Those photographs, as well as testimonial evidence, reveal that the dish has been installed at a position behind the line drawn directly from the rear back corner of the Frost dwelling, to Othoridge Road, but that it has been placed in the site of the yard nearest Othoridge Road. The satellite dish antenna remains visible to all persons travelling on McPherson Court and Othoridge Road as they approach and travel through that

MICROFILMED



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

February 8, 1991

Mr. and Mrs. Timothy W. Frost
1301 McPherson Court
Timonium, Maryland 21093

Re: Case No. 90-350-A (Timothy W. Frost, et al)

Dear Mr. and Mrs. Frost:

As no further appeals have been taken regarding the subject case, we have closed the file and returned same to the Office of the Zoning Commissioner along with any exhibits entered before the Board. The Zoning Commissioner's Office maintains the permanent file. If you have an interest in said file, please contact the Zoning Commissioner's Office at 887-3353 immediately upon receipt of this letter. By copy of this letter, all parties of record that may have an interest in said file have been notified.

Sincerely,

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul
Legal Secretary

cc: Mr. and Mrs. Dale Rauschenberg

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

February 26, 1991

887-3353

Mr. Dale Rauschenberg
29 Othoridge Road
Lutherville, Maryland 21093

Mr. Jay Esser
21 Othoridge Road
Lutherville, Maryland 21093

Mr. John Trueschler
39 Othoridge Road
Lutherville, Maryland 21093

RE: Case No. C-90-758
1301 MacPherson Court
9th Election District

Gentlemen:

This office has been notified by County Attorney Arnold Jablon that Timothy W. Frost, petitioner in Case No. 90-350A, has filed injunctive proceedings against Baltimore County within the Circuit Court of Maryland, Baltimore County as to the County Board of Appeals ruling of January 8, 1991.

Until this matter is resolved at the Circuit Court level, per the County Attorney, this office is not to proceed with any enforcement action.

When this office has a time and date as to the injunctive hearing, we will most certainly forward such information to each of you.

If you have further questions as to this legal suit against Baltimore County, please contact Assistant County Attorney Timothy Kotroco at 887-4020.

Sincerely,

James H. Thompson
JAMES H. THOMPSON
Zoning Enforcement Coordinator
887-3351

JHT:lj

cc: Timothy Kotroco, Assistant County Attorney
Kevin Connor, Zoning Inspector
Mr. Timothy W. Frost

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

February 24, 1992

(410) 887-3353
335

Mr. Dale Rauschenberg
29 Othoridge Road
Lutherville, MD 21093

Mr. Jay Esser
21 Othoridge Road
Lutherville, MD 21093

Mr. John Trueschler
39 Othoridge Road
Lutherville, MD 21093

RE: Case No. C-90-758
1301 MacPherson Court
9th Election District

Gentlemen:

As a follow-up to this office's letter of January 30, 1992 with the satellite dish yet to be relocated per the Baltimore County Zoning Regulations, we have gone to the extent to prepare for the Baltimore County Office of Law, the appropriate data to be utilized in the filing of an injunction petition within the Circuit Court for Baltimore County. We will most certainly forward to each of you a copy of this document. Most importantly, every effort will be made to update the community of all future developments in this matter.

Finally, this office has evidence within our case file that the property owners of 1301 MacPherson Court have once again filed for injunctive relief themselves within the Circuit Court for Baltimore County.

As always, if further questions remain, please contact this office at 887-3351.

Sincerely,

Kevin Connor
Kevin Connor
Zoning Inspector

KC:cer

MICROFILMED

Office of Zoning Commission
of Baltimore County
Towson, Md. 21204

Gentlemen:

7/17-92
7/18/92
92-476-A
Sometime in the past, I attended what I believe was the initial hearing relating to the improper location of a satellite dish on the property known as 1301 McPherson Court, Lutherville, Maryland.

I was unable to attend today's hearing on a variance to the zoning regulations regarding this matter, but for the record, I would like it known, that unless greater valid and/or compelling reasons to grant a variance have been presented than were presented at the hearing I attended, I do not believe a variance should be granted.

Very truly yours,

Walter A. McPherson
1301 McPherson Court
Lutherville, Md.
21093

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

August 28, 1992

(410) 887-4386

Mr. Timothy M. Frost
1301 McPherson Court
Lutherville, Maryland 21093-5508

RE: PETITION FOR ZONING VARIANCE
Case No. 92-476-A

Dear Mr. Frost:

In light of the substance of your letter to Lawrence E. Schmidt, Zoning Commissioner, dated August 20, 1992 and in order to correct some mischaracterizations contained in your letter to me of the same date, the following comments are offered.

You asserted in your letter to me that I told you and Walt Frazier that the changes you made to your satellite dish would be substantial enough to warrant a second hearing on the same variance issue. Speaking for myself, I made no such representation. Furthermore, I have never had the occasion to speak to Mr. Frazier and have never had the opportunity to make his acquaintance. Therefore, your assertions are not correct.

When I spoke to you regarding the filing of your second variance request, I informed you that I could not hear the case myself due to the fact that I was involved with this issue while employed in the Office of Law. When responding to your question as to whether this second filing of a variance petition would be permitted or whether your changes were "substantial" I informed you that the hearing officer, Mr. Schmidt, would need to make that determination. I gave no advice to you on the viability of proceeding with your second Petition for Variance.

I trust that this letter will refresh your recollection of the substance of our conversation.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Lawrence E. Schmidt
File

MICROFILMED

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

January 30, 1992

Mr. Timothy W. Frost
Ms. Carol Ann Frost
Ms. Rosalie L. Frost
1301 MacPherson Court
Lutherville, Maryland 21093

RE: Case No. C-90-758
1301 MacPherson Court
9th Election District

Ladies and Gentlemen:

On or about March 29, 1991 as plaintiffs, you entered a request for a hearing as to the alleged zoning violation pertaining to the satellite dish located at 1301 MacPherson Court within the Circuit Court of Maryland, Baltimore County.

The enforcement section, per the then County Attorney, Arnold Jablon, directed our division to withhold further action per the outcome of the circuit court case.

To date, this office has no record of an actual hearing as to this issue. However, a review of the circuit court file, 73/350/91-CSP-587, on January 27, 1992, indicated that the Honorable Alfred L. Brennan, Sr. rendered a decision on April 11, 1991. He noted that your complaint for interlocutory and final injunctive relief should be dismissed based upon the memorandum prepared by Baltimore County.

Therefore, the current placement of the satellite dish is in violation of the Baltimore County Zoning Regulations. However, rather than issue a citation immediately, Baltimore County will afford you the opportunity to either place the dish on the roof of your dwelling or in that third of your rear yard farthest away from any street and at least 2 1/2 feet from the side and rear property lines.

If this action cannot be taken within the next fourteen days, this office will need written verification/contract as to when your installer can accomplish this task. Failure to respond to this matter will result in

Printed on Recycled Paper

Mr. Timothy Kotroco
Deputy Zoning Commissioner
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

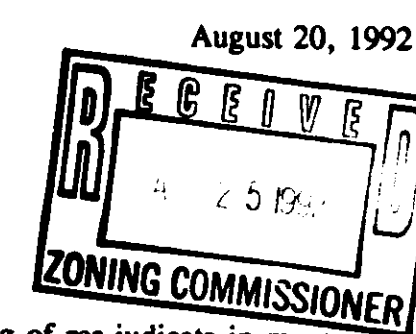
Dear Tim,

I was very surprised and disappointed when I received a ruling of res judicata in my request for variance for my satellite dish. When we spoke on the phone prior to the submission of my second request for variance, and I asked you if lowering my dish and planting shrubbery around the dish would be a substantial change, you indicated that you thought that it would probably be accepted. Arnold Jablon also told Walt Frazier essentially the same thing when he was asked about this same issue. I do recall that you said that the question of res judicata would have to be considered at this second hearing, however, I was led by you to believe that these changes, which were made at additional expense to both Stansbury Satellite and me, would be considered to be "substantial" enough to avoid an outright decision of res judicata. I appreciate the straightforward way that you have assisted me in this case in the past. Even though this has been a most unpleasant part of my life for the past three years, dealing with you and Jim Thompson, in particular, has made it almost, and I know you will think this incredible, enjoyable. I hate to ask you for anything more, but now I am begging for a fair and just hearing on the issues by someone who has no predisposition on the case. I have enclosed a copy of a motion for reconsideration which I sent to Commissioner Schmidt. Please do everything you can to influence him to judge my case on the merits rather than ruling res judicata. As you know, making me move my dish to the roof of my home will not be in the best interests of anyone either from an aesthetic point of view or from the point of public health, safety, or welfare. It will serve only to prove to the protestants that it is possible to place a 10 foot satellite dish on the roof of my home, something which I believe they don't really think I will do. I just want to be allowed to address all of their aesthetic concerns without having to place my home at risk from either the wind load on the dish, or the possibility of a lightning strike.

I will appreciate anything you can do to help me in resolving what has become a very tiresome and divisive issue in my community.

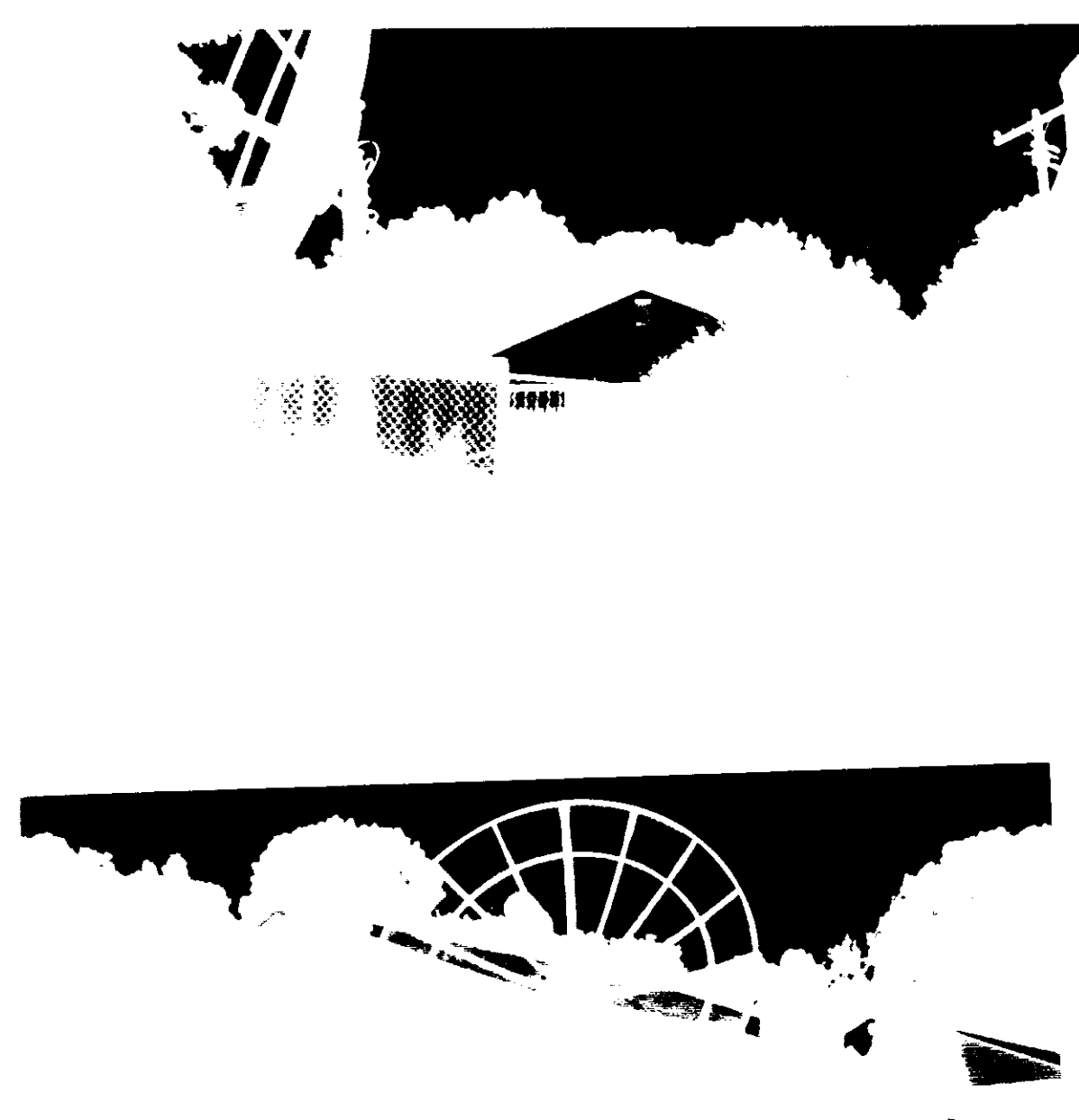
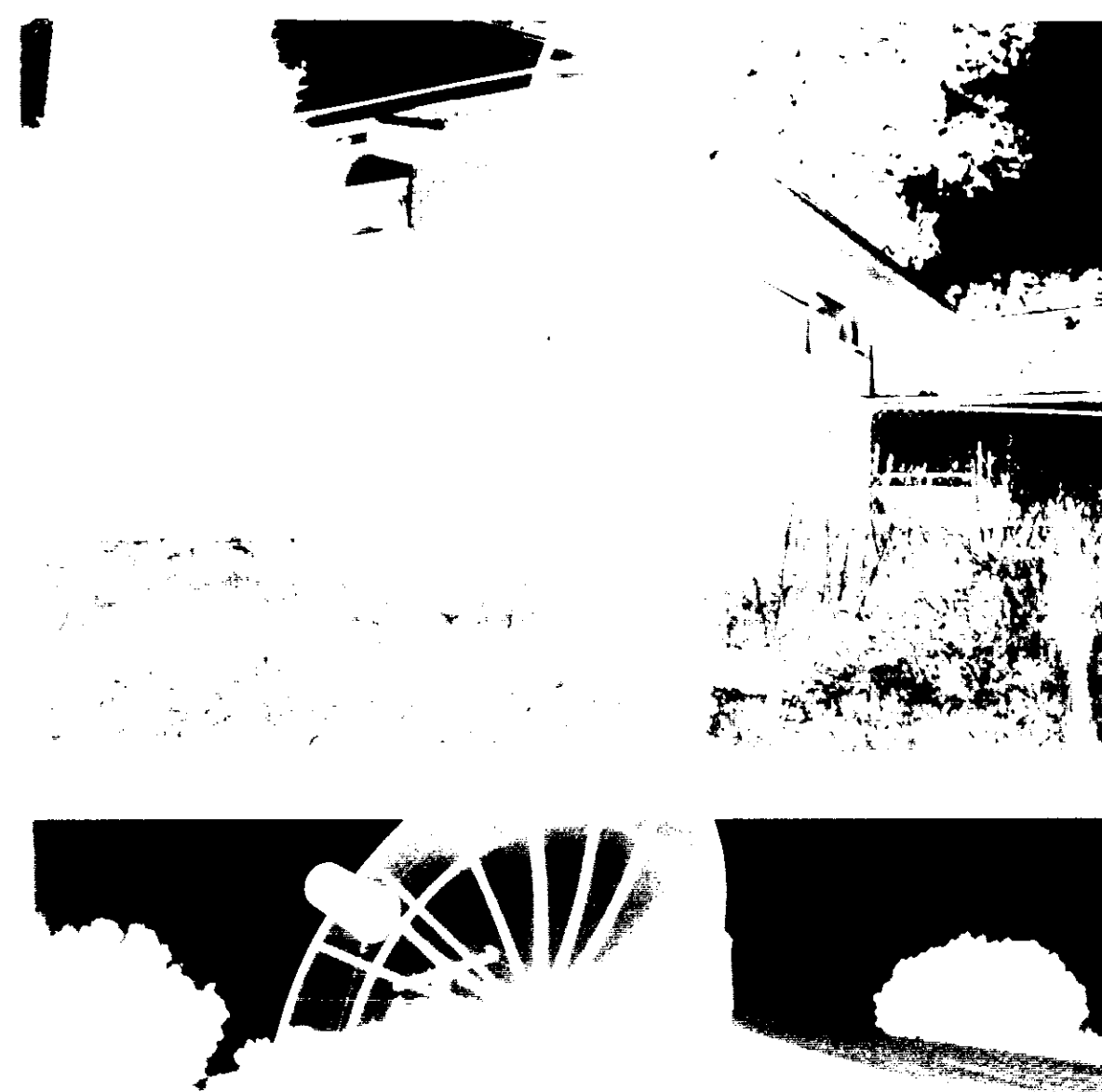
Sincerely,

Tim Frost
Tim Frost
1301 McPherson Court
Lutherville, MD 21093-5508





A-92-476-26



BALTIMORE COUNTY
PLANNING AND ZONING
AERIAL PHOTOGRAPHIC MAP

SCALE	LOCATION	SHEET
1" = 200' ±	 TOWSON	N.W. 11-A
DATE OF PHOTOGRAPHY		
JANUARY 1986		

Mr. Lawrence Schmidt
Zoning Commissioner
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

August 20, 1992

RE: Motion for Reconsideration of Decision
Case Number 92-476-A (Item 506)

Dear Mr. Schmidt,

You stated in your decision on my case that the principle of res judicata applied. I maintain that, based upon the case which you cited, *Board of County Commissioners v. Racine*, 24 Md. App. 435, (1975), the principle of res judicata does not apply because a mistake of law was made in the original case. The basis of the original complaint against me was that section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) applied to my installation. The B.C.Z.R. as it existed at the time of the original complaint contained no such reference. Linkage between section 400.1 and my case was made using a memorandum contained in the Policy Manual issued by the Office of the Zoning Commissioner for Baltimore County. A flaw existed in the initial citation. As stated in the cover letter to the Policy Manual as it existed at the time of my initial citation, (see exhibit 1, page 1), the policy manual had no force of law and was intended as guidance only. In effect, legal action was brought against me based upon a document which was not a law. Proof of the fact that the Policy Manual had no basis in law is shown in the attached document (see exhibit 2, page 1). On May 5, 1992, a special hearing was held before Commissioner Haines to consider whether the Baltimore County Zoning Commissioner's Policy Manual should have the effect of law. As a result of that hearing, the decision was made to give that document the force of law. This action, in and of itself, demonstrated that the then Zoning Commissioner for Baltimore County, J. Robert Haines, was admitting that his original action against me on this issue was a mistake of law. To judge that this case falls under the principle of res judicata would be to affirm an already erroneous decision.

Another flaw existed in the initial decision made by Commissioner Haines. In his original decision (see exhibit 3, page 4) he stated that since I had the absolute right to place my dish on the roof of my house, then there was no need to even consider granting a variance. If that were true, then there would never be a need to grant a variance under section 429 of the B.C.Z.R., thus rendering that entire section of the law invalid. By making such a decision, Commissioner Haines effectively denied me due process of law.

The only reason why I filed this second request for a variance was that both Mr. Timothy Kotroko, your deputy, and Mr. Arnold Jablon, the Director of Zoning Administration and Development Management, told me and Mr. Walter Frazier from Stansbury Satellite that if we made the modifications to the site of lowering the dish closer to the ground and planting shrubbery around the dish, then that would be a substantial change to the site and the case would not be considered to fall under the precept of res judicata. The decision to reapply for a variance was not made in an arbitrary and capricious manner, but based upon advice from members of your staff which we thought to be sound.



MICROFILMED

Mr. Lawrence Schmidt
Zoning Commissioner
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

August 31, 1992

RE: Motion for Reconsideration of Decision
Case Number 92-476-A (Item 506)

Dear Mr. Schmidt,

Additional information about my case has just come to my attention about an error which was made in my original hearing which I wish you to consider.

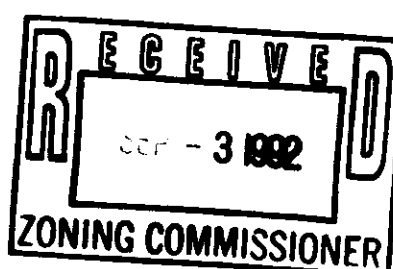
The development in which my home is located is in Devonshire Forest. The plans for my community were approved on October 25, 1954. Because of this, the zoning regulations which govern my home are those which were approved in 1945. When my case was first heard by Mr. Haines, no mention of this fact was made by him or myself during my hearing. So, as you can see, an error was made on the part of the zoning commissioner in that the wrong regulations were used to judge my case.

In the 1945 regulations, accessory structures must be placed in the rear yard of a corner lot and located at a distance of 25 feet from the nearest road. My satellite dish is located in my rear yard, but it is only 22 feet from the street. I can, therefore, move my satellite dish 3 feet further towards the north, and be in full compliance with the 1945 regulations.

In the light of these facts, I request that you reconsider my request for variance based upon the testimony and law brought out in my hearing of July 27, 1992 and not consider the litigation to fall under the principle of res judicata.

Sincerely,

Timothy W. Frost
1301 McPherson Court
Lutherville, MD 21093-5508



MICROFILMED

Mr. Lawrence Schmidt
Zoning Commissioner
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

September 3, 1992

RE: Motion for Reconsideration of Decision
Case Number 92-476-A (Item 506)

Dear Mr. Schmidt,

Additional information about my case has just come to my attention which I wish you to consider.

The development in which my home is located is in Devonshire Forest. The plans for my community were approved on October 25, 1954 as stated on deed of trust and associated documents attached as exhibit 1. Because my property was approved in 1954, the version of the B.C.Z.R. which governs my home is the one which was in effect in 1945. When my case was first heard by Mr. Haines, no mention of this fact was made by him or myself during my hearing. So, as you can see, an error was made on the part of the zoning commissioner in that the wrong regulations were used to judge my case.

The 1945 version of the B.C.Z.R. contains no provisions for the regulation of satellite dish antennas. Therefore, there is not now nor has there ever been any valid law which can regulate the installation of a satellite dish antenna on my property.

In the light of these facts, I request that you issue instructions to your staff that no further action will be taken against me on this issue. Furthermore, I request that I receive a written confirmation from your office that this issue is closed and that I do not need to make any modifications to my satellite dish or my property.

I'm sorry that this information was not brought out sooner so that both you and I would not have been involved in such a non-issue. I do want to take this opportunity to thank you and the members of your staff for your assistance in this matter.

Sincerely,

Timothy W. Frost
1301 McPherson Court
Lutherville, MD 21093-5508

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

TIMOTHY W. FROST

WALTER FRAZIER

ROBERT FROST

ROBERT FROST

ADDRESS

1301 McPherson Ct

1013 Roke Farm W. 21220

1301 McPherson Ct 21093

1301 McPherson Ct 21093

PROTESTANT(S) SIGN-IN SHEET

NAME

Joe Frazier

Joe Frazier

Joe Frazier

Joe Frazier

Joe Frazier

Joe Frazier

Joe Frazier

Joe Frazier

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Feb. 19, 1992

Move that dish

couple living in

Lutherville told

Frost's neighbors

complain about

their satellite dish.

By Glenn Small

Inside their Lutherville bungalow, Tim and Carol Ann Frost might be watching, at any given time, a Spanish talk show, the Water Olympics — in French — or a debate in the British House of Commons.

The Frosts own a satellite dish — a \$4,000 electronic device that enables them to get nearly 250 television and radio channels from around the world. The 13-foot-high and 18-foot-wide dish has also gotten them into hot water with Baltimore County zoning officials.

The satellite dish currently is on the



KENNETH E. LAM/STAFF PHOTO

Tim Frost sought county advice before he installed the satellite dish.

side and slightly to the back of the Frosts' home. The county has been trying to get them to move it either behind their home or onto their roof. It is threatening to fine them \$500 a day if they fail to comply.

Mr. Frost, a computer expert, said he described "news junkie" and former U.S. Ambassador to the Soviet Union, said he said.

See DISH, B4, Oct. 2

Move that dish, couple is told

DISH, From 1A

A criminal investigator, has fought back by filing an injunction in Circuit Court to block the county from fining him.

The reason is simple: If the Frosts move the dish — either to the roof, or directly behind the house — they'll lose reception, they said.

"I want to go before the judge," Mr. Frost said. "I want to talk to the judge."

A court date has not yet been scheduled. But, with the gusto of a private investigator, Mr. Frost has researched the law on satellite dishes and can produce a hefty stack of paperwork to prove it. He's acting as his own attorney.

He claims that before he bought the expensive dish, he asked Baltimore County zoning and building inspection officials if it would be OK to put the dish where it now sits.

After they were shown a diagram of his property, in the 1980 block of McPherson Court, and the proposed location of the dish, Mr. Frost said, those officials gave him the green light. That's because, they told him, Baltimore County zoning law allows satellite dishes in back yards, and his proposed location was indeed, behind his house.

But, soon after the dish was installed in September 1980, three of the Frosts' neighbors complained.

They didn't like the looks of the huge, jet-black dish. Because the Frosts have a corner lot, and the satellite dish faces Oldridge Road, "it's just like you're in the face," said Terri Rauschenberg, who lives directly across from the Frosts.

"It really is a monstrosity and an eyesore," she said.

James Thompson, chief of the county's zoning inspection department, said that under the county code, satellite dishes are considered accessory structures, in the same category as sheds and pools.

As such, satellite dishes usually are allowed in back yards of homes, he said — even if the location is to the side, but still behind the house — as in the Frosts'. However, Mr. Thompson said, a different zoning regulation applies to corner lots.

That regulation requires accessory structures like the Frosts' satellite dish be placed in the back yard, away from the corner that fronts on the main road.

But Mr. Frost says he is right, that the dish can legally stay where it is. And he said he will fight to keep it there. He's offered to plant shrubbery around the dish to mitigate complaints about the alleged eyesore.

"It'll be 10 times worse than it is now, but two of the neighbors who

MICROFILMED

FEB 03 '92 18:51

Record 4-13-92 Federal Communications Commission

2299 FCC 92-183

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Preemption of Satellite Antenna Zoning Ordinance
Reference No: DA 91-145
Antenna Zoning Ordinance
of Town of Deerfield, New York

MEMORANDUM OPINION AND ORDER

Adopted: March 17, 1992; Released: March 31, 1992

By the Commission:

I. INTRODUCTION

1. Petitioner, Joseph A. Carino, requests the Commission to issue a declaratory ruling preempting the satellite dish zoning ordinance of the Town of Deerfield, New York (Deerfield). Mr. Carino's Petition is supported by several commenters' and opposed by Deerfield.

2. Mr. Carino bases his request for preemption on the Commission's rule, Section 25.104¹, which preempts local regulations that discriminate between satellite earth stations and other antennas and that do not have a reasonable, clearly defined health, safety or aesthetic objective, and impose unreasonable limitations or excessive costs on reception of satellite signals. The Commission's order adopting this rule² indicates that it is based on the concern that excessive local regulation would unduly interfere with the federally guaranteed right of earth station antenna users to receive certain satellite signals for private home viewing. However, the Order also states that the Commission does not intend to become a national zoning board and that individuals requesting Commission review will be expected to show that other available remedies have been exhausted.

3. After this denial, Mr. Carino filed an action in the New York state trial level court (Supreme Court) for review of the Board's decision. This action was taken pursuant to a procedure typically used to review zoning board decisions in the state of New York.³ The Supreme Court ruled that the ordinance was valid.⁴ The court based its opinion on the fact that the ordinance applied to both dish antennas and tower antennas⁵ and thus, in the court's opinion, it did not discriminate or discriminate against satellite earth stations.

4. Mr. Carino appealed to the Appellate Division and to the Court of Appeals of the State of New York. Both courts ruled against him.⁶ After the rejection of his appeals in state courts, Mr. Carino's criminal case was resolved, he was fined \$100, and he was advised that his antenna would be removed in March, 1992. The appeal of this conviction is pending.

5. On December 15, 1991, Mr. Carino filed an action in the United States District Court requesting a declaration that the Deerfield ordinance is preempted by Section 25.104. In an opinion dated November 23, 1991, the District Court dismissed Mr. Carino's case, stating that he was barred by the doctrine of collateral estoppel from relitigating in that court the issues decided by the state courts, including the issue of whether or "not the ordinance is preempted."

6. Commenters supporting preemption include American Satellite Television Alliance (ASTA), National Association of Broadcasters (NAB), Satellite Broadcasting and Communications Association (SBACA), and United States Satellite Broadcasting Company, Inc. (USBSB). Reply comments were filed by NAB and Video Services Corporation/American Satellite Communications, Inc. (VSC). Both petitioners and the Town of Deerfield requested authority to file late comments, which has been granted for good cause shown.

7. Although the pleading filed by Deerfield is captioned as an "Answer," it is submitted in opposition to Mr. Carino's Petition and we will consider it such.

8. 47 C.F.R. § 25.104.

9. Petitioner of Local Zoning or Other Regulation of Reception of Satellite Earth Stations, (

IN RE: PETITION FOR ZONING VARIANCE
RE: Corner McPherson Court
and Othoridge Road
1301 McPherson Court
9th Election District
4th Councilmanic District
Timothy W. Frost, et al
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-350A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 400.1 to permit the placement of a satellite dish antenna in the rear yard of a corner lot, but not within the rear 1/3 of the lot farthest removed from any street, as more particularly described on Petitioner's Exhibit No. 1.

The Petitioners, Timothy W. Frost and Carol Ann Frost, appeared and testified. Appearing and testifying on behalf of the Petition, was Walter R. Frazier, President of Stansbury, Inc. Also appearing on behalf of the Petition, was Rosalie L. Frost. Appearing and testifying as Protestants were Florence Boyer, Helen Williams, Carol Ann Enzor, John J. Esser, Theresa Rauschenberg, Dale Rauschenberg and George S. Krom. Appearing and testifying for informational purposes was Stephanie J. Boblouch, President, Orchard Hills Community Association, Inc.

Testimony indicated that the subject property, known as 1301 McPherson Court, is a corner lot consisting of .17 acres +/-, zoned D.R.5.5, and improved with a single family dwelling. Testimony indicated that the Petitioners have erected a 15' high satellite dish in the rear yard portion of their corner lot along Othoridge Road, as indicated on Petitioners' Exhibit No. 1.

1. Mr. Frost testified that Stansbury, Inc., the seller of the subject

MICROFILMED EXHIBIT 3

DEED OF TRUST

THIS PURCHASE MONEY DEED OF TRUST is made this 23rd day of April 1990, among the Grantor Timothy W. Frost and Carol Ann M. Frost, his wife, and Rosalie L. Frost (herein "Borrower"), (herein "Trustee"), and the Beneficiary, BALTIMORE FEDERAL SAVINGS AND LOAN ASSOCIATION, a corporation organized and existing under the laws of the United States of America (herein "Lender").

Borrower, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the 9th Election District County of Baltimore, State of Maryland:

BEING known and designated as Lot No. 4 in Block E as shown on the Plat of Section 2 of Devonshire Forest, which Plat is duly recorded among the Land Records of Baltimore County in Plat Book CLB No. 20, page 132. The improvements thereon being known as No. 1301 McPherson Court.

Being the same property described in a Deed dated of even date and recorded among the Land Records of the aforesaid County prior hereto from William R. Burk and Joyce Ann Burk.

Said property is subject to the annual rent of \$120.00, payable half-yearly in each and every year on the 22nd days in the months of June and December.

which has the address of 1301 McPherson Court, Baltimore, Maryland, 21093 (herein "Property Address");

The aforesaid property having been purchased in whole or in part with the sums secured hereby, together with all the improvements now or hereafter created on the property, and all easements, rights, appurtenances, rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Deed of Trust, and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are herein referred to as the "Property";

To Secure to Lender (a) the repayment of the indebtedness evidenced by Borrower's note dated of even date herewith (herein "Note"), in the principal sum of \$31,200.00 Dollars, with interest thereon, providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on May 1, 2010; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained; and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to paragraph 21 hereof (herein "Future Advances").

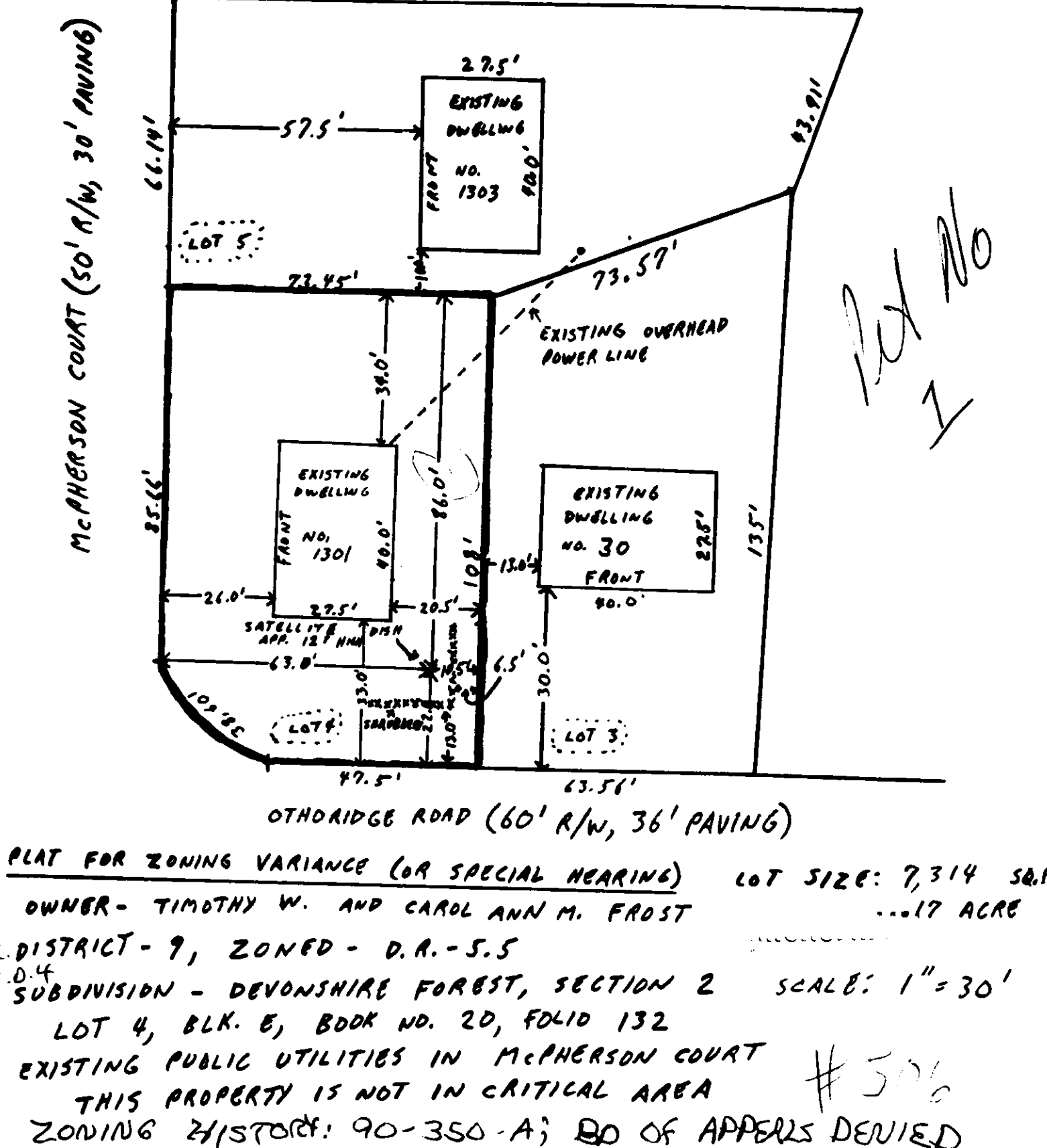
Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend specially the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

MARYLAND - 1 to 4 Family - 7776 FINAL/FILM UNIFORM INSTRUMENT

EXHIBIT 1

PLAN TO ACCOMPANY ZONING VARIANCE OR SPECIAL HEARING

92-476-A



Mr. Joseph Nolan
Office of the Building Engineer
for Baltimore County

July 24, 1992

Dear Mr. Nolan,

Please provide written answers to the following questions about the Baltimore County Building Code.

1. Why does Baltimore County have a building code? (I presume that the answer will be something like "The building code is intended to set standards of construction which will protect the public health, safety, and welfare for persons who are located inside and outside of the buildings.")
2. Is it true that the building code requires that a building permit be obtained for the installation of a satellite dish on the roof of a building? (I know that the answer here is "yes".)
3. Is it true that the building code does not require that a building permit be obtained for the installation of a satellite dish on the ground? (I know that the answer here is also "yes".)
4. Why does the above disparity exist between regulation of satellite dishes which are installed on the roof of a building and the lack of a standard for satellite dishes which are installed on the ground? (I presume that the answer to this question will be some like "Satellite dish antennas which are properly installed on the ground in accordance with manufacturer's specifications, by the very nature of the location and installation, pose virtually no threat to either the public health, safety, and welfare, or the structural stability and integrity of any building. Satellite dish antennas which are installed on the roofs of buildings, even though they are installed in accordance with manufacturer's specifications and in accordance with the provisions of the Baltimore County building code, may, during periods of unusual weather conditions, pose a threat to the health, safety and welfare of persons located both inside and outside of the affected building.")
5. Where would you recommend that a satellite dish antenna be installed to ensure that the public health, safety, and welfare be given optimal protection? (In the light of our telephone conversation of Wednesday, July 23, 1992, I presume that your recommendation would be on the ground. If that is not your answer, please provide a detailed reason why a roof installation would be safer.)

If you have any questions, I can be reached at 965-2193, 966-1314 or 321-1392.

Sincerely,
Tim Frost

MICROFILMED

Baltimore County Government
Department of Permits and Licenses

111 West Chesapeake Avenue
Towson, MD 21204

July 24, 1992

(410) 887-3610

Mr. Tim Frost
1301 McPherson Court
Lutherville, Maryland 21093-5508

Re: Satellite dish

Dear Mr. Frost

On July 24, 1992, I received the hand delivered letter of inquiries we briefly discussed by telephone on July 23, 1992 and the following is a response to those questions in the same numerical order as addressed in your letter.

1. Section 100.4 of the code provides, This code shall be construed to secure its expressed intent, which is to insure public safety, health and welfare insofar as they are affected by building construction, through structural strength, adequate means of egress facilities, sanitary equipment, light and ventilation, and fire safety; and, in general, to secure the safety to live and property from all hazards incident to the design, erection, repair, removal, demolition or use and occupancy of buildings, structures or premises.

2. The building code does require permits for satellite dishes on roofs. Section 622.3.1 of the Building code requires permits for any satellite dish larger than 2' in diameter erected on a roof or attached to any building or structure. Section 622.3.2 provides that satellite antenna's larger than 2' in diameter shall be subject to the structural provisions of the building code including wind and snow loads.

3. Baltimore County does not require permits for ground mounted satellite dishes. They must, however, be installed in compliance with zoning regulations.

4. The disparity exists for permit requirements for roof or building mounted and ground mounted satellite dishes because of concerned code officials that the roof or walls of a building to provide sufficient strength to safely support the additional loads primarily wind loads on the building or structure. Officials do not believe that the installation and mounting of a ground satellite dish located on the ground is as critical as of the potential damage to a building that could occur if the satellite dish was improperly attached or the roof or wall structure was incapable of supporting the additional loads. Potential for injury to persons would also be greater from a roof mounted antenna than ground mounted if it was dislodged during a severe windstorm.

MICROFILMED

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204

BUILDING PERMIT

PERMIT #: B080921 CONTROL #: SD DIST: 09 PREC: 08
DATE ISSUED: 02/04/91 TAX ACCOUNT #: 0902206290 CLASS: 04

PLANS: CONST 2 PLOT R-PLAT DATA ELEC YES PLUM NO
LOCATION: 1301 MCPHERSON CT
SUBDIVISION: DEVONSHIRE FOREST

OWNERS INFORMATION
NAME: FROST, TIMOTHY
ADDR: 1301 MCPHERSON CT LUTHERVILLE, MD 21093

TENANT:
CONTR: STANSBURY SATELLITE, 6330 FRANFORD AVE 21206

ENGR:
SELLR:
WORK: CONST SATELLITE DISH ON ROOF OF EXISTING SFD 10' DIAMETER, 12' ABOVE ROOF. TOTAL HEIGHT IS 30' INCLUDING SFD & SATELLITE DISH. WILL FOLLOW MAN INSTRUCTION. MAN INST ATTACHED. NO STRUCTUR ENGINEER'S LETTER DATA SHEETS & SEALS WAIVED PER G.M. 7/21/91.

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

ESTIMATED \$ PROPOSED USE: SFD & SATELLITE DISH
500.00 EXISTING USE: SFD

TYPE OF IMPRV: ADDITION

USE: OTHER - RESIDENTIAL

FOUNDATION:

SEWAGE: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 104/108X066/073

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: NC/NC

SIDE STR SETB: NC

REAR SETB: NC

MICROFILMED

THIS PERMIT
EXPIRES ONE
YEAR FROM DATE
OF ISSUE

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

Baltimore County Government
Department of Permits and Licenses

111 West Chesapeake Avenue
Towson, MD 21204

887-3610

CALL: 887-3987

"04"

February 4, 1991

Timothy Frost
1301 McPherson Ct.
Lutherville, MD 21093

DISTRICT: 9
LOCATION: 1301 McPherson Ct.
Re: PERMIT: B080921/SD
PRECINCT: 8

MR. MILANO "04" COMMENTS PLANS REVIEW-PHONE 887-3987

YOUR PLANS ARE RELEASED FROM THIS DEPARTMENT AND DO NOT REQUIRE A DIRECT REPLY, UNLESS REQUESTED. COMMENTS SHALL BE COMPLIED WITH, ANY OTHER DEPARTMENT OR AGENCY COMMENTS SHALL BE RESOLVED DIRECTLY WITH THAT DEPARTMENT OR AGENCY. DURING PEAK PERIODS PHONE CALLS WILL ONLY BE ACCEPTED BETWEEN 2:00 AND 3:00 P.M.

1. Satellite dish shall be supported over existing bearing wall. Structural bearing of roof rafters shall be supported by bottom ceiling joist directly over bearing wall. Roof joist braces shall be fastened with belts to ceiling joists.

THIS REVIEW COVERS ONLY MAJOR CODE REQUIREMENTS. THE LAW REQUIRES COMPLIANCE WITH ALL CODE PROVISIONS, WHETHER POINTED OUT BY THE REVIEW OR NOT.

CC: Plans Review, Sup. Copy, Inspection
Folder, File, File Department
Owner: Timothy Frost, 1301 McPherson Ct., Lutherville, MD 21093
Filer: same as owner

revised 5/89

Mr. Lawrence Schmidt
Zoning Commissioner
County Office Building
111 W. Chesapeake Ave. Room 109
Towson, MD 21204

RE: Variance for Placement of Satellite Dish Antenna
Case Number 92-476-A (Item 506)

Dear Mr. Schmidt,

I wish to offer my support for Mr. Frost's variance request. I believe that Mr. Frost's satellite dish poses no threat to the health, safety or welfare of anyone in the community. Mr. Frost has planted a privacy hedge around the satellite dish which will, in time, almost completely screen the view of the dish from others in the community.

I believe that forcing Mr. Frost to place his satellite dish on the roof of his house would be inappropriate. Placement of the satellite dish on the roof of Mr. Frost's house would make it impossible for Mr. Frost to screen it from view and might result in damage to Mr. Frost's home.

Sincerely,

John E. Jeschke
Mary Jeschke
39 OTHORIDGE ROAD
Lutherville, MD 21093

cc: Mr. Timothy W. Frost

MICROFILMED

1046
July 26, 1993

Baltimore County Zoning Commission

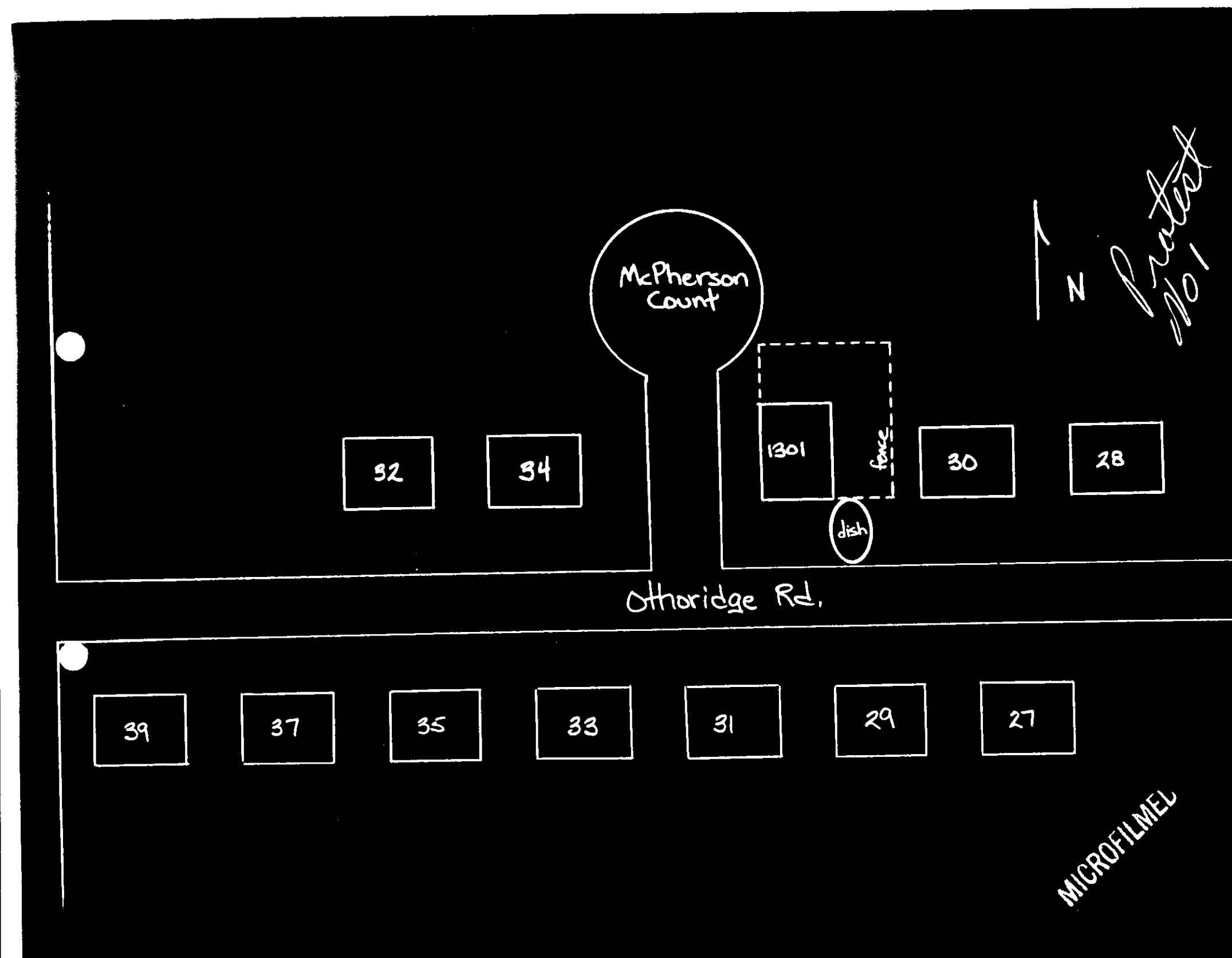
Gentlemen:

This case (C-90-758) Timothy Frost, et al. vs. Baltimore County has been dragging on since November, 1989. Mr. Frost's satellite dish is in violation of zoning regulations for a corner lot (Section 400.1).

Mr. Frost has had his day in court:

1. There was a hearing before the zoning commission on March 14, 1990. The request for a variance was denied.

MICROFILMED



Baltimore County
Zoning Commission
Office of Planning & Zoning
Towson, Maryland 21204



Photo Case # 92-476A

Baltimore County
Zoning Commission
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-5353

J. Robert Holmes
Zoning Commissioner

November 22, 1989

Mr. and Mrs. Timothy Frost
1301 McPherson Court
Timonium, Maryland 21093

RE: Case No. C-90-758
1301 McPherson Court
9th Election District

Dear Mr. and Mrs. Frost:

In regards to the above referenced case, a letter was recently sent to the complainants indicating that this matter would be closed. However, after discussing this issue with my supervisor, James Thompson, this case will be re-opened per Section 400.1 of the Baltimore County Zoning Regulations, (copy enclosed). A satellite dish, which constitutes an accessory structure, in a residential zone on a corner lot shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50 percent of such third.

The location of this satellite dish violates Section 400.1 and a variance is required. I will allow you thirty (30) days to either obtain a petition review date or correct the violation by relocating the satellite dish.

Failure to comply by December 26, 1989 will result in the issuance of a citation, wherein, you are subject to a civil penalty of \$200.00 for each violation and each day shall be considered a separate violation.

If you have any questions, please contact me at 887-8092.

Sincerely,

Kevin R. Connor
KEVIN R. CONNOR
Zoning Inspector

KRC:ljs

ARTICLE 4--SPECIAL REGULATIONS [B.C.Z.R., 1955.]
Section 400--PURPOSE [Bill No. 18, 1976.]

Certain uses, whether permitted as of right or by special exception, have singular, individual characteristics which make it necessary, in the public interest, to specify regulations in greater detail than would be feasible in the individual use regulations for each or any of the zones or districts. This article, therefore, provides such regulations. [Bill No. 40, 1987.]

Section 400--APPLICATION OF THIS ARTICLE'S PROVISIONS [Bill No. 18, 1976.]

The provisions of this article apply only to principal uses except as otherwise specified (as in Item 405.4.C.12) or unless the provision implicitly relates to accessory usage (as in Section 405A). [Bill No. 18, 1976.]

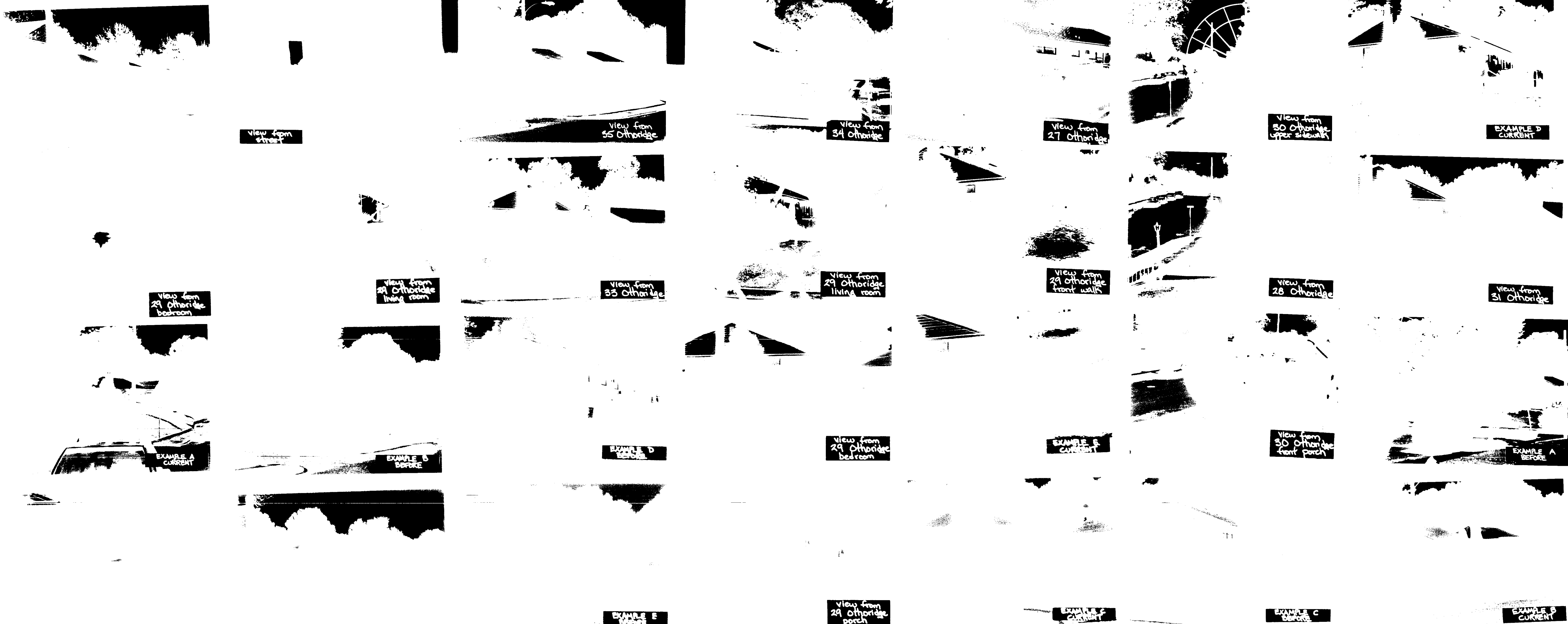
Section 400--ACCESSORY BUILDINGS IN RESIDENCE ZONES [B.C.Z.R., 1955; Bill No. 27, 1963.]

400.1--Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2 1/2 feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirements for such a building. [B.C.Z.R., 1955; Bill No. 27, 1963.]

400.2--Accessory buildings shall be set back not less than 15 feet from the center line of any alley on which the lot abuts. [B.C.Z.R., 1955.]

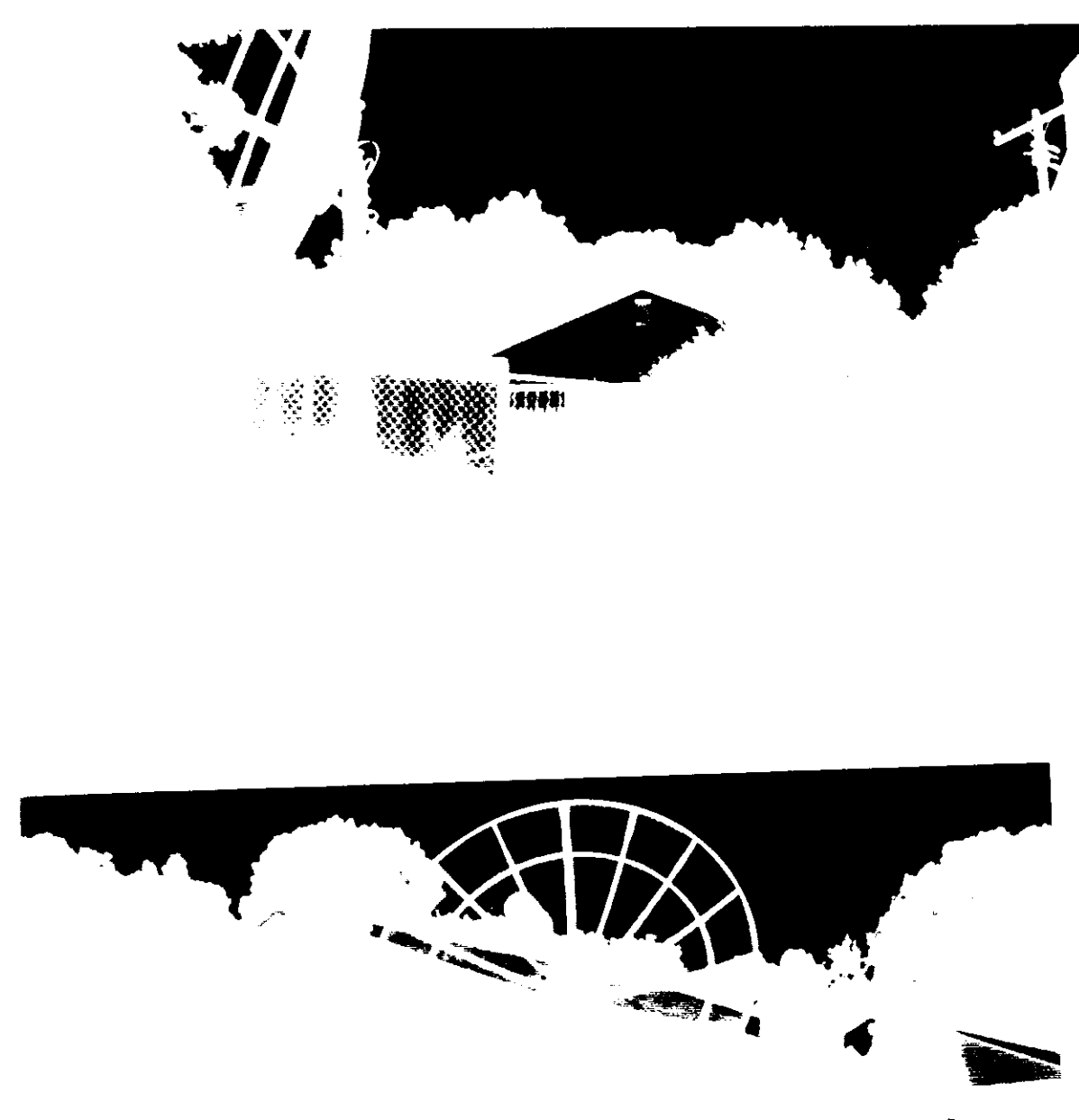
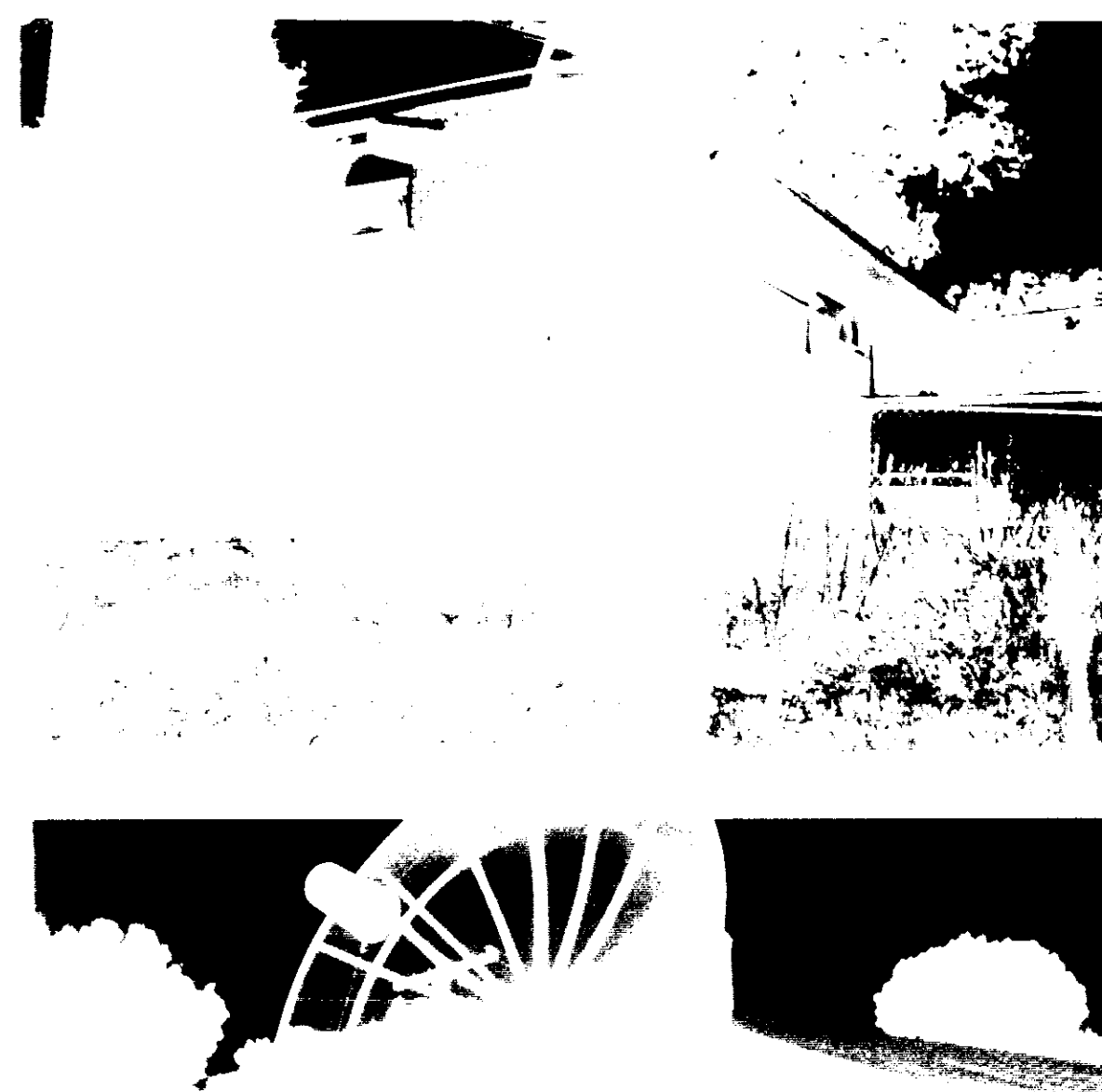
400.3--The height of accessory buildings, except as noted in Section 300 shall not exceed 15 feet. [B.C.Z.R., 1955.]

4-1





92-476-A



BALTIMORE COUNTY
PLANNING AND ZONING
AERIAL PHOTOGRAPHIC MAP

SCALE	LOCATION	SHEET
1" = 200' ±	 TOWSON	N.W. 11-A
DATE OF PHOTOGRAPHY		
JANUARY 1986		

IN THE MATTER OF THE
APPLICATION OF TIMOTHY W.
FROST, ET AL FOR A ZONING
VARIANCE ON PROPERTY LOCATED
ON THE NORTHEAST CORNER
MCPHERSON COURT AND OTHORIDGE
ROAD (1301 MCPHERSON COURT)
9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 90-350-A

OPINION

Mr. and Mrs. Timothy W. Frost appealed from a decision of the Zoning Commissioner denying the placement of a satellite dish antenna in the rear yard of a corner lot, not within the rear one-third of the lot farthest removed from any street. At a hearing on November 30, 1990, Mr. and Mrs. Frost appeared and testified as did John Gregory Trueschler of 39 Othoridge Road. Additionally, Mr. Frost called Walter Frazier of the Stansbury Satellite Company, the firm that sold the satellite and installed it on Mr. Frost's property as an expert witness. On behalf of the Protestants, Dale Rauschenberg, 29 Othoridge Road, Timonium, Maryland 21093, testified as did Robert Anderson and George Krom, 28 Othoridge Road. Various photographs were placed into evidence showing the satellite dish antenna where it has been installed on Mr. and Mrs. Frost's property. Those photographs, as well as testimonial evidence, reveal that the dish has been installed at a position behind the line drawn directly from the rear back corner of the Frost dwelling, to Othoridge Road, but that it has been placed in the site of the yard nearest Othoridge Road. The satellite dish antenna remains visible to all persons travelling on McPherson Court and Othoridge Road as they approach and travel through that

MICROFILMED



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

February 8, 1991

Mr. and Mrs. Timothy W. Frost
1301 McPherson Court
Timonium, Maryland 21093

Re: Case No. 90-350-A (Timothy W. Frost, et al)

Dear Mr. and Mrs. Frost:

As no further appeals have been taken regarding the subject case, we have closed the file and returned same to the Office of the Zoning Commissioner along with any exhibits entered before the Board. The Zoning Commissioner's Office maintains the permanent file. If you have an interest in said file, please contact the Zoning Commissioner's Office at 887-3353 immediately upon receipt of this letter. By copy of this letter, all parties of record that may have an interest in said file have been notified.

Sincerely,

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul
Legal Secretary

cc: Mr. and Mrs. Dale Rauschenberg

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

February 26, 1991

887-3353

Mr. Dale Rauschenberg
29 Othoridge Road
Lutherville, Maryland 21093

Mr. Jay Esser
21 Othoridge Road
Lutherville, Maryland 21093

Mr. John Trueschler
39 Othoridge Road
Lutherville, Maryland 21093

RE: Case No. C-90-758
1301 MacPherson Court
9th Election District

Gentlemen:

This office has been notified by County Attorney Arnold Jablon that Timothy W. Frost, petitioner in Case No. 90-350A, has filed injunctive proceedings against Baltimore County within the Circuit Court of Maryland, Baltimore County as to the County Board of Appeals ruling of January 8, 1991.

Until this matter is resolved at the Circuit Court level, per the County Attorney, this office is not to proceed with any enforcement action.

When this office has a time and date as to the injunctive hearing, we will most certainly forward such information to each of you.

If you have further questions as to this legal suit against Baltimore County, please contact Assistant County Attorney Timothy Kotroco at 887-4020.

Sincerely,

James H. Thompson
JAMES H. THOMPSON
Zoning Enforcement Coordinator
887-3351

JHT:lj

cc: Timothy Kotroco, Assistant County Attorney
Kevin Connor, Zoning Inspector
Mr. Timothy W. Frost

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

February 24, 1992

(410) 887-3353
335

Mr. Dale Rauschenberg
29 Othoridge Road
Lutherville, MD 21093

Mr. Jay Esser
21 Othoridge Road
Lutherville, MD 21093

Mr. John Trueschler
39 Othoridge Road
Lutherville, MD 21093

RE: Case No. C-90-758
1301 MacPherson Court
9th Election District

Gentlemen:

As a follow-up to this office's letter of January 30, 1992 with the satellite dish yet to be relocated per the Baltimore County Zoning Regulations, we have gone to the extent to prepare for the Baltimore County Office of Law, the appropriate data to be utilized in the filing of an injunction petition within the Circuit Court for Baltimore County. We will most certainly forward to each of you a copy of this document. Most importantly, every effort will be made to update the community of all future developments in this matter.

Finally, this office has evidence within our case file that the property owners of 1301 MacPherson Court have once again filed for injunctive relief themselves within the Circuit Court for Baltimore County.

As always, if further questions remain, please contact this office at 887-3351.

Sincerely,

Kevin Connor
Kevin Connor
Zoning Inspector

KC:cer

MICROFILMED

Office of Zoning Commission
of Baltimore County
Towson, Md. 21204

Gentlemen:

7/17-92
7/18/92
92-476-A
Sometime in the past, I attended what I believe was the initial hearing relating to the improper location of a satellite dish on the property known as 1301 McPherson Court, Lutherville, Maryland.

I was unable to attend today's hearing on a variance to the zoning regulations regarding this matter, but for the record, I would like it known, that unless greater valid and/or compelling reasons to grant a variance have been presented than were presented at the hearing I attended, I do not believe a variance should be granted.

Very truly yours,

Walter A. McPherson
1301 McPherson Court
Lutherville, Md.
21093

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

August 28, 1992

(410) 887-4386

Mr. Timothy M. Frost
1301 McPherson Court
Lutherville, Maryland 21093-5508

RE: PETITION FOR ZONING VARIANCE
Case No. 92-476-A

Dear Mr. Frost:

In light of the substance of your letter to Lawrence E. Schmidt, Zoning Commissioner, dated August 20, 1992 and in order to correct some mischaracterizations contained in your letter to me of the same date, the following comments are offered.

You asserted in your letter to me that I told you and Walt Frazier that the changes you made to your satellite dish would be substantial enough to warrant a second hearing on the same variance issue. Speaking for myself, I made no such representation. Furthermore, I have never had the occasion to speak to Mr. Frazier and have never had the opportunity to make his acquaintance. Therefore, your assertions are not correct.

When I spoke to you regarding the filing of your second variance request, I informed you that I could not hear the case myself due to the fact that I was involved with this issue while employed in the Office of Law. When responding to your question as to whether this second filing of a variance petition would be permitted or whether your changes were "substantial" I informed you that the hearing officer, Mr. Schmidt, would need to make that determination. I gave no advice to you on the viability of proceeding with your second Petition for Variance.

I trust that this letter will refresh your recollection of the substance of our conversation.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Lawrence E. Schmidt
File

MICROFILMED

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

January 30, 1992

Mr. Timothy W. Frost
Ms. Carol Ann Frost
Ms. Rosalie L. Frost
1301 MacPherson Court
Lutherville, Maryland 21093

RE: Case No. C-90-758
1301 MacPherson Court
9th Election District

Ladies and Gentlemen:

On or about March 29, 1991 as plaintiffs, you entered a request for a hearing as to the alleged zoning violation pertaining to the satellite dish located at 1301 MacPherson Court within the Circuit Court of Maryland, Baltimore County.

The enforcement section, per the then County Attorney, Arnold Jablon, directed our division to withhold further action per the outcome of the circuit court case.

To date, this office has no record of an actual hearing as to this issue. However, a review of the circuit court file, 73/350/91-CSP-587, on January 27, 1992, indicated that the Honorable Alfred L. Brennan, Sr. rendered a decision on April 11, 1991. He noted that your complaint for interlocutory and final injunctive relief should be dismissed based upon the memorandum prepared by Baltimore County.

Therefore, the current placement of the satellite dish is in violation of the Baltimore County Zoning Regulations. However, rather than issue a citation immediately, Baltimore County will afford you the opportunity to either place the dish on the roof of your dwelling or in that third of your rear yard farthest away from any street and at least 2 1/2 feet from the side and rear property lines.

If this action cannot be taken within the next fourteen days, this office will need written verification/contract as to when your installer can accomplish this task. Failure to respond to this matter will result in

Printed on Recycled Paper

Mr. Timothy Kotroco
Deputy Zoning Commissioner
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

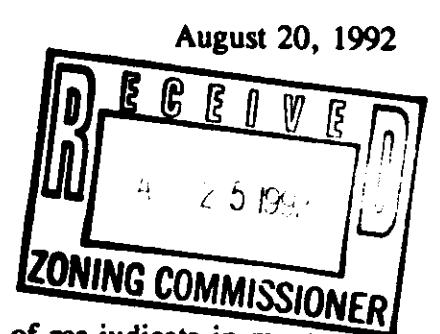
Dear Tim,

I was very surprised and disappointed when I received a ruling of res judicata in my request for variance for my satellite dish. When we spoke on the phone prior to the submission of my second request for variance, and I asked you if lowering my dish and planting shrubbery around the dish would be a substantial change, you indicated that you thought that it would probably be accepted. Arnold Jablon also told Walt Frazier essentially the same thing when he was asked about this same issue. I do recall that you said that the question of res judicata would have to be considered at this second hearing, however, I was led by you to believe that these changes, which were made at additional expense to both Stansbury Satellite and me, would be considered to be "substantial" enough to avoid an outright decision of res judicata. I appreciate the straightforward way that you have assisted me in this case in the past. Even though this has been a most unpleasant part of my life for the past three years, dealing with you and Jim Thompson, in particular, has made it almost, and I know you will think this incredible, enjoyable. I hate to ask you for anything more, but now I am begging for a fair and just hearing on the issues by someone who has no predisposition on the case. I have enclosed a copy of a motion for reconsideration which I sent to Commissioner Schmidt. Please do everything you can to influence him to judge my case on the merits rather than ruling res judicata. As you know, making me move my dish to the roof of my home will not be in the best interests of anyone either from an aesthetic point of view or from the point of public health, safety, or welfare. It will serve only to prove to the protestants that it is possible to place a 10 foot satellite dish on the roof of my home, something which I believe they don't really think I will do. I just want to be allowed to address all of their aesthetic concerns without having to place my home at risk from either the wind load on the dish, or the possibility of a lightning strike.

I will appreciate anything you can do to help me in resolving what has become a very tiresome and divisive issue in my community.

Sincerely,

Tim Frost
Tim Frost
1301 McPherson Court
Lutherville, MD 21093-5508



MICROFILMED

IN RE: PETITION FOR ZONING VARIANCE
RE/corner McPherson Court
and Othoridge Road
1301 McPherson Court
9th Election District
4th Councilmanic District
Timothy W. Frost, et al
Petitioners

• BEFORE THE
• ZONING COMMISSIONER
• OF BALTIMORE COUNTY
• Case No. 90-350A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 400.1 to permit the placement of a satellite dish antenna in the rear yard of a corner lot, but not within the rear 1/3 of the lot farthest removed from any street, as more particularly described on Petitioner's Exhibit No.1.

The Petitioners, Timothy W. Frost and Carol Ann Frost, appeared and testified. Appearing and testifying on behalf of the Petition, was Walter R. Frazier, President of Stansbury, Inc. Also appearing on behalf of the Petition, was Rosalie L. Frost. Appearing and testifying as Protestants were Florence Boyer, Helen Williams, Carol Ann Enzor, John J. Esser, Theresa Rauschenberg, Dale Rauschenberg and George S. Krom. Appearing and testifying for informational purposes was Stephanie J. Boblouch, President, Orchard Hills Community Association, Inc.

Testimony indicated that the subject property, known as 1301 McPherson Court, is a corner lot consisting of .17 acres +/-, zoned D.R.5.5, and improved with a single family dwelling. Testimony indicated that the Petitioners have erected a 15' high satellite dish in the rear yard portion of their corner lot along Othoridge Road, as indicated on Petitioners' Exhibit No. 1.

1. Mr. Frost testified that Stansbury, Inc., the seller of the subject

MICROFILMED EXHIBIT 3

DEED OF TRUST

THIS PURCHASE MONEY DEED OF TRUST is made this 23rd day of April 1990, among the Grantor Timothy W. Frost and Carol Ann M. Frost, his wife, and Rosalie L. Frost (herein "Borrower"), (herein "Trustee"), and the Beneficiary, BALTIMORE FEDERAL SAVINGS AND LOAN ASSOCIATION, a corporation organized and existing under the laws of the United States of America (herein "Lender").

Borrower, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the 9th Election District County of Baltimore, State of Maryland:

BEING known and designated as Lot No. 4 in Block E as shown on the Plot of Section 2 of Devonshire Forest, which Plot is duly recorded among the Land Records of Baltimore County in Plat Book CLB No. 20, page 132. The improvements thereon being known as No. 1301 McPherson Court.

Being the same property described in a Deed dated of even date and recorded among the Land Records of the aforesaid County prior hereto from William R. Burk and Joyce Ann Burk

Said property is subject to the annual rent of \$120.00, payable half-yearly in each and every year on the 22nd days in the months of June and December.

which has the address of 1301 McPherson Court, Baltimore, Maryland, 21093 (herein "Property Address");

The aforesaid property having been purchased in whole or in part with the sums secured hereby, together with all the improvements now or hereafter created on the property, and all easements, rights, appurtenances, rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Deed of Trust, and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are herein referred to as the "Property";

To Secure to Lender (a) the repayment of the indebtedness evidenced by Borrower's note dated of even date herewith (herein "Note"), in the principal sum of \$31,200.00 Dollars, with interest thereon, providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on May 1, 2010; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained; and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to paragraph 21 hereof (herein "Future Advances").

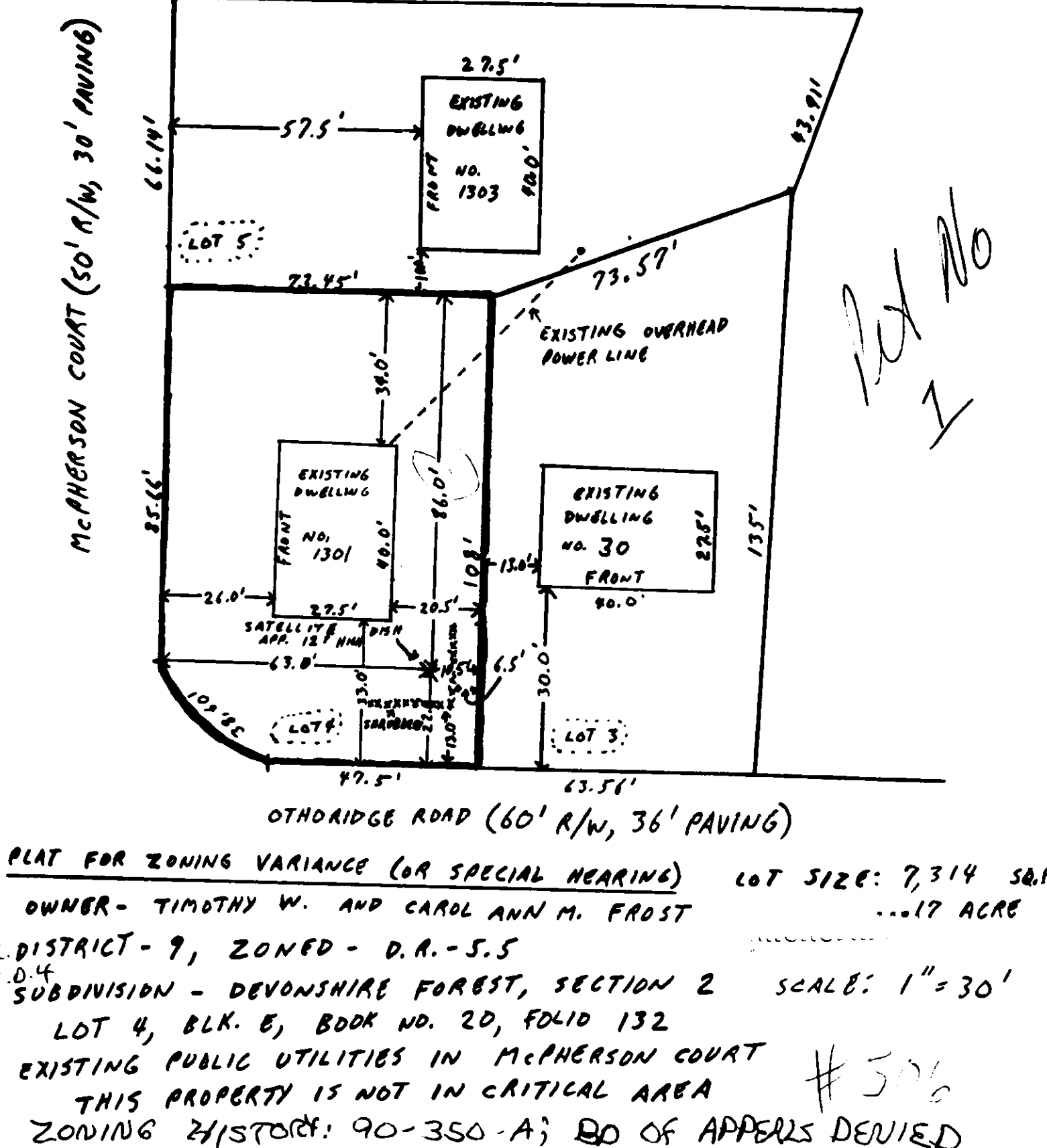
Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend specially the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

MARYLAND - 1 to 4 Family - 7776 FINANCIAL UNIFORM INSTRUMENT

EXHIBIT 1

PLAN TO ACCOMPANY ZONING VARIANCE OR SPECIAL HEARING

92-476-A



Mr. Joseph Nolan
Office of the Building Engineer
for Baltimore County

July 24, 1992

Dear Mr. Nolan,

Please provide written answers to the following questions about the Baltimore County Building Code.

1. Why does Baltimore County have a building code? (I presume that the answer will be something like "The building code is intended to set standards of construction which will protect the public health, safety, and welfare for persons who are located inside and outside of the buildings.")
2. Is it true that the building code requires that a building permit be obtained for the installation of a satellite dish on the roof of a building? (I know that the answer here is "yes".)
3. Is it true that the building code does not require that a building permit be obtained for the installation of a satellite dish on the ground? (I know that the answer here is also "yes".)
4. Why does the above disparity exist between regulation of satellite dishes which are installed on the roof of a building and the lack of a standard for satellite dishes which are installed on the ground? (I presume that the answer to this question will be some like "Satellite dish antennas which are properly installed on the ground in accordance with manufacturer's specifications, by the very nature of the location and installation, pose virtually no threat to either the public health, safety, and welfare, or the structural stability and integrity of any building. Satellite dish antennas which are installed on the roofs of buildings, even though they are installed in accordance with manufacturer's specifications and in accordance with the provisions of the Baltimore County building code, may, during periods of unusual weather conditions, pose a threat to the health, safety and welfare of persons located both inside and outside of the affected building.")
5. Where would you recommend that a satellite dish antenna be installed to ensure that the public health, safety, and welfare be given optimal protection? (In the light of our telephone conversation of Wednesday, July 23, 1992, I presume that your recommendation would be on the ground. If that is not your answer, please provide a detailed reason why a roof installation would be safer.)

If you have any questions, I can be reached at 965-2193, 966-1314 or 321-1392.

Sincerely,
Tim Frost

MICROFILMED

Baltimore County Government
Department of Permits and Licenses

111 West Chesapeake Avenue
Towson, MD 21204

July 24, 1992

(410) 887-3610

Mr. Tim Frost
1301 McPherson Court
Lutherville, Maryland 21093-5508

Re: Satellite dish

Dear Mr. Frost

On July 24, 1992, I received the hand delivered letter of inquiries we briefly discussed by telephone on July 23, 1992 and the following is a response to those questions in the same numerical order as addressed in your letter.

1. Section 100.4 of the code provides, This code shall be construed to secure its expressed intent, which is to insure public safety, health and welfare insofar as they are affected by building construction, through structural strength, adequate means of egress facilities, sanitary equipment, light and ventilation, and fire safety; and, in general, to secure the safety to live and property from all hazards incident to the design, erection, repair, removal, demolition or use and occupancy of buildings, structures or premises.

2. The building code does require permits for satellite dishes on roofs. Section 622.3.1 of the Building code requires permits for any satellite dish larger than 2' in diameter erected on a roof or attached to any building or structure. Section 622.3.2 provides that satellite antenna's larger than 2' in diameter shall be subject to the structural provisions of the building code including wind and snow loads.

3. Baltimore County does not require permits for ground mounted satellite dishes. They must, however, be installed in compliance with zoning regulations.

4. The disparity exists for permit requirements for roof or building mounted and ground mounted satellite dishes because of concerned code officials that the roof or walls of a building to provide sufficient strength to safely support the additional loads primarily wind loads on the building or structure. Officials do not believe that the installation and mounting of a ground satellite dish located on the ground is as critical as of the potential damage to a building that could occur if the satellite dish was improperly attached or the roof or wall structure was incapable of supporting the additional loads. Potential for injury to persons would also be greater from a roof mounted antenna than ground mounted if it was dislodged during a severe windstorm.

MICROFILMED

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND LICENSES
TOWSON, MARYLAND 21204

BUILDING PERMIT

PERMIT #: B080921 CONTROL #: SD DIST: 09 PREC: 08
DATE ISSUED: 02/04/91 TAX ACCOUNT #: 0902206290 CLASS: 04

PLANS: CONST 2 PLOT R-PLAT DATA ELEC YES PLUM NO
LOCATION: 1301 MCPHERSON CT
SUBDIVISION: DEVONSHIRE FOREST

OWNERS INFORMATION
NAME: FROST, TIMOTHY
ADDR: 1301 MCPHERSON CT LUTHERVILLE, MD 21093

TENANT:
CONTR: STANSBURY SATELLITE, 6330 FRANFORD AVE 21206

ENGR:
SELLR:
WORK: CONST SATELLITE DISH ON ROOF OF EXISTING SFD 10' DIAMETER, 12' ABOVE ROOF. TOTAL HEIGHT IS 30' INCLUDING SFD & SATELLITE DISH. WILL FOLLOW MAN INSTRUCTION. MAN INST ATTACHED. NO STRUCTUR ENGINEER'S LETTER DATA SHEETS & SEALS WAIVED PER G.M. 7/21/91.

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

ESTIMATED \$ PROPOSED USE: SFD & SATELLITE DISH
500.00 EXISTING USE: SFD

TYPE OF IMPRV: ADDITION
USE: OTHER - RESIDENTIAL

FOUNDATION: BASEMENT: WATER PUBLIC EXIST

SEWAGE: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 104/108X066/073

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: NC/NC

SIDE STR SETB: NC

REAR SETB: NC

MICROFILMED

THIS PERMIT
EXPIRES ONE
YEAR FROM DATE
OF ISSUE

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

Baltimore County Government
Department of Permits and Licenses

111 West Chesapeake Avenue
Towson, MD 21204

887-3610

CALL: 887-3987

"04"

February 4, 1991

Timothy Frost
1301 McPherson Ct.
Lutherville, MD 21093

DISTRICT: 9
LOCATION: 1301 McPherson Ct.

Re: PERMIT: B080921/SD
PRECINCT: 8

MR. MILANO "04" COMMENTS PLANS REVIEW-PHONE 887-3987

YOUR PLANS ARE RELEASED FROM THIS DEPARTMENT AND DO NOT REQUIRE A DIRECT REPLY, UNLESS REQUESTED. COMMENTS SHALL BE COMPLIED WITH, ANY OTHER DEPARTMENT OR AGENCY COMMENTS SHALL BE RESOLVED DIRECTLY WITH THAT DEPARTMENT OR AGENCY. DURING PEAK PERIODS PHONE CALLS WILL ONLY BE ACCEPTED BETWEEN 2:00 AND 3:00 P.M.

1. Satellite dish shall be supported over existing bearing wall. Structural bearing of roof rafters shall be supported by bottom ceiling joist directly over bearing wall. Roof joist braces shall be fastened with belts to ceiling joists.

THIS REVIEW COVERS ONLY MAJOR CODE REQUIREMENTS. THE LAW REQUIRES COMPLIANCE WITH ALL CODE PROVISIONS, WHETHER POINTED OUT BY THE REVIEW OR NOT.

CC: Plans Review, Sup. Copy, Inspection
Folder, File, File Department
Owner: Timothy Frost, 1301 McPherson Ct., Lutherville, MD 21093
Filer: same as owner

revised 5/89

Mr. Lawrence Schmidt
Zoning Commissioner
County Office Building
111 W. Chesapeake Ave. Room 109
Towson, MD 21204

RE: Variance for Placement of Satellite Dish Antenna
Case Number 92-476-A (Item 506)

Dear Mr. Schmidt,

I wish to offer my support for Mr. Frost's variance request. I believe that Mr. Frost's satellite dish poses no threat to the health, safety or welfare of anyone in the community. Mr. Frost has planted a privacy hedge around the satellite dish which will, in time, almost completely screen the view of the dish from others in the community.

I believe that forcing Mr. Frost to place his satellite dish on the roof of his house would be inappropriate. Placement of the satellite dish on the roof of Mr. Frost's house would make it impossible for Mr. Frost to screen it from view and might result in damage to Mr. Frost's home.

Sincerely,

John E. Jeschke
Mary Jeschke
39 OTHORIDGE ROAD
Lutherville, MD 21093

cc: Mr. Timothy W. Frost

MICROFILMED

1046
July 26, 1993

Baltimore County Zoning Commission

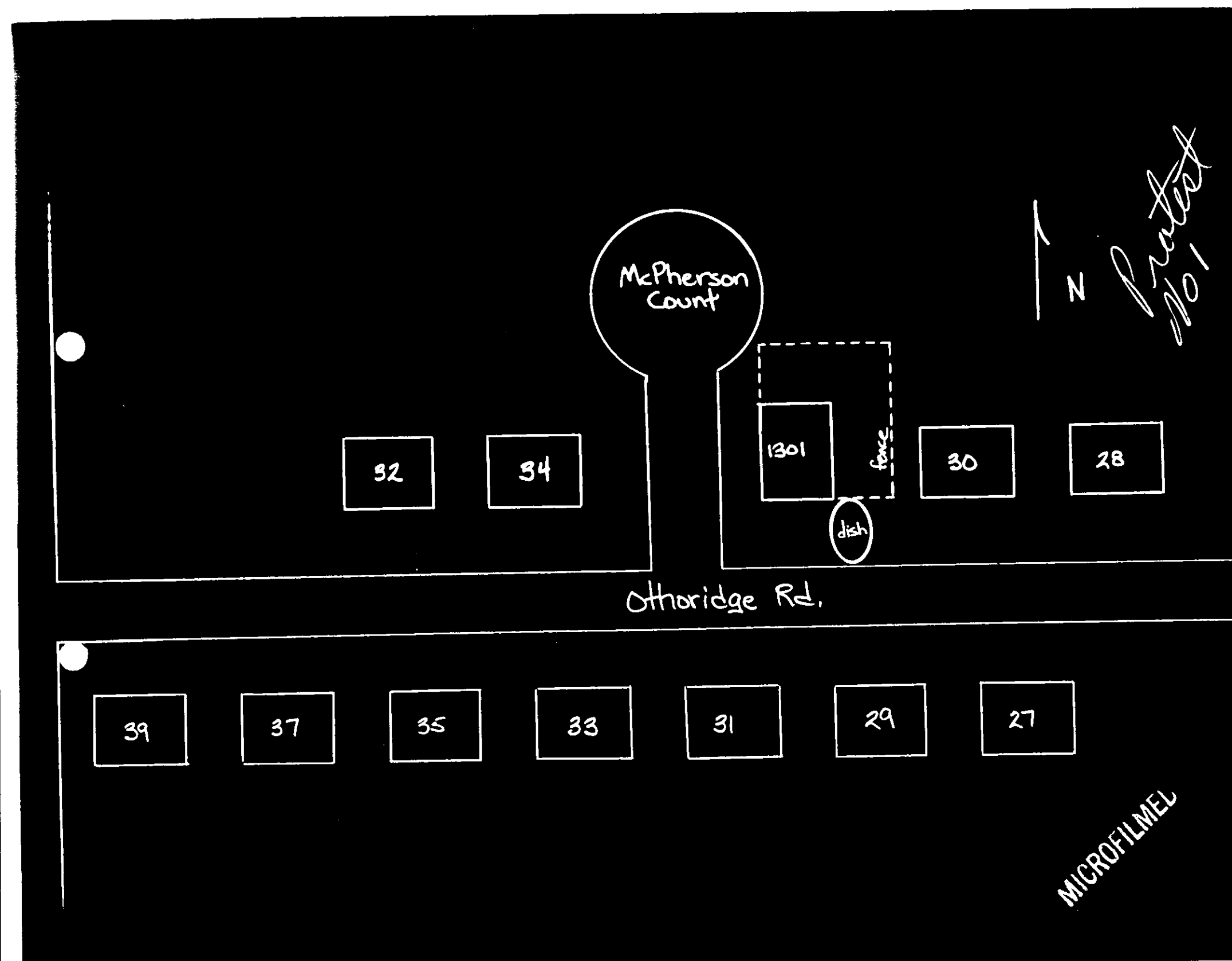
Gentlemen:

This case (C-90-758) Timothy Frost, et al. vs. Baltimore County has been dragging on since November, 1989. Mr. Frost's satellite dish is in violation of zoning regulations for a corner lot (Section 400.1).

Mr. Frost has had his day in court:

1. There was a hearing before the zoning commission on March 14, 1990. The request for a variance was denied.

MICROFILMED



Baltimore County
Zoning Commission
Office of Planning & Zoning
Towson, Maryland 21204



Photo Case # 92-476A

Baltimore County
Zoning Commission
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-5353

J. Robert Holmes
Zoning Commissioner

November 22, 1989

Mr. and Mrs. Timothy Frost
1301 McPherson Court
Timonium, Maryland 21093

RE: Case No. C-90-758
1301 McPherson Court
9th Election District

Dear Mr. and Mrs. Frost:

In regards to the above referenced case, a letter was recently sent to the complainants indicating that this matter would be closed. However, after discussing this issue with my supervisor, James Thompson, this case will be re-opened per Section 400.1 of the Baltimore County Zoning Regulations, (copy enclosed). A satellite dish, which constitutes an accessory structure, in a residential zone on a corner lot shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50 percent of such third.

The location of this satellite dish violates Section 400.1 and a variance is required. I will allow you thirty (30) days to either obtain a petition review date or correct the violation by relocating the satellite dish.

Failure to comply by December 26, 1989 will result in the issuance of a citation, wherein, you are subject to a civil penalty of \$200.00 for each violation and each day shall be considered a separate violation.

If you have any questions, please contact me at 887-8092.

Sincerely,

Kevin R. Connor
KEVIN R. CONNOR
Zoning Inspector

KRC:ljs

ARTICLE 4--SPECIAL REGULATIONS [B.C.Z.R., 1955.]
Section 400--PURPOSE [Bill No. 18, 1976.]

Certain uses, whether permitted as of right or by special exception, have singular, individual characteristics which make it necessary, in the public interest, to specify regulations in greater detail than would be feasible in the individual use regulations for each or any of the zones or districts. This article, therefore, provides such regulations. [Bill No. 40, 1987.]

Section 400--APPLICATION OF THIS ARTICLE'S PROVISIONS [Bill No. 18, 1976.]

The provisions of this article apply only to principal uses except as otherwise specified (as in Item 405.4.C.12) or unless the provision implicitly relates to accessory usage (as in Section 405A). [Bill No. 18, 1976.]

Section 400--ACCESSORY BUILDINGS IN RESIDENCE ZONES [B.C.Z.R., 1955; Bill No. 27, 1963.]

400.1--Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2 1/2 feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirements for such a building. [B.C.Z.R., 1955; Bill No. 27, 1963.]

400.2--Accessory buildings shall be set back not less than 15 feet from the center line of any alley on which the lot abuts. [B.C.Z.R., 1955.]

400.3--The height of accessory buildings, except as noted in Section 300 shall not exceed 15 feet. [B.C.Z.R., 1955.]

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