

IN THE MATTER OF THE APPLICATION OF THEDA A. ROSEN AND MARGARET C. LEGGIERI FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE ON PROPERTY LOCATED ON THE SOUTH SIDE OF FREDERICK ROAD, 98' WEST OF THE CENTERLINE OF BEECHWOOD ROAD (1403 FREDERICK ROAD) 1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

CASE NO. 90-512-SPHXA

ORDER OF DISMISSAL

This matter comes to the Board on appeal from a decision of the Deputy Zoning Commissioner dated September 18, 1990.

WHEREAS, the Board is in receipt of a Dismissal of Appeal filed by Julius W. Lichter, Esquire and Howard L. Alderman, Jr., Esquire, Counsel for Petitioners/Appellants, on October 23, 1991 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for said Petitioners/Appellants request that the appeal filed on behalf of said Petitioners/Appellants in this matter be dismissed and withdrawn as of October 23, 1991;

IT IS HEREBY ORDERED this 28th day of October, 1991 by the County Board of Appeals of Baltimore County that said appeal be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Michael B. Sauer, Acting Chairman

John O. Disney

William Clark

C. William Clark



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
1111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

October 28, 1991

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
Suite 113
305 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 90-512-SPHXA (Theda A. Rosen and Margaret C. Leggieri)

Dear Mr. Alderman:

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

Sincerely,

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Julius W. Lichter, Esquire
Theda A. Rosen and Margaret C. Leggieri
Howard L. Muhl, Jr., Esquire
Mr. Thomas Booth
Mr. Peter Griffin
Mr. James W. Mohler
C. Victor McFarland, Esquire
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director
Zoning Administration

IN RE:

PETITIONS FOR SPECIAL HEARING,
SPECIAL EXCEPTION & VARIANCE
1403 FREDERICK ROAD

Theda A. Rosen and
Margaret C. Leggieri,

Appellants

BEFORE THE

COUNTY BOARD

OF APPEALS FOR

BALTIMORE COUNTY

Case No. 90-512-SPHXA

DISMISSAL OF APPEAL

Theda A. Rosen and Margaret C. Leggieri, Appellants, by Julius W. Lichter, Howard L. Alderman, Jr., and Levin & Gann, P.A., their attorneys, based upon the letter of inspection of Baltimore County Zoning Inspector Derek Propolis dated October 22, 1991 (a copy of which is attached hereto and incorporated herein) hereby dismiss their October 16, 1990 appeal of the decision of the Deputy Zoning Commissioner in the above-referenced case.

Julius W. Lichter

Howard L. Alderman, Jr.
Levin & Gann, P.A.
Suite 113
305 West Chesapeake Avenue
Towson, Maryland 21204
(301) 321-0600
Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of October, 1991, a copy of the foregoing DISMISSAL OF APPEAL, was mailed, postage

COUNTY BOARD OF APPEALS
91 OCT 23 PM 3:31

prepaid to:

C. Victor McFarland, Esquire
McFarland, Weinkam & Masters
1002 Frederick Road
Catonsville, MD 21228

and to:

Howard L. Muhl, Esquire
Muhl & Dixon, P.A.
908 Frederick Road
Baltimore, MD 21228

Howard L. Alderman, Jr.

IN RE: THEDA A. ROSEN & MARGARET C. LEGGIERI
1403 Frederick Road
BALTIMORE COUNTY
Case No. 90-512-SPHXA

MOTION FOR POSTONEMENT

Theda A. Rosen and Margaret C. Leggieri, Appellants, by Julius W. Lichter, Howard L. Alderman, Jr. and Levin & Gann, P.A., their attorneys, request a postponement of the hearing scheduled on this case and in support thereof say:

1. Appellants have filed an appeal of a portion of the decision of the Deputy Zoning Commissioner Nastarowicz in the above-referenced case.
2. A hearing on the appeal is currently scheduled before this Board on Friday, June 7, 1991.
3. The requested relief is to validate a portion of Appellant's home for use by a professional nurse.
4. Appellants, in response to issues expressed by the community have entered into a contract of purchase for other property, zoned BL, to relocate the professional nursing use.
5. That settlement under the Contract will be scheduled at the earliest possible date.
6. It will take approximately five to six weeks after settlement to effect the interior alterations needed to make the purchased property useable by Appellants.
7. That if the scheduled hearing is postponed until August 30, 1991, Appellants will have sufficient time to purchase the property, complete interior alternations and transfer the professional nursing practice to a zoning classification that does not require a Special Exception.

30, 1991, Appellants will have sufficient time to purchase the property, complete interior alternations and transfer the professional nursing practice to a zoning classification that does not require a Special Exception.

8. That if the requested postponement is granted, Appellants will be able to relocate the professional nursing practice in the newly purchased property and will dismiss the instant appeal.

9. Counsel for the protestants, Howard L. Muhl, Jr., Esquire, and C. Victor McFarland of Catonsville 2000, Inc. have been contacted and offer no opposition to the postponement requested herein.

WHEREFORE, Appellants request that:

- A. The hearing scheduled for June 7, 1991 be POSTPONED;
- B. A new hearing date of August 30, 1991 be scheduled for hearing on the merits of this appeal; and
- C. For such further relief as the nature of this case may require.

Julius W. Lichter, Esquire

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
305 W. Chesapeake Ave. - Ste. 113
Towson, Maryland 21204
(301) 321-0600

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of June, 1991, a copy of the foregoing Motion for Postponement was mailed, postage

prepaid to Howard L. Muhl, Jr., Esquire, Muhl & Dixon, P.A., 908 Frederick Road, Catonsville, Maryland 21228, and to C. Victor McFarland, Catonsville 2000, Inc., c/o 203 West Rolling Crossroads, Suite #203, Catonsville, Maryland 21228.

Howard L. Alderman, Jr., Esquire

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE - 3/5 Frederick Road, 98' W of the c/l of Beechwood Road (1403 Frederick Road) 1st Election District 1st Councilmanic District

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Case No. 90-512-SPHXA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the use of a portion of the subject property for the home occupation of a nursing registry pursuant to Sections 101 and 1801.1.A.14(d) of the Baltimore County Zoning Regulations (B.C.Z.R.), or in the alternative, a determination that the owners are professional persons as defined in the B.C.Z.R. Petitioners also request a special exception to use the subject property for a professional office pursuant to Section 1801.1.C.9B of the B.C.Z.R., and variances to permit an existing open deck projection in a side yard to be located 2 feet from the side property line in lieu of the minimum required 7.5 feet and to permit two existing accessory structures (sheds) to be located 2 feet and 0 feet, respectively, from the side property lines, both in lieu of the minimum required 2.5 feet, as more particularly described in Petitioner's Exhibit 1.

The Petitioners appeared, testified, and were represented by Julius W. Lichter, Esquire and Howard L. Alderman, Jr., Esquire. Also appearing on behalf of the Petitions were Mary Masterson, Lynne P. Sherman, Patricia I. Hutton, Allen F. Rosen and Cindy E. Martlock. Numerous individuals appeared as Protestants, many of whom were represented by Howard L. Muhl, Jr., Esquire. Also appearing and testifying in opposition were Thomas Booth and Berchie L. Manley, Directors of Catonsville 2000, Inc.,

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George M. Crocker, Jr., President of the Board of Trustees of Catonsville Presbyterian Church, Virginia Nitsch and Norman R. Schmuff.

At the beginning of the hearing, Petitioners made a motion to dismiss their special hearing request for a determination that the use of a portion of the property as a nursing registry qualifies as a home occupation and is permitted pursuant to Sections 101 and 1B01.1A.14(d) of the B.C.Z.R.

Testimony indicated that the subject property, known as 1403 Frederick Road, consists of 0.28 acres zoned D.R. 3.5 and is improved with a two story dwelling, an above-ground swimming pool, which is enclosed with a wood deck attached to the dwelling, and accessory structures (sheds) as depicted in Petitioner's Exhibit 1. Ms. Leggieri testified the Petitioners purchased the property in November, 1989 at which time the sheds, swimming pool and deck were already in existence. Petitioners are desirous of using a portion of the property for a "nursing registry" and filed the variance petition to legalize the existing improvements. Ms. Leggieri indicated that in her opinion, the variances requested do not create any detriment to the health, safety or general welfare of the surrounding community and to deny same would create practical difficulty.

Testimony indicated that subsequent to purchasing the property, Petitioners contacted their attorney to determine the appropriateness of using the property for a "nursing registry". Ms. Leggieri testified that she is a licensed practical nurse, licensed in both the States of Maryland and Pennsylvania and that she and Ms. Rosen own the business known as Absolute Nursing Care, which places nurses for coverage needed in hospitals and private homes. Ms. Leggieri indicated that her agency concentrates on providing specialized care for children on ventilators. She also indicated

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that the agency has been approved by the State of Maryland as a Provider in the Model Waiver Medical Assistance Program which involves nursing care for children 18 years and under having tracheotomies with ventilators needing specialized care. Ms. Leggieri testified that she and Ms. Rosen have operated the business out of Silver Spring for many years and in June, 1988, opened a branch in Catonsville based on the need for such specialized care in the Catonsville and Ellicott City areas. Testimony indicated the business rented office space in an R.O. zone in Catonsville. In November, 1989, Petitioners purchased the subject property with the intention of using a portion of the premises for the operation of their business and the remaining portion as a residence. Ms. Leggieri testified that under the Model Waiver Medical Assistance Program, she is required to have a registered nurse act as the director of nursing and that Ms. Lynne Sherman fills that position at the subject location. She testified that her business places approximately fifty Registered Nurses (R.N.s) and/or Licensed Practical Nurses (L.P.N.s) in the area. Ms. Leggieri testified that in her opinion, the nurses are independent contractors, that the company does not withhold taxes, and has no direct control over the nurses. She testified that the nurses placed have limited contact with the property. Contact is generally limited to those nurses who pick up their checks at the subject location rather than waiting to receive their checks in the mail. Ms. Leggieri testified that in addition to the employment of Ms. Sherman, there is a bookkeeper and two college students who help on a part-time basis, both of whom may be replaced with one full-time employee. Testimony indicated the hours of operation of the business office would be 9:00 AM to 5:00 PM; however, there is a 24-hour answering service handled by a beeper system.

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On direct examination, Petitioner responded to questions asked by Counsel regarding the special exception requirements of Section 502.1 of the B.C.Z.R. and concluded that, in her opinion, the proposed use meets those requirements.

Ms. Leggieri testified they use only two rooms of the subject dwelling for the operation of their business. The two rooms contain a total of 436.4 sq.ft. Ms. Leggieri testified that the total square footage of the living area of the house is 1,774 sq.ft., excluding the club-room in the basement which, while habitable, is not occupied by them at this time. Petitioners' Counsel proffered that based upon the figures presented, the proposed office use occupies less than 25% of the total square footage of the dwelling, 24.6%, excluding the basement area.

Petitioners' use and occupancy of the premises as a principle dwelling was examined by Mr. Muhl in cross-examination. Ms. Leggieri testified that Petitioners own a boat which they use from time to time for overnight stays but she does not consider it her residence. She indicated that Petitioners own real property on South President Street which was purchased in April, 1989. Ms. Leggieri testified that she resided at that property until she moved to the subject site in June, 1990. She indicated that Ms. Rosen moved to the subject property in late April, early May, 1990. Ms. Leggieri testified that the reason Ms. Rosen did not move in earlier was due to the condition of the property and the need to remove asbestos. She indicated that the initial work done on the house was to the office space.

Ms. Sherman testified that she is a registered nurse in the States of Maryland and Virginia. She testified that she has been employed by Absolute Nursing Care since December, 1989 as Director of Nursing. In

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her position, she supervises assignments, monitors all nurses, and oversees the nurses in the Model Waiver Program. She testified that the nurses employed generally only pick up their checks from the subject site and that in a number of instances, the checks are mailed.

Upon direct examination, Ms. Rosen supplied documentation that she has a voter's registration card for 1403 Frederick Road. She testified that over the last two months she has resided 80% of the time at the subject location.

Thomas Booth, of Catonsville, 2000, Inc., testified in opposition to the relief requested and questioned whether or not Petitioners qualified for a special exception. Mr. Booth argued that the use of the subject property is as a nursing registry or employment agency and not a professional use as required under Section 1B01.1C.9(B) of the B.C.Z.R. In his opinion the proposed use is not appropriate in a residential zone. Berchie Manley also testified in opposition and questioned whether or not the proposed use qualified for a special exception.

Virginia Nitsch testified that the rear of the subject property abuts the side of her property on Beechwood Avenue. She argued that the use proposed is not as a residence but mainly as an office location for Absolute Nursing Care. She indicated that she did not see any residential activity until the end of May or beginning of June, 1990.

Petitioners seek relief from Section 1B01.1C.9B pursuant to Section 502.1 and from Section 301.1 and 400.1 pursuant to Section 307 of the B.C.Z.R.

It is clear that Section 1B01.1C.9B of the B.C.Z.R. permits by special exception on D.R. zoned property:

"Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other

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professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence; does not occupy more than 25 per cent of the total floor area of such residence; and does not involve the employment of more than one non-resident professional associate nor two other non-resident employees."

In support of Petitioners' position that Ms. Leggieri, a licensed practical nurse, qualifies as "other professional persons" as required under Section 1B01.1C.9B of the B.C.Z.R., Counsel for Petitioners referred to the opinion issued by the Zoning Commissioner in Case No. 85-78-X, In Re: Richard A. Dalla Tezza, Petitioner. In said case, the Zoning Commissioner determined that the Petitioner, a real estate broker, did not qualify for a special exception for a professional office in a residence. The Zoning Commissioner referred to the Mayor and City Council v. Smith, 168 Md. 458, 177 A 903 (1935) wherein the Court of Appeals found a nurse, whether practical or registered, to be a professional for purposes of a case concerning a workman's compensation issue. The facts of this particular case would indicate that Ms. Leggieri is a Licensed Practical Nurse and both Ms. Leggieri and Ms. Rosen are owners and operators of Absolute Nursing Care, Inc. Testimony indicated that Absolute Nursing Care, Inc. is a business which involves the placement of Licensed and Registered Nurses in hospitals, nursing homes, and private residences. The zoning regulations neither specifically define "other professional persons" and/or "nurses". Section 101 of the B.C.Z.R. states that any word or term not defined therein "...shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged." Said dictionary defines a "professional" (adj.) as "of, relating to, or characteristic of a profession or calling... engaged in one of the learned professions or in an

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occupation requiring a high level of training and proficiency" and "nurse" as "a person skilled in caring for and waiting on the infirm, the injured, or the sick; specifically, one especially trained to carry out such duties under the supervision of a physician." While it is clear, for the purposes of the B.C.Z.R., that a licensed practical nurse may meet the criteria of "other professional persons" and thus, may qualify for a special exception, the facts in this case would indicate that the proposed offices will be used for the purpose of placing nurses, whether it be called a "nurse registry" and/or "employment agency". It is my opinion that the intended use for a special exception for a professional person as set forth in the B.C.Z.R. are for services usually associated with that profession, not the placement of the professional, whether it be a nurse, attorney, engineer, etc. The property is not being used as an office or studio wherein the individual renders services normally associated with the nursing profession in the residence.

The issue raised by the Protestants as to whether or not the subject property is used as Petitioners' primary residence need not be addressed in light of the above findings.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Sections 1B01.1C.9B and 502.1 of the B.C.Z.R. In light of the above findings, the requirements set forth in Section 502.1 shall not be addressed.

Based upon the testimony and evidence presented, the relief requested in the Petitions for Special Hearing and Special Exception shall be denied.

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By [Signature]

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Turning to the issue of the requested variances, it is clear the variances are necessitated by the improvements made by Petitioners' predecessors in interest. Petitioners contend that to require removal of said improvements at this time, while in good repair, would be unreasonable and create practical difficulty. Further, they allege that the granting of the variances would not result in any detriment to the health, safety or general welfare of the surrounding community. Little or no testimony was presented by the Protestants as to the detriment, if any, the granting of the requested variances would create.

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 property 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 testimony that if the variances are granted, such use would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare and should, therefore, be granted.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15th day of September, 1990 that the Petition for Special Hearing to approve the use of a portion of the subject property for the home occupation of a nursing registry, pursuant to Sections 101 and 1B01.1A.14(d), be and is hereby DISMISSED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing for a determination that the Petitioners (owners) are professional persons as defined in the B.C.Z.R., for purposes of using the subject property as proposed, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to use the subject property for a professional office pursuant to Section 1B01.1C.9(b) of the B.C.Z.R. be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit an existing open deck projection in a side yard to be located 2 feet from the side property line in lieu of the minimum required 7.5 feet and to permit two existing accessory structures (sheds) to be located 2 feet and 0 feet, respectively, from the side property lines, both in lieu of the minimum required 2.5 feet, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein would be rescinded.

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By [Signature]

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2) The variances granted herein are limited to the life of the existing improvements on the subject property. In the event Petitioners or future property owners desire to replace existing structures, such improvements must be made in strict compliance with the B.C.Z.R. in effect at that time or obtain new variances.

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

AMN:bjs

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By [Signature]

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

J. Robert Haines
Zoning Commissioner

September 18, 1990



Dennis F. Rasmussen
County Executive

Julius W. Lichter, Esquire
Levin & Gann, P.A.
305 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES
S/S Frederick Road, 98' W of the c/l of Beechwood Avenue
(1403 Frederick Road)
1st Election District - 1st Councilmanic District
Theda A. Rosen and Margaret C. Leggieri - Petitioners
Case No. 90-512-SPHXA

Dear Mr. Lichter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Special Exception have been denied and the Petition for Zoning Variance has been granted in accordance with the attached Order.

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

Very truly yours,

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

AMN:bjs

cc: Howard L. Muhl, Jr., Esquire
908 Frederick Road, Catonsville, Md. 21228

Mr. Thomas Booth, Catonsville 2000, Inc.,
4 Montrose Avenue, Catonsville, Md. 21228

People's Counsel

File

ENCLOSURE

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SPECIAL EXCEPTION AND * DEPUTY ZONING
VARIANCE S/S Frederick *
Road, 98' W of C/L of *
Beechwood Road (1403 *
Frederick Road) 1st Election *
District; 1st Councilmanic * COMMISSIONER OF
District * BALTIMORE COUNTY
Theda A. Rosen and *
Margaret C. Leggieri, * CASE NO:
Petitioners * 90-512-SPHXA

PETITIONER'S POST HEARING MEMORANDUM

Theda A. Rosen and Margaret C. Leggieri, Petitioners in the above-captioned case, by their attorneys, Julius W. Lichter, Howard L. Alderman, Jr., and Levin & Gann, P.A., hereby submit their Post-Hearing Memorandum in lieu of direct closing argument.

Procedural History

Shortly after purchasing the premises known as 1403 Frederick Road, Petitioners sought approval of the use of a small portion of their premises under the "as of right" home occupation provision contained within the Baltimore County Zoning Regulations (BCZR) applicable to Density Residential Zones. Subsequently, a complaint was filed with the Zoning Enforcement Office falsely alleging that a nursing home was being conducted on the subject property. Citations alleging violations of the BCZR were issued by the Zoning Commissioner's Office.

Pursuant to good faith representations made by Petitioners, the necessary site plans were prepared and submitted with

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Petitions for Special Hearing and Special Exceptions. At the time of filing said Petitions, counsel for Petitioners was notified of the need to seek relief by way of variance to applicable setback requirements for improvements on the subject property prior to the time that the property was purchased by the Petitioners. A Petition for Variance was prepared promptly and all Petitions were then submitted for public hearing.

At the hearing held on July 11, 1990, Petitioners withdrew the Petition for Special Hearing regarding approval of home occupation use. The hearing proceeded on the Petition for Special Exception for a professional office in the home of a professional nurse, Petition for Variances, and determination of a nurse as a professional as used in the BCZR, pursuant to the remaining issue of the Petition for Special Hearing.

Professional Nurse

Petitioner Margaret Leggieri presented direct testimony of her professional education, training, work experience and state licenses. Ms. Leggieri holds a license, issued by the Maryland State Board of Examiners of Nurses, as a licensed practical nurse. The authority for such licensure is found in the Health Occupations Article, Annotated Code of Maryland, Sections 7-101(d), and 7-301 through 7-315. (A copy of the statutes referenced is included herewith). She is also so licensed in the State of New Jersey and Pennsylvania.

Additionally, Petitioners submitted, as a conclusive

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determination of a nurse as a professional, the Decision of the Zoning Commissioner for Baltimore County in Case No. 85-78-X. The Petitioner in that case, Richard A. Dalla Tezza, sought to operate his real estate business from his home, after seeking a determination that a real estate broker is a professional within the meaning of the BCZR. Finding sufficient legal authority to deny Mr. Tezza's status as a professional, the Zoning Commissioner nevertheless discussed at length those who have been held to be professionals. Citing Maryland City Council v. Smith, 168 Md. 458, 177 A. 903 (1935), the Zoning Commissioner found that a "nurse, whether trained, practical, or registered" had been determined to be a professional. (Tezza at 3.) (A copy of the Tezza opinion is included herewith and incorporated herein).

Finally, Ms. Leggieri testified that she has authority from the State of Maryland to administer 46 of the 200 authorized nursing positions under the State's Model Waiver Program. A letter from the State Department of Health and Mental Hygiene, together with the Agreement attached thereto, evidencing participation in this Program have been provided, subsequent to the hearing on this matter, to the Deputy Zoning Commissioner and counsel for the protestants. For ease in referring to legal authority and requirements contained in the Agreement, a copy of Code of Maryland Regulations (COMAR) 10.09.27 and 10.09.31 have been included herewith. Clearly, COMAR 10.09.27.03A(1) and 10.09.31.03A(1) require licensure pursuant to the Health-

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Occupations Article as a precondition to participation in this Model Waiver Program. Moreover, as the home care coordination provider (COMAR 10.09.31.01B(4)) specialized training and demonstrated experience in the care of technology-assisted, children is required of Ms. Leggieri and her non-resident professional employee, Ms. Sherman (COMAR 10.09.31.01B(1)).

Likewise, as the "home care case manager" and the "home care provider" (COMAR 10.09.27.01B (05) & (06)), Ms. Leggieri and Ms. Sherman the Director of Nursing must ensure that qualified nursing and medical care is provided, that extensive medical records are maintained, and must arrange, monitor and coordinate necessary health care services, including regular, periodic reviews, for disabled children. (COMAR 10.09.27.04; see also COMAR 10.09.31.04 as to the requirements for technology assisted children).

Ms. Leggieri and Ms. Sherman testified that in the performance of their professional duties they also visit homes of technology assisted patients to evaluate the nursing services being provided and to arrange and coordinate any potential changes in the patient's requirements.

BCZR 1801.1C.9B

The BCZR clearly permit the use of 25 percent or less of the primary residence of a professional for that person's office by way of Special Exception. In addition to the resident professional, one non-resident professional and two additional

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non-resident employees are permitted. The evidence and legal support presented reflects that both Ms. Leggieri and Ms. Sherman are professionals as contemplated by the BCZR. The uncontradicted evidence at the hearing also shows that 1403 Frederick Road, the subject property, is Ms. Leggieri's primary residence and that, non-inclusive of the living area of the basement level, less than 25% of her home is used for her professional office. The basement level has the same number of square feet as the first floor level and is improved with a club room and utility room.

Ms. Rosen, a co-owner of the property who also resides there, operates out of the Silver Spring Office of Absolute Nursing Care Services, Inc. Therefore, Ms. Rosen is not to be considered an employee on the subject property.

Employees v. Independent Contractors

The direct testimony, which remains unchallenged, is that only those persons working on the premises at 1403 Frederick Road are "employees". Ms. Leggieri testified that from these person's wages she withholds taxes, FICA, etc., and that benefits are provided only to those persons. Direct supervision is given to the employees at the subject property.

The nurses assigned by Ms. Leggieri or Ms. Sherman are independent contractors. The Internal Revenue Service, pursuant to a tax audit, has made such a determination. No benefits are provided to nor are any withholdings taken from the fees of the

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independent contractor nurses. As competent, professional persons in their own right, no direct supervision or control over these individuals is exercised by Ms. Leggieri or her employees.

BCZR 502.1

The Maryland Court of Appeals has defined a use permitted by way of Special Exception as a use which has been legislatively predetermined to be conditionally compatible with uses permitted as of right in a particular zone. Creswell v. Baltimore Aviation, 257 Md. 712, 264 A.2d 838 (1970). The conditions for Special Exception evaluation and approval are contained in BCZR Section 502.1. In evaluating the subject professional office use, the trier of fact must determine if a professional office at 1403 Frederick Road would have any "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone". Schultz v. Pritts, 291 Md. 1, 22, 432 A.2d 1319 (1981).

Ms. Leggieri, who is familiar with the operation of professional offices in residential zones in other jurisdictions, testified that the special exception approval sought in this case meets all of the standards of BCZR 502.1. Several protestants testified in opposition to the requested special exception approval, focusing their concerns on alleged traffic impacts. Others suggested that the office use would not benefit the Catonsville area.

In evaluating the unsubstantiated "fears" of the protestants

- 6 -

MICROFILMED

and the testimony regarding alleged traffic impacts, the Deputy Commissioner should be guided by the principles of law regarding such testimony in special exception proceedings established in Rockville Fuel and Feed Co., Inc. v. Board of Appeals, 257 Md. 183, 192-93, 263 A.2d 499 (1970), and Entzian v. P.G. Co., 32 Md. App. 256, 262-63 (1976). Zoning by plebiscite is not permitted in Maryland. Id. The Deputy Zoning Commissioner should be aware that the allegations of traffic concerns were directed to the intersection of Frederick Road and South Rolling Road which handles the traffic coming from and going to Howard County, which intersection is West of the subject site. There will be minimal traffic attributed to the subject site once the renovations and staff hiring are completed.

The credibility of the testimony in opposition to Petitioner's request is not without question. Mr. Schmuff, on cross-examination, admitted that he considered himself a professional chemist and that his sole office was located within his residence; Mr. Schmuff acknowledged that he has not obtained approval of the Special Exception necessary for his office. The Catonsville 2000, Inc. organization appeared and testified through Mr. Thomas Booth even though they had not sought to learn from Petitioners the nature of the relief being sought. We have been advised that this conduct is not the usual process for Catonsville 2000, Inc.

Mr. George Crocker, a member of the Board of Trustees of the

- 7 -

Catonsville Prebsterian Church, appeared and testified that his organization does not want to create a "park and ride" lot on the church's property which is on the opposite side of Frederick Road from the subject property. The church parking is not posted as private parking and Ms. Sherman, appearing on behalf of the Petitioners, acknowledged parking on the church's lot on two occasions. At the hearing, the Petitioners stated their affirmative position that any such parking would not occur in the future. The Deputy Zoning Commissioner should be aware that after the hearing, Mr. Crocker made a totally unsolicited offer to the Petitioners of two parking passes for the church parking lot. The direct testimony of Petitioners is nonetheless clear and unrefuted; there is substantial, existing parking areas on the subject property for this home-office use which has existed on the property prior to its purchase by the Petitioners.

There is no requirement to show a benefit to the community by a special exception use; however, Ms. Leggieri was candid about the services provided to the greater Catonsville area by her office, including medically related services to Model Waiver and Technology-Assisted Children and private home nursing. (BCZR Section 5C2.1; Rockville Fuel and Feed Co. v. Board of Appeals, 257 Md. 183, 262 A.2d 499 (1970)). In fact, it was the demand for nursing care, especially highly technical nursing care, that motivated the Petitioners to relocate their residence and Ms. Leggieri's office in the Catonsville area. The Protestants have,

- 8 -

for reasons unknown to the Petitioners, jumped to exaggerated conclusions and have pounced on the Petitioners, creating unwarranted conclusions and inferences. Aside from the right to conduct the performance of the profession on the site, there is and will continue to be meaningful and needed services provided within the community.

Variances

Section 307.1 of the BCZR clearly permits the granting of area variances such as are sought by Petitioners. The evidence showed that the two sheds and the pool and surrounding deck existed prior to Petitioner's acquiring the subject property and that no modification or enlargement had occurred since Petitioners settled on the property. There was no opposition to the granting of the Variances.

Petitioner's relief cannot be denied as a self-inflicted hardship under the principles Ad + Soil, Inc. v. Co. Comm'r's, 307 Md. 307, 513 A.2d 893 (1987). Petitioners are seeking approval of an area variance and must, therefore, only show that practical difficulty would result if the requested variances are denied. Anderson v. Board of Appeals, 22 Md. App. 28, 39, 322 A.2d 220 (1974); McClean v. Soley, 270 Md. 208, 310 A.2d 783 (1973).

Petitioners have met their burden. Ms. Leggieri's uncontradicted testimony showed that:

1. Compliance with the applicable setback requirements of the BCZR would be unnecessarily burdensome;

- 9 -

2. A grant of the variance will do substantial justice to the Petitioners as well as other owners in the district; and
3. The requested relief can be granted within the spirit and intent of the BCZR while ensuring that public safety and welfare are secured.

Summary

Petitioners sought verification of the use of their property for a professional office use prior to the filing of any complaints or any zoning enforcement action. They have proceeded in good faith to secure all necessary approvals.

One of the Petitioners, Ms. Leggieri, is a professional as required by BCZR 1B01.1.C.9B. Also employed in the professional office in Ms. Leggieri's home is a non-resident professional, Ms. Lynn Sherman. Professional nurse planning service and medical care needs of the community are being addressed by the presence of the office in the community. Without the home care, home care case management, and home care coordination as provided by this office (and as defined and described above), patients including many children of the community would be forced to leave their homes and would be returned to an institutional setting. Moreover, the critical nursing needs of this greater Catonsville Community, including private homes and nursing homes will be unmet.

The Petitioners have affirmatively met the BCZR requirements for approval of their Petitions for Special Exception and

- 10 -

Variances. The professional office use at 1403 Frederick Road will not have any adverse effects different than the other professional offices and on-going businesses located in the district.

For all of the above reasons, and those articulated at the public hearing held, Petitioners respectfully request that their Petitions for Special Hearing (as to determination of professional only), Special Exception, and Variances be granted.

Respectfully submitted,

Julius W. Lichter
Julius W. Lichter

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

Levin & Gann, P.A.
305 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21204

(301) 321-0600
City and State

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of July, 1990, a copy of the foregoing Petitioner's Post Hearing Memorandum, together with the attachments thereto, was mailed, postage prepaid to Howard L. Muhl, Jr., Esquire, Muhl & Dixon, P.A., 908 Frederick Road, Baltimore, Maryland 21228.

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

- 11 -

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-512-SPHXA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 506.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the use of a portion of the subject premises for the home occupation of a nursing registry pursuant to BCZR Sections 101 and 1B01.1.A.14(d) or in the alternative to determine that the owners are professional persons as used in the BCZR. Property is to be posted and advertised as prescribed by Zoning Regulations.

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

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

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Address

City and State

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City and State

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City and State

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Legal Owner(s):

(Type or Print Name)

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Attorney for Petitioner:

(Type or Print Name)

Signature

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ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of May, 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 had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 11th day of July, 1990, at 9:30 o'clock P.M.

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

(over)

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-512-SPHXA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for a professional office within a dwelling pursuant to BCZR 1B01.1.C.9B.

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

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

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

Contract Purchaser:

(Type or Print Name)

Signature

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Legal Owner(s):

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Attorney for Petitioner:

(Type or Print Name)

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E.C.O.-No. 1

(over)

ORDER RECEIVED FOR FILING
Date 7/13/90
By J. Robert Hiney

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-512-SPHXA

The undersigned

J. S. DALLAS, INC.

SURVEYING & ENGINEERING

4332 HAZELWOOD AVENUE
BALTIMORE, MD 21206
(301) 866-2901
FAX (301) 866-2003

90-512-SPHXA

ZONING DESCRIPTION (#1403 Frederick Road)

BEGINNING at a point on the south side of Frederick Road at the distance of 98 feet, more or less, west of the existing paving centerline of Beechwood Avenue thence running with and binding on the south side of said Frederick Road westerly 75 feet thence leaving said Road and running the three following courses and distances: Southerly parallel with Hilton Avenue 180 feet, Easterly parallel with Frederick Road 60 feet and Northerly 181 feet, more or less to the place of beginning.

As recorded in Deed Liber S.M. No. 8350 folio 434 etc.

Also known as 1403 Frederick Road and located in the 1st Election District.

CERTIFICATE OF POSTING

90-512-SPHXA

District: 1st Date of Posting: June 19, 1990

Posted for: Special Hearing, Special Exception and Variance

Petitioner: Theda A. Rosen and Margaret C. Leggieri

Location of property: S/S Frederick Road, 98' W of c/l of Beechwood Road

Location of Sign: In front of 1403 Frederick Road

Remarks:

Posted by: J. S. Dallas

Number of Signs: 3 Date of return: June 22, 1990

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 6, 1990.

CATONSVILLE TIMES

S. Zeke Olson

Publisher

PO 105516

receipt

Account: R-001-6150
Number

No 2458

Date

5/10/90

HP000001

PUBLIC HEARING FEES QTY PRICE

050 - ZONING VARIANCE (IRL) 1 X \$35.00

050 - SPECIAL HEARING (IRL) 1 X \$35.00

050 - SPECIAL EXCEPTION 1 X \$175.00

TOTAL: \$245.00

LAST NAME OF OWNER: ROSEN & LEGGIERI

check from Levin & Gann

B 8030*****24580: a 311:f
Please make checks payable to: Baltimore County

Cashier Validation:

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

receipt

Account: R-001-6150
Number

No 2916

Date 7/11/90

M7100012

PUBLIC HEARING FEES QTY PRICE

080 - POSTING SIGNS / ADVERTISING 1 X \$172.34

TOTAL: \$172.34

LAST NAME OF OWNER: ROSEN & LEGGIERI

04404H0043WCHRC
BA C009+29A07-11-90
\$172.34

Please make checks payable to: Baltimore County

Cashier Validation:

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

receipt

Account: R-001-6150
Number

No 3696

Date

10/17/90

A9100025

APPEAL FEES QTY PRICE

120 - OF A SPECIAL EXC. ORDER 1 X \$175.00

140 - OF ALL OTHER ORDERS 1 X \$125.00

150 - POSTING SIGNS / ADVERTISING 1 X \$25.00

TOTAL: \$325.00

LAST NAME OF OWNER: ROSEN & LEGGIERI

04404H0043WCHRC
BA C002+447H1D-18-90
\$325.00

Please make checks payable to: Baltimore County

Cashier Validation:

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

J. Robert Haines
Zoning Commissioner

DATE 7/6/90

Theda A. Rosen
Margaret C. Leggieri
1403 Frederick Road
Baltimore, Maryland 21228

Re: Petitions for Special Hearing, Special Exception and Variance
CASE NUMBER: 90-512-SPHXA
S/S Frederick Road, 98' W of c/l of Beechwood Road
1403 Frederick Road
1st Election District - 1st Councilmanic
Petitioner(s): Theda A. Rosen and Margaret C. Leggieri
HEARING: WEDNESDAY, JULY 11, 1990 at 9:30 a.m.

Dear Petitioners:

Please be advised that \$ 172.34 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

JRH:ga
cc: Julius W. Lichter, Esq.

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

J. Robert Haines
Zoning Commissioner

May 22, 1990

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:

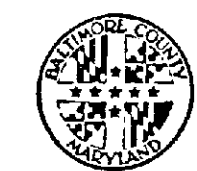
Petitions for Special Hearing, Special Exception and Variance
CASE NUMBER: 90-512-SPHXA
S/S Frederick Road, 98' W of c/l of Beechwood Road
1403 Frederick Road
1st Election District - 1st Councilmanic
Petitioner(s): Theda A. Rosen and Margaret C. Leggieri
HEARING: WEDNESDAY, JULY 11, 1990 at 9:30 a.m.

Special Hearing: The use of a portion of the subject premises for the home occupation of a nursing registry or in the alternative to determine that the owners are professional persons as used in the BCZR.
Special Exception: A professional office with a dwelling pursuant to BCZR.
Variance: To permit an existing open deck projection in a side yard to be located 2 feet from the side property line in lieu of the 7.5 feet required; to permit one existing accessory building to be located 2 feet from a side property line and to permit one existing accessory building to be located 0 feet from a side property line, both in lieu of the 2.5 feet required.

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

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

cc: Petitioners
Julius W. Lichter, Esq.



County Board of Appeals of Baltimore County

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

Hearing Room -
Room 301, County Office Bldg. December 17, 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 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. 90-512-SPHXA THEDA A. ROSEN & MARGARET C. LEGGIERI
S/S Frederick Rd., 98' W of c/l
of Beechwood Rd. (1403 Frederick Rd.)
1st Election District
1st Councilmanic District

SPH-home occupation nursing registry;
OR IN THE ALTERNATIVE
To determine owners are professional persons;
SE-Professional Offices
VAR-Setbacks; existing deck & accessory structures

9/18/90 - D.Z.C.'s Order DISMISSING;
DENYING AND GRANTING in part.

ASSIGNED FOR: FRIDAY, JUNE 7, 1991 at 10:00 a.m.

cc: Howard L. Alderman, Jr., Esquire- Counsel for

Petitioners/Appellants
Theda A. Rosen & Margaret C. Leggieri-Petitioners/Appellants
Howard L. Muhl, Jr., Esquire
Mr. Thomas Booth
Mr. James W. Mohler
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services
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, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

Hearing Room -
Room 301, County Office Bldg. December 17, 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 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. 90-512-SPHXA THEDA A. ROSEN & MARGARET C. LEGGIERI
S/S Frederick Rd., 98' W of c/l
of Beechwood Rd. (1403 Frederick Rd.)
1st Election District
1st Councilmanic District

SPH-home occupation nursing registry;
OR IN THE ALTERNATIVE
To determine owners are professional persons;
SE-Professional Offices
VAR-Setbacks; existing deck & accessory structures

9/18/90 - D.Z.C.'s Order DISMISSING;
DENYING AND GRANTING in part.

ASSIGNED FOR: FRIDAY, JUNE 7, 1991 at 10:00 a.m.

cc: Howard L. Alderman, Jr., Esquire- Counsel for

Petitioners/Appellants
Theda A. Rosen & Margaret C. Leggieri-Petitioners/Appellants
Howard L. Muhl, Jr., Esquire
Mr. Thomas Booth
Mr. James W. Mohler
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services
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, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3388 x 4, 1991

Hearing Room -
Room 301, County Office Bldg.

NOTICE OF POSTPONEMENT AND REASSIGNMENT

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

Case No. 90-512-SPHXA THEDA A. ROSEN & MARGARET C. LEGGIERI
S/s Frederick Rd., 98' W of C/1
of Beachwood Rd. (1403 Frederick Rd.)
1st Election District
1st Councilmanic District
SPH-home occupation nursing registry;
OR IN THE ALTERNATIVE
To determine owners are professional
persons;
SP-Professional Offices
VAR-Setbacks; existing deck & accessory
structures
9/18/90 -D.Z.C.'s Order DISMISSING;
DENYING AND GRANTING in part.

which was scheduled for hearing on June 7, 1991 has been POSTPONED at the request of Counsel for Petitioners/Appellants and without objection by Counsel for Protestants has been

REASSIGNED FOR: TUESDAY, NOVEMBER 12, 1991 AT 10:00 a.m.

cc: Howard L. Alderman, Jr., Esquire Counsel for Petitioners/
Appellants
Theda A. Rosen & Margaret C. Leggieri-Petitioners/Appellants
Howard L. Muhl, Jr., Esquire - Counsel for Protestants
C. Victor McFarland, Esquire - " " "
Mr. Thomas Booth
Mr. James W. Mohler
Mr. Peter Griffin
People's Counsel for Baltimore County
P. David Fields
Pat Keller W. Carl Richards, Jr.
J. Robert Haines Docket Clerk -Zoning
Ann M. Naskarowicz
James E. Dyer
Arnold Jablon, Chief Deputy County Attorney
LindaLee M. Kuszmaul
Legal Secretary

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

June 22, 1990



Dennis F. Rasmussen
County Executive

Julius W. Lichter, Esquire
Levin & Gann, P.A.
305 W. Chesapeake Avenue, Suite 113
Towson, MD 21204

RE: Item No. 391, Case No. 90-512-SPHXA
Petitioner: Theda A. Rosen
Petition for Zoning Variance, Special Hearing
and Special Exception

Dear Mr. Lichter:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

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

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Ms. Theda A. Rosen
1403 Frederick Road
Baltimore, MD 21228

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



Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this
30th day of May, 1990.

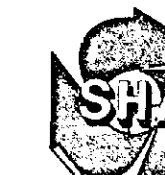
J. Robert Haines
Zoning Commissioner

Received By:

Theda A. Rosen
Chairman
Zoning Plans Advisory Committee

Petitioner: Theda A. Rosen

Petitioner's Attorney:



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

June 18, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Att: James Dyer

Re: Baltimore County
Theda A. Rosen and
Margaret C. Leggieri Property
Zoning meeting 5/29/90
S/S Frederick Road
MD 144
98' west of Beechwood Road
Item #391

Dear Mr. Haines:

After reviewing the submittal for a special exception for a professional office within a dwelling, we find the plan must be revised to show a 25' concrete entrance onto Frederick Road built to State Highway Administration standards for commercial access.

All work within SHA right-of-way must be performed under an access permit issued by our office prior to issuance of building permits.

If you have any questions, contact Larry Brocato (333-1350).

Very truly yours,

Charles Rose, Acting Chief
Engineering Access Permits
Division

LB/es

cc: J.S. Dallas, Inc.
Mr. J. Ogle

RECEIVED
JUN 20 1990
ZONING OFFICE

333-1350

My telephone number is (301) _____

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

RECEIVED
JUN 25 1990

BALTIMORE COUNTY, MARYLAND
ZONING OFFICE INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: June 25, 1990
Zoning Commissioner
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Theda A. Rosen, Margaret C. Leggieri, Item No. 391
90-512-SPHXA

The Petitioners' request a Special Exception for a professional office within a dwelling; a Special Hearing to approve the use of a portion of the subject premises for the home occupation of a nursing registry or, in the alternative, to determine that the owners are professional persons; and Variances addressing several setback requirements.

In reference to the Petitioners' request, staff offers the following comments:

- The Petitioners' property is subject to a current zoning violation case. (See Case No. 90-336)
- Over 15 residents in the vicinity of the site have filed complaints.
- In the matter of Richard A. Dala Fezzal, Case No. 85-78X, the Zoning Commissioner cited several cases involving the issue of what constitutes a professional person.
- The subject site is located across Frederick Road from the Hillcrest School.
- Section 101 of the Baltimore County Zoning Regulations defines a Home Occupation as "any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes."

Theda A. Rosen, Margaret C. Leggieri, Item No. 391
June 25, 1990

Section 1B01.1.C.9B addresses professional persons as follows:

Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence; does not occupy more than 25 per cent of the total floor area of such residence; and does not involve the employment of more than one non-resident professional associate nor two other non-resident employees.

According to a letter sent to J. Robert Haines' attention from Julius Lichter, an attorney representing the Petitioners, the owners supply nursing staff for hospitals, nursing homes, etc. The business is, for the most part, conducted through the mail and telephone. However, approximately 15 employees pick up their checks on Fridays. In addition to Ms. Rosen, one other person is employed at the subject location.

Staff offers no comment regarding the requested Variances because conditions are existing.

Based on an analysis of past zoning cases, staff recommends that the Petitioners' Special Exception request be denied since the (proposed) use does not meet the requirements of Section 1B01.1.C.9B. Regarding the Special Hearing, staff believes home occupations are intended to be accessory uses. The instant case involves 150 employees of which 15 will visit the property every Friday. This involves a significant amount of vehicles and the anticipated negative impact on the community and potentially the Hillcrest School.

Finally, staff has consistently opposed commercial intrusion and feels that the use would be detrimental to the residential character of Catonsville.

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

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

June 6, 1990



Dennis F. Rasmussen
County Executive

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

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 351, 381, 382, 383, 384, 386, 389, 390, 391, 392 and 393.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF/lvw

RECEIVED
JUN 13 1990
ZONING OFFICE

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

Paul H. Reincke
Chief

MAY 21, 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: THEDA A. ROSEN AND MARGARET C. LEGGIERI
Location: #1403 FREDERICK ROAD
Item No.: 391 Zoning Agenda: MAY 29, 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: Noted and Approved
Planning Group File Prevention
Special Inspection Division

JK/KEK

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

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

October 22, 1991

Howard Alderman, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 90-336-CV
1403 Frederick Road
1st Election District

Dear Mr. Alderman:

I inspected 1403 Frederick Road on October 17, 1991. I noticed that Absolute Nursing Care no longer occupied the above referenced address. I have closed my case.

Sincerely,
Derek Propolis
DEREK PROPOLIS
Zoning Inspector

DP:ls

LAW OFFICES
MCFARLAND, WEINKAM & MASTERS
1002 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228 - 5029

G. VICTOR MCFARLAND
LOUIS J. WEINKAM, SR. P.C.
KENNETH H. MASTERS

LOUIS J. WEINKAM, JR.*
*ALSO ADMITTED IN DC

TELEPHONE
AREA CODE 301
788 - 2300
744 - 3058
FAX 744-3423

June 3, 1991

County Board of Appeals
Baltimore County
Court House
Towson, MD 21204

Re: Absolute Nursing Care, Inc.
1403 Frederick Road
Case No. 90-512 SPHXA
Petition for Special Hearing, etc.
1st Election District
Hearing: June 7, 1991

Dear Madam Clerk:

Please enter my appearance for South Rolling Road Community Association, Fred Timmel, Norman R. Schmuff and Peter Griffin, Appellees.

Very truly yours,
C. Victor McFarland
C. Victor McFarland

CVM:CF/r

cc: Fred Timmel
Norman R. Schmuff
Peter Griffin
Phyllis Fro. Jman, Esq.,
People's Counsel
Julius W. Lichter, Esq.

59 JUN 10 9 1991

LAW OFFICES
MCFARLAND, WEINKAM & MASTERS
1002 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228 - 5029

G. VICTOR MCFARLAND
LOUIS J. WEINKAM, SR. P.C.
KENNETH H. MASTERS

LOUIS J. WEINKAM, JR.*
*ALSO ADMITTED IN DC

TELEPHONE
AREA CODE 301
788 - 2300
744 - 3058
FAX 744-3423

June 6, 1991

Ms. Lindalee M. Kuszmual,
Legal Secretary
County Board of Appeals of Baltimore County
County Office Building, Room 315
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Case No. 90-512-SPHXA
1403 Frederick Road

Dear Ms. Kuszmual:

Thank you for the Notice of Postponement and Reassignment rescheduling the case for Tuesday, November 12, 1991 at 10:00 a.m.

It is my understanding that the case will be set in in the event any case currently scheduled falls out of the assignment after September 30, 1991, and that as soon as the appellant is settled in their new quarters they will dismiss their appeal.

Very truly yours,
C. Victor McFarland
C. Victor McFarland

CVM:CF/rj
Enc.

cc: Howard L. Alderman, Jr., Esq.
Howard L. Muhl, Jr., Esq.
People's Counsel for Baltimore County
Norman R. Schmuff

61 JUN 10 1991

CATONSVILLE 2000, INC.

"Working For A Better Catonsville Community"

OFFICERS
Michael L. DeLuca
President
Richard W. Decker
Vice President
William Holley
Treasurer
Stephen W. Whalen, Jr.
Secretary

July 2, 1990

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

Re: 90-512-SPHXA
1403 Frederick Road
Hearing Date: July 11, 1990

Dear Mr. Haines:

Our Catonsville 2000 Board of Directors met on Thursday evening, June 28, 1990. At this meeting we discussed the above requests. A motion was passed that we will oppose this request. A member of our zoning committee will be attending the hearing in opposition.

Please add our name to your mailing list so we can keep abreast to any new matters. Thank you.

Sincerely,
James W. Mohler
James W. Mohler
Secretary

JWM/lam
CAT2000 #2

cc: Mr. Thomas Booth, President

DIRECTORS
Thomas E. Booth
Richard W. Decker
Michael L. DeLuca
William Holley
Berchie Hanley
Fran Medicus
Harry McGurk
James W. Mohler
Louis Mosberger
Craig O'Donnell
Paul Stock
Henry Stansbury
Jean Walsh
Stephen W. Whalen, Jr.

STANDING COMMITTEES
LAND USE PLANNING
Henry Stansbury
Chairman
TRAFFIC & PARKING
Harry McGurk
Chairman
STREETScape & ARCHITECTURE
Fran Medicus
Chairman
RESOURCE MATERIALS
Stephen W. Whalen, Jr.
Chairman

ADVISOR TO THE BOARD
William Huey
First District Planner
Baltimore County
Office of Community Planning

RECEIVED
JUL 5 1990
ZONING OFFICE

CATONSVILLE 2000, INC.

"Working For A Better Catonsville Community"

OFFICERS
Michael L. DeLuca
President
Richard W. Decker
Vice President
William Holley
Treasurer
Stephen W. Whalen, Jr.
Secretary

July 16, 1990

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

Re: 90-512 SPHXA
1403 Frederick Road
Hearing Date: July 11, 1990

Dear Mrs. Nastarowicz:

Thank you for letting Tom Booth, President of Catonsville 2000, Inc. to speak early.

As a follow-up, I would like to make further comments about zoning's use of the term "other professional persons". Industry may refer to someone as being professional but I am sure zoning looks at it differently. The examples given on page 1B-13, paragraph 9B, use the terms physicians, dentists, etc. Zoning says a medical office is the treatment of outpatients by a medical practitioner. All the examples mentioned use their profession at that home office.

I am not sure if zoning considers nurses as professionals or considers the petitioners as professionals for home office use.

If by chance they do, I don't feel that their present use and planned use of 1403 Frederick Road complies with the intent of BCZR. I feel this use is no more than an administrative office. I could live there and carry out a nursing registry. I could not live there and operate a doctor's office. I am not a doctor.

If by chance you decide that they do qualify, and I feel this is a very important decision you need to make. I encourage you to deny their special exception request. From listening to the testimony of the petitioners I feel there are major potential problems of abuse. Any abuse at all would be detrimental to a now very lovely neighborhood.

RECEIVED
JUL 17 1990
ZONING OFFICE

STANDING COMMITTEES
LAND USE PLANNING
Henry Stansbury
Chairman
TRAFFIC & PARKING
Harry McGurk
Chairman
STREETScape & ARCHITECTURE
Fran Medicus
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Stephen W. Whalen, Jr.
Chairman

ADVISOR TO THE BOARD
William Huey
First District Planner
Baltimore County
Office of Community Planning

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OFFICERS
Michael L. DeLuca
President
Richard W. Decker
Vice President
William Holley
Treasurer
Stephen W. Whalen, Jr.
Secretary

July 16, 1990

JAMES W. MOHLER
Whalen Properties
2 West Rolling Crossroads
Suite #203
Catonsville, Maryland 21228

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

Re: 90-512 SPHXA
1403 Frederick Road
Hearing Date: July 11, 1990

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JUL 17 1990
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ADVISOR TO THE BOARD
William Huey
First District Planner
Baltimore County
Office of Community Planning

CATONSVILLE 2000, INC.

"Working For A Better Catonsville Community"

OFFICERS
Thomas E. Booth
President
Henry H. Stansbury
Vice President
Richard W. Decker
Treasurer
James W. Mohler
Secretary

November 26, 1990

Baltimore County Board of Appeals
111 W. Chesapeake Avenue, Room 315
Towson, Maryland 21204

Re: 90-512-SPHXA
1403 Frederick Road

TO WHOM IT MAY CONCERN:

Please add my name and address to the file for the above-referenced case. I would like to be notified of the scheduled hearing date.

My name and address are as follows:

Mr. James W. Mohler
Zoning Committee
Catonsville 2000, Inc.
2 West Rolling Crossroads
Suite #203
Catonsville, Maryland 21228

Thank you.

Sincerely,
James W. Mohler
James W. Mohler

JWM/lam
CAT2000 #3

DIRECTORS
Thomas E. Booth
Richard W. Decker
Michael L. DeLuca
Leo W. Filzsimmons
William Holley
Berchie Hanley
Fran Medicus
Harry McGurk
James W. Mohler
Louis P. Mosberger
Kevin C. Sippl
Paul E. Stock
Henry H. Stansbury
Jean Walsh
Stephen W. Whalen, Jr.

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ADVISOR TO THE BOARD
William Huey
First District Planner
Baltimore County
Office of Community Planning

61 JUN 10 1991

CATONSVILLE 2000, INC.

"Working For A Better Catonsville Community"

OFFICERS
Michael L. DeLuca
President
Richard W. Decker
Vice President
William Holley
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Stephen W. Whalen, Jr.
Secretary

July 16, 1990

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

Re: 90-512 SPHXA
1403 Frederick Road
Hearing Date: July 11, 1990

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Chairman
RESOURCE MATERIALS
Stephen W. Whalen, Jr.
Chairman

ADVISOR TO THE BOARD
William Huey
First District Planner
Baltimore County
Office of Community Planning

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
301-521-0600
TELECOPIER 301-425-0650

JULIUS W. LICHTER

July 17, 1990

RECEIVED
JUL 18 1990
ZONING OFFICE

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

RE: Petitioners: Theda A. Rosen and Margaret C. Leggieri
Special Hearing, Special Exception and Variance
Case No. 90-512-SPHXA
1403 Frederick Road
Hearing Date: July 11, 1990

Dear Mrs. Nastarowicz:

As per our understanding, enclosed herewith you will find copies of the following:

1. State of Maryland License of Margaret C. Leggieri, Licensed Practical Nurse.
2. State of New Jersey License of Margaret Leggieri, Licensed Practical Nurse.
3. Commonwealth of Pennsylvania License of Margaret Leggieri, Licensed Practical Nurse.
4. Letter from State of Maryland, Department of Health and Mental Hygiene dated February 1, 1990 addressed to Absolute Nursing Care, Inc., together with Agreement designating Absolute Nursing Care, Inc. as a Home Care Provider under the Waiver Program.

LEVIN & GANN, P. A.

Mrs. Ann M. Nastarowicz
Deputy Zoning Commissioner
Page 2
July 17, 1990

We will submit a Memorandum on or before Friday, July 20, 1990.

Sincerely,

Julius W. Lichter
Julius W. Lichter

JWL:lp
Enclosures

cc: Howard Muhl, Esquire
908 Frederick Road
Baltimore, MD 21228

SAVE THIS PORTION OF CARD AND USE REVERSE SIDE
FOR NAME AND/OR ADDRESS CHANGES. BOARD
MUST BE NOTIFIED OF THESE CHANGES IMMEDIATELY.

Board of
NURSING
201 W. PRESTON ST., 1ST FLOOR
BALTIMORE MD 21201

MARGARET C. LEGGIERI LPN
11700 OLD COLUMBIA PIKE
SILVER SPRING MD 20904

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
LICENSE CERTIFICATION RENEWAL
THE MARYLAND BOARD OF
NURSING

CERTIFIES THAT
MARGARET C. LEGGIERI LPN

IS AN AUTHORIZED
LICENSED PRACTICAL NURSE

In accordance with H.O.A. Title 7 of the Annotated Code of Maryland

LC NO. LP18035 EXPIRATION DATE 09/28/90

Margaret C. Leggieri
SIGNATURE OF LICENSEE

Adelle Wilk
SIGNATURE OF CLERK

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
THIS IS TO CERTIFY THAT
BOARD OF NURSING
HAS LICENSED

MARGARET C. LEGGIERI
11700 OLD COLUMBIA PIKE, #2101
SILVER SPRING MD 20904

FOR PRACTICE IN NEW JERSEY AS AN
LICENSED PRACTICAL NURSE

01/01/88 12/31/90

Margaret C. Leggieri
SIGNATURE OF REGISTRANT

Adelle Wilk
SIGNATURE OF CLERK

YOUR PRACTICAL NURSING LICENSE WILL EXPIRE ON 6/30/90. TO
RENEW THROUGH 6/30/92, ANSWER QUESTIONS BELOW AND SUBMIT A
CHECK OR MONEY ORDER IN THE AMOUNT OF \$10.00, PAYABLE TO THE
COMMONWEALTH OF PA. A \$5.00 PER MONTH LATE FEE WILL BE
CHARGED FOR RENEWALS POSTMARKED AFTER 6/30/90. USE PRE-
ADDRESSED MAILING LABEL TO RETURN. IF NAME HAS CHANGED, YOU
MUST SUBMIT COPY OF MARRIAGE CERTIFICATE OR COURT ORDER.
1. DO YOU HOLD A LICENSE TO PRACTICE AS LPN [X] RN [] IN
ANY OTHER STATE, TERRITORY OR COUNTRY?
2. HAVE YOU EVER HAD DISCIPLINARY ACTION TAKEN AGAINST YOU IN
ANY OTHER STATE, TERRITORY OR COUNTRY? YES [] NO [X]
*****RECORD NAME AND/OR ADDRESS CHANGE*****
NAME *Marg Leggieri*
ADDRESS *250 S. President St. #1000*
CITY *Baltimore* STATE *MD* ZIP *21202*

PN-056473-L/LEGGI/010.00 MARGARET LEGGIERI
11700 OLD COLUMBIA PIKE
APARTMENT 2101
SILVER SPRING MD 20904

PN 056473 L LEGGI

JUL-17-90 TUE 8:31

P. 81

State of Maryland

MEDICAL CARE POLICY ADMINISTRATION
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
201 WEST PRESTON STREET • BALTIMORE, MARYLAND 21201

William Donald Schaefer
Governor

Adelle Wilk, R.N., M.S.
Secretary

February 1, 1990

Absolute Nursing Care, Inc.
11700 Old Columbia Pike
Silver Spring, MD 20904

Enclosed please find an executed agreement for participation in the Waiver
Programs. This copy is for your records. Should you have any questions, please call Ms.
Clammerene Howard at (301) 225-1476.

Sincerely,

Dick Cederstrom
Dick Cederstrom, Staff Specialist
Home Health and Waiver Programs

DC:bl

Enclosure

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
301-521-0600
TELECOPIER 301-425-0650

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
301-521-0600
FAX 301-296-2801

ELLIS LEVIN (603-1960)
CARROLL COUNTY OFFICE
137 LIBERTY ROAD
SYKEVILLE, MD 21084

HOWARD L. ALDERMAN, JR.

October 16, 1990

HAND-DELIVERED

J. Robert Haines, Esquire
Zoning Commissioner for Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: 1403 Frederick Road
Rosen & Leggieri, Petitioner's
Appeal of Denial of Special Exception and Special Hearing
Case No. 90-512-SPHXA

Dear Commissioner Haines:

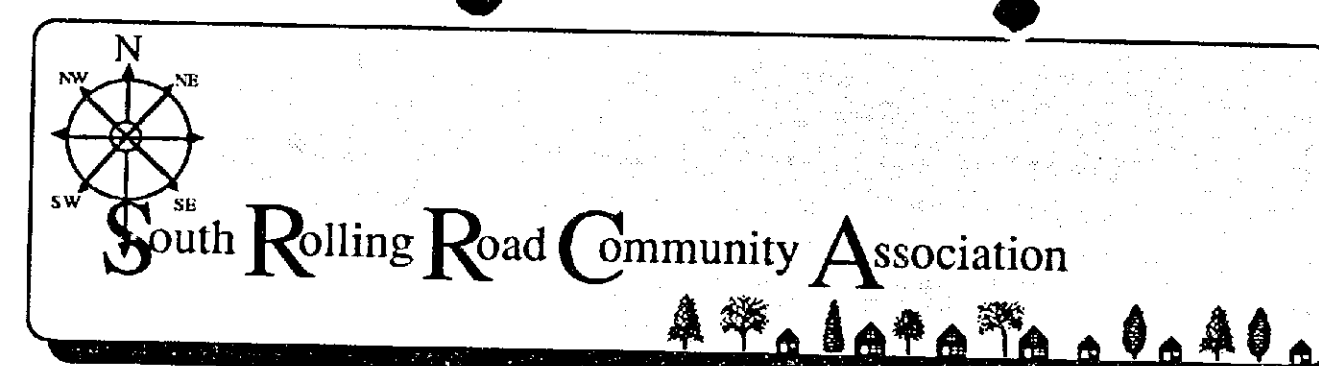
As you are aware, we represent Theda A. Rosen and Margaret
C. Leggieri, Petitioners in the above-referenced case. On behalf
of our clients, and pursuant to Section 602 of the Baltimore
County Charter, and applicable portions of the County Code, we
hereby appeal the Deputy Zoning Commissioner's denial of the
Special Exception and Special Hearing in this case. No appeal of
the variances granted is noted or taken hereby.

Enclosed is this firm's check in the amount of \$325.00 to
cover the cost of this appeal, and the posting of the necessary
sign. Should you need any further information in this regard,
please call me.

Very truly yours,

Howard L. Alderman, Jr.
Howard L. Alderman, Jr.

HLA/dgh



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

12 December 1990

RE: Petition for Special Hearing, Special Exception and Zoning Variance
S/S Frederick Road, 90° W of Beechwood Road
(1403 Frederick Road)
1st Election District - 1st Councilmanic District
Theda Rosen and Margaret C. Leggieri - Petitioners
Case No. 90-512-SPHXA

Dear Sirs:

I am writing on behalf of the South Rolling Road Community Association (SRRCA) to
request that the above noted zoning appeal be expedited. The SRRCA opposes the continued
operation of this commercial venture in apparent violation of the Baltimore County Zoning
Regulations.

Absolute Nursing has been operating in defiance of BCZR since January of 1990. In a letter dated
February 5, 1990, Mr. Haines the zoning commissioner, stated that Absolute's use "...would not
be within the spirit and intent of 'Home Occupation' of B.C.Z.R." Despite this, the owners
continued to operate their business. They did not file a request for a special exception until after
they were cited for a zoning violation by inspector Derek Propolis on March 23, 1990.

Absolute Nursing Care is a nursing registry. Nursing registries are classified under Standard
Industrial Classification (SIC) code 7361, entitled 'Employment Agencies' described as
"Establishments primarily engaged in providing employment services..." Using 'professional' in
its usual sense (i.e. a person having a vocation requiring advanced education and training and
involving intellectual skills, as medicine, law, engineering, etc), the operation of an employment
agency requires no special professional skills.

*no address, phone #
or listing in phone
book*

MUHL & DIXON, P.A.
908 Frederick Road
Catonsville, Maryland 21228
Phone: 301-747-2800
FAX #: 301-747-9486
July 23, 1990

RECEIVED
JUL 24 1990
ZONING OFFICE

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

RE: Petitioners: Theda A. Rosen & Margaret C. Leggieri
Case #: 90-512 SPHXA 1403 Frederick Rd.
Hearing Date: 7-11-90

Dear Ms. Nastarowicz:

Please be advised that I am in receipt of further post hearing memorandum from the Petitioners. I would respectfully indicate that as listed under Page 1, Procedural History as being not correct in that these parties did as they well wanted to do irrespective of the zoning regulations for Baltimore County and all of the good citizens thereof. That as recited under Page 2, Professional Nurse, these people are running a business from that location and neither of them are registered nurses.

When one looks at the general theme of the Petitioner's Post hearing Memorandum, they expressed to you that they know everything and that they can do anything that they want irrespective of the rules of Zoning and of the interest of other citizens in that community. I do not believe these people to be anything but a temporary employment agency.

I would recite that most personal visits to the 1403 Frederick Road would divulge a driveway full of cars down the side and the front lawn having been paved is also full of cars. It really looks terrible.

I want to point out on page seven (7) at the bottom relative to Mr. George Crocker who was a member of the Board of Trustees at the Catonsville Presbyterian Church who testified. That Mr. Crocker testified that his Church does not want to have created a Park and ride lot on Church property. Even though he testified as against the Petitioners, new evidence on page eight (8) is

attempted to be put in to the case that really was not proffered

1

PETER E. GRIFFIN
5 South Beechwood Avenue
Baltimore, Maryland 21228
(301) 966-5403

July 15, 1990

Case Number: 90-512-SPHXA
1403 Frederick Road
Baltimore, MD 21228

J. Robert Haines
Zoning Commissioner for Baltimore County
County Office Building
11 West Chesapeake Avenue
Baltimore, Maryland 21204

Dear Mr. Haines:

I am writing to follow up on the zoning hearing held on the above case on Wednesday, July 11, 1990. At the request of the petitioners' attorney, the record is being held open for one week for summations. I ask you to accept this statement as you agreed to accept the closing statement from the petitioners. I attended the hearing and testified on my own behalf in opposition to the exception at the hearing. I ask you to take into account the following information related to the hearing in arriving at a decision in the case.

I am an owner-resident at 5 South Beechwood Avenue. South Beechwood is a short 1 or 2 block street that runs between Frederick Road and South Rolling Road one house east of 1403 Frederick Road. I can see the property at 1403 Frederick from my front porch since mine is the third house down Beechwood. I oppose all of the zoning variances and exceptions requested.

LIMIT OF 25 PERCENT OF FLOOR AREA The petitioner testified that the business use of the house is limited to 2 rooms and 436 square feet or 24.6 percent of the floor area. There was no evidence presented on how the petitioner calculated the area. Since the limit in the Baltimore County Zoning Regulations § 1801.1.C.9B is only 25 percent and the petitioners' own calculation is within 0.6 percent of the limit, I believe that the Zoning Commission needs to consider the details of the calculation very carefully.

RECEIVED
JUL 17 1990
ZONING OFFICE

Baltimore County Board of Appeals
County Office Building
Towson, Md. 21204

July 16, 1990

Re: Petition for Special Hearing, Special Exception & Variance
S/S Frederick Road, (1403 Frederick Road)
Theda A. Rosen and Margaret C. Leggieri - Petitioners
Case No. 90-512 - SPHXA

Dear Board:

I am a neighbor to the petitioners property of 1403 Frederick Road. I have resided at 2 Stanley Drive, (1300 Frederick Road) for 26 years.

I am writing to ask that you do not grant the Special Exception and Variance that has been petitioned by Theda A. Rosen and Margaret C. Leggieri - Case No. 90-512 - SPHXA.

Some of my objections are:

1. That the above petitioners have and are knowingly continuing to violate the zoning laws of Baltimore County. They were issued a citation for Civil Zoning Case # 90-1961-3/22/90 and Violation No. 90-336-A-3/23/90. Issued by Mr. Dennis Proffitt, Office of Baltimore County Zoning Representative.
2. They were denied their petition for Special Hearing and Special Exception on Sept. 18, 1990.
3. The situation and the conditions have remained the same as when they were issued the citations - They are knowingly operating a business in a residential area - in defiance to the zoning laws of Baltimore County. Their business is listed in the telephone book and known as The Absolute Nursing Care.
4. I and my neighbors are desirous to keep our neighborhood as a residential area.
5. That Catonsville has an established business area and boundaries. This is upheld by the Catonsville 2070 Group and the Master Planning of Baltimore County. We want to maintain it as it is, with no exceptions.

Baltimore County
Zoning Commissioner
Towson, Maryland 21204

Nov. 9, 1990

Dear Sir:

At the present time there exists in Catonsville, 1403 Frederick Road a violation of the zoning laws of Baltimore County.

The parties who own 1403 Frederick Road have been continuously operating a business in a residential area, even though citation was issued from your office and after the decision was rendered that denied the petitioners appeal for a Special Hearing and Special Exception.

It is my understanding that the party has appealed and there has been two postponements of the trial at the Baltimore County District Court for the citation.

My objection is that the parties are continuing to operate their business in defiance to the zoning laws of Baltimore County and to your authority as Zoning Commissioner.

Why should they be caused to stop their operation?...

Respectfully,
Agnes Dahl
Mrs. Agnes Dahl
2 Stanley Drive
Catonsville, Md.
21228

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

July 10, 1990

Dear Mr. Haines:

On the matter of Violation Case # 336 ABC and Item # 391, 1403 Frederick Road, Balti. Co.

My name is Teresa Agnes Dahl. My husband's name is Howard L. Dahl, Jr. We reside at 2 Stanley Drive, Catonsville, Md. (1300 block Frederick Road). I block away from 1403. We have lived here for 26 years. Except for a few Doctor's offices, this is a residential area. This is an area of fine homes valued from \$2 - 3 hundred thousand dollars.

This is in an area of historic buildings. This is a stable neighborhood with churches, schools and library. The commercial district is 6 blocks away.

This is a school-walking area, meaning that elementary school children walk to and from Hillcrest School. One of the sidewalks that the children use, crosses the driveway of 1403, where cars come and go and have been seen to back-out on to a busy street, Fred Rd.

We, as residents and neighbors of 1403 are upset to have a business operating in a residential area. If not stopped, we believe that further encroachment of business would happen in the future.

We believe that "Absolute Nursing Care, Inc.", operating from 1403 is in violation of the zoning laws of Baltimore County.

We believe that this would de-value our property.

We believe that the safety of the school children would be in danger.

For these reasons we ask you, Mr. Commissioner, not grant the petitions to change

the variances, zoning, exceptions as the petitioners, Mrs. Leggieri and Rosen have requested. We would like to see this area of residential remain stable as it has been through the years.

We thank you for your kind consideration.

Howard L. Dahl
Respectfully,
Teresa Agnes Dahl
Howard and Agnes Dahl
2 Stanley Drive
Catonsville, Md. 21228

Mr. J. Robert Haynes, Zoning Commissioner
Office of Planning and Zoning
Towson, Md. 21204

Dear Mr. Haynes:

Although I attended the hearing on the above case I did not testify. My attention was first drawn to this property when I walked by and counted ten cars in the driveway. I then continually saw there were always about five or more cars parked on the property. One of my neighbors told me that there was a nursing agency operating from the house. One light left on upstairs and one car parked in the driveway. Otherwise no sign of life after 5:00 p.m. until the neighbors got upset. Then the charade began trying to show that someone did live there.

At the hearing, Mrs. Leggieri made a very strong appeal to our feelings by stating that that they had decided that Catonsville needs their help. They are not a professional nursing association, they hire nurses and aides to work for their clients and they are paid a fee for this service. This is an employment agency for nurses. As I have worked as a medical secretary most of my life, I could probably do the same thing if I were so inclined. (My last position was secretary to the Clinical Director of Spring Grove Hospital). I have lived in Catonsville for 30 years and know of no one who needed a nurse who could not get one if they could afford to pay the fee.

Mr. Lichter in his letter of January 15, 1990 stated that "Business will be conducted primarily over the telephone and through the mail." When and where do they interview new applicants? I hope not through the mail. My daughter-in-law worked through an agency in Pennsylvania and when she appeared at the same hospital four times in a row, they offered her a full-time position. So I imagine there is a big turnover of employees through an agency and there is more activity in this property than Mr. Lichter or Ms. Leggieri would have us believe.

Another matter brought up was that Mr. Muhl conducts a bondsman business from his home. I live opposite the Muhl's and I know the family cars. They are the only cars parked there except for occasionally that of a friend. Also I was in the first floor of the Muhl residence and there is no office in that house. Mr. Muhl conducts his business in the courts and the jail.

I have no fault to find with these people. Ms. Mary Masterson, R.N., Director of the Columbia office, is an old friend of mine and an excellent nurse. We have no fault to find with these people personally. They are conducting an honest business but in a residential area.

I hope the above information will help you to come to a fair decision.

Sincerely,

Mary F. Riesner
Mrs. Robert F. Riesner
1 Stanley Drive
Catonsville, Md. 21228

RECEIVED
AUG 15 1990
ZONING OFFICE

August 9, 1990

Mr. J. Robert Haynes, Zoning Commissioner
Office of Planning and Zoning
Towson, Md. 21204

Dear Mr. Haynes:

Although I attended the hearing on the above case I did not testify. My attention was first drawn to this property when I walked by and counted ten cars in the driveway. I then continually saw there were always about five or more cars parked on the property. One of my neighbors told me that there was a nursing agency operating from the house. At first there was one light left on upstairs and one car parked in the driveway. Otherwise no sign of life after 5:00 p.m. until the neighbors got upset. Then the charade began trying to show that someone did live there.

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I have no fault to find with these people personally. Ms. Mary Masterson, R.N., Director of the Columbia office, is an old friend of mine and an excellent nurse. They are conducting an honest business in a residential area.

I hope the above information will help you to come to a fair decision.

Sincerely,

Mrs. Robert F. Riesner

August 10, 1990

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

Case No.: 90512-SPHXA
Absolute Nursing Care, Inc.
1403 Frederick Road
Catonsville, Maryland 21228

Dear Commissioner:

I am writing this letter in response to the above referenced case. I was out of town of the day of the hearing (July 11, 1990) and had I been able to attend I would have brought up the following points.

We welcome professional people in our community. Nurse Finders and Preferred Nursing are two agencies that occupy space in professional office buildings. These agencies follow State and Federal Tax guidelines for employees as well as carrying workman's compensation and liability insurance. Absolute Nursing Care, Inc. have to abide by the above guidelines.

By allowing Absolute into our community it increases the flow of traffic into our neighborhood. In one eight hour day I have observed 62 vehicles at this location, 27 instances of traffic impediment, as well as double parking on Frederick Road. With the agency being in close proximity to the elementary school this imposes immediate danger to our children.

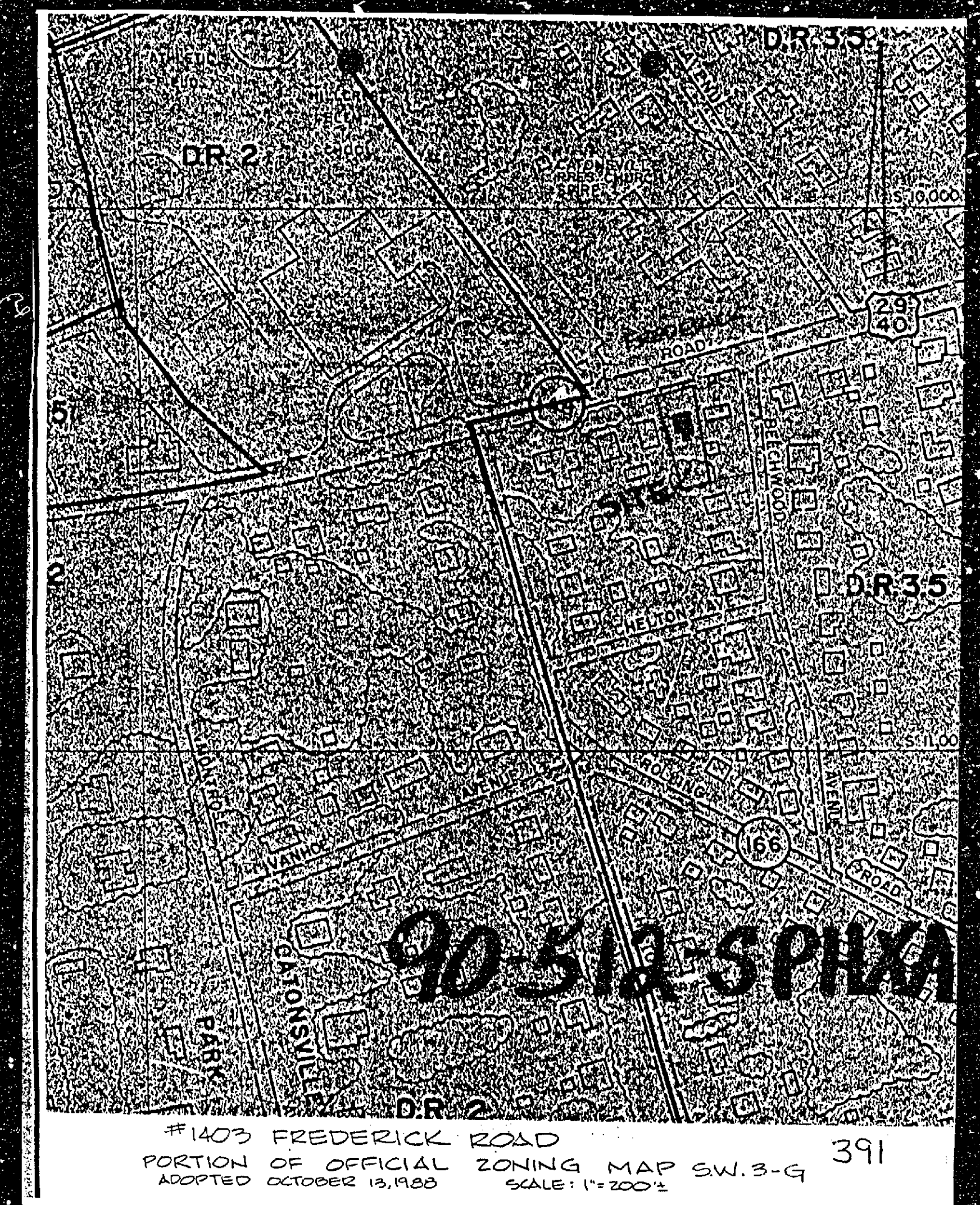
Let it be said that the so called proprietor's of 1403 Frederick Road have two other residences. One residence at Scarlett Place (250 S. President Street, Condo 1006, Baltimore, Maryland) and the other in Tamarack, Florida. All three properties (including Frederick Road) are listed in both Theda A. Rosen and Margaret C. Leggieri.

I had the opportunity of entering the premises in February. At that time the whole first level and two bedrooms on the second level were being used for business. I have also noticed people on the premises during the night putting things in the mailbox which is located on the porch.

Enclosure (1)

1308 Frederick Rd 21225
2 S. Prospect Road Bz 21028
400 MONTAENE AVE 21228
1305 Frederick Rd. 21229
3002 Bloomsbury Ave 21028
116 S Rolling Pl
118 S Rolling Rd
307 S Rolling Road 21228
104 Fairfield Drive 21228
201 Irvington Dr 21025
Frederick 450 Spring Dr 21228
COLUMBIA UNIVERSITY PARKWAY
1407 Frederick Rd 21228
1400 Frederick Pl 21228
1576 Ridge Rd 21228
ACAPULCO'S PROSPECTOR AVENUE
1 Study Drive 21228
6 Stanley Drive 21228
5 South Birchwood Area
4 Stanley
6 Stanley Dr. 21228
6 Stanley 21228
Lafayette 2000
2410 Bellin Crosspointe Suite 203
108 Park Dr 21228
108 Black Drive Bath MD 21028
1407 Frederick Rd. Bath 21028
305 Bloomingview 21228

1403 ~~Fredrick~~ Rd.
179 Marine Oaks Dr
1 ~~Derwick~~ Ct. 21228
3804 Janbuor Rd 21133
1403 ~~Fredrick~~ Rd 21228
1403 ~~Fredrick~~ Rd 21228
5745 Calverton St. 21228



Supp. 37

Supp. 27

**THE ANNOTATED CODE
OF THE PUBLIC GENERAL LAWS
OF MARYLAND**

Health Occupations

ENACTED BY CHAPTER 8, ACTS 1981

Prepared by the Editorial Staff of the Publishers
Under the Supervision of
ADRIAN D. KOWALSKY, RICHARD W. WALTER, JR., KATHARINE A. WELCH
MICHAEL B. SCHWARTZ and ALICE E. ESTES
Consultant
F. CARVEL PAYNE
Director, State Department of Legislative Reference

1986 Replacement Volume

(Including Acts of the 1985 Sessions and annotations taken from
Atlantic Reports through Volume 490 (p. 983))

THE MICHIE COMPANY
Law Publishers
CHARLOTTESVILLE, VIRGINIA
1906

IN RE:	PETITION SPECIAL EXCEPTION	*	BEFORE THE
	NE/corner of Rolling	*	
	Chesworth RoadJs (1301 North	*	ZONING COMMISSIONER
	Rolling Road) - 1st Election	*	
	District	*	OF BALTIMORE COUNTY
Richard A. Dalla Tezza,		*	Case No. 85-78-X
Petitioner		*	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

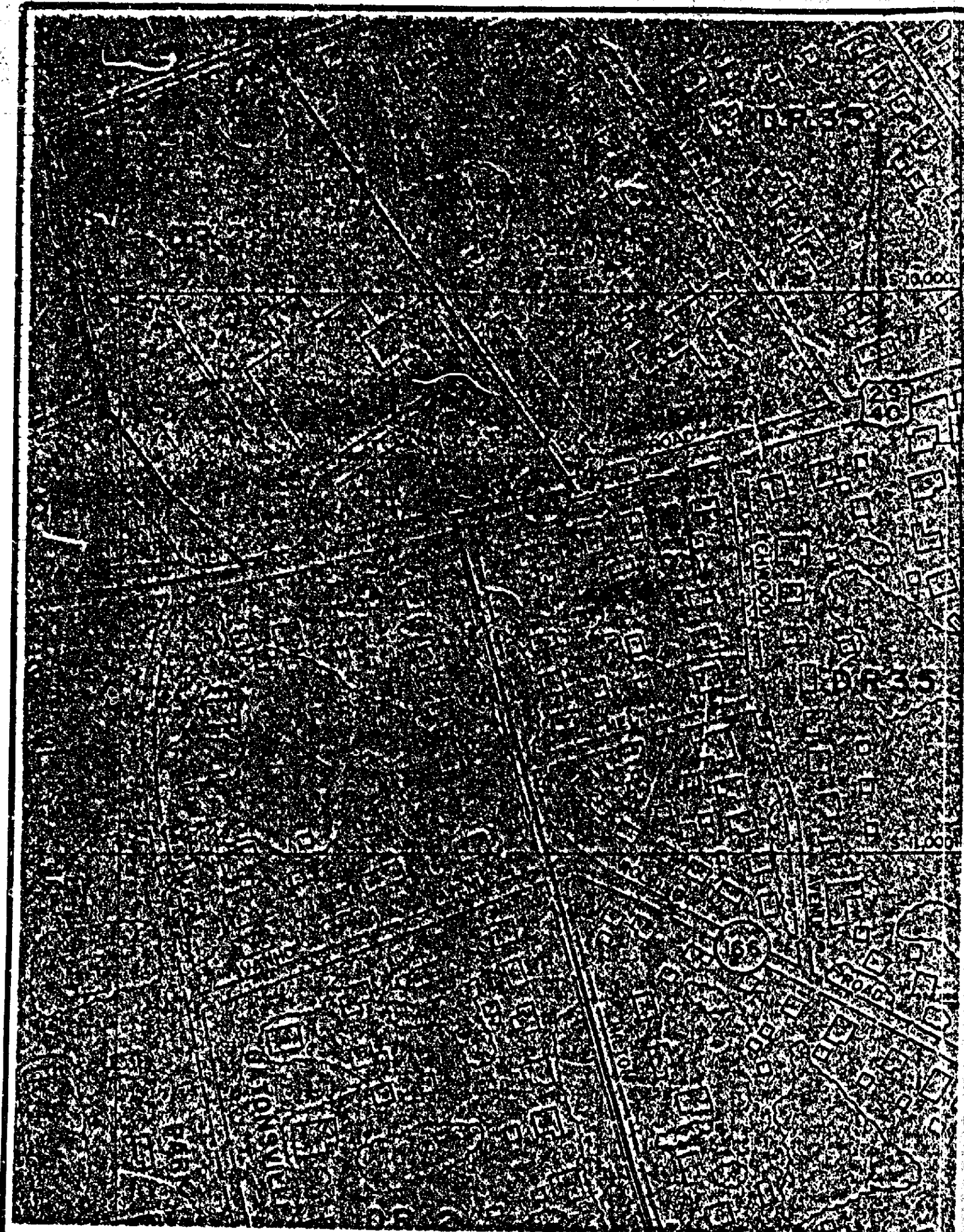
The Petitioner herein requests a special exception for a professional office in his residence, as more fully described on Petitioner's Exhibit 1.

The Petitioner appeared and testified and was represented by Counsel. Appearing on behalf of the Petitioner was Wilbur Duvall, a registered professional engineer. Ronald Lepson, a resident of the area and a representative of the Westview Park Improvement and Civic Association, appeared and testified as a Protestant.

Testimony indicated that the subject dwelling, located on the corner of Rolling and Chesworth Road, zoned D.R.3.5, contains three stories with the proposed office to be located on the first floor. The Petitioner has been a real estate broker for three years and was a real estate agent for six years before that. He wishes to operate his business from his residence. He estimates that he would see 30 to 50 potential clients per year in his home and that most of his business would be conducted off premises. His wife, who would act as his Secretary, would be his only employee.

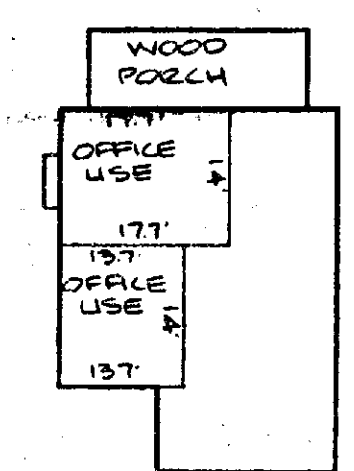
8 Duvall testified that a County survey of traffic at this intersection
9 showed that the traffic count was 24,000 vehicles per 24 hours. According to
10 Mr. Duell, based on his experience and expertise, the proposed office would not
11 adversely impact the traffic flow, i.e., 30 to 50 people per year would not
12 cause a problem. In fact, all of the Petitioner's business would be conducted

ORDER RECEIVED FOR FILING

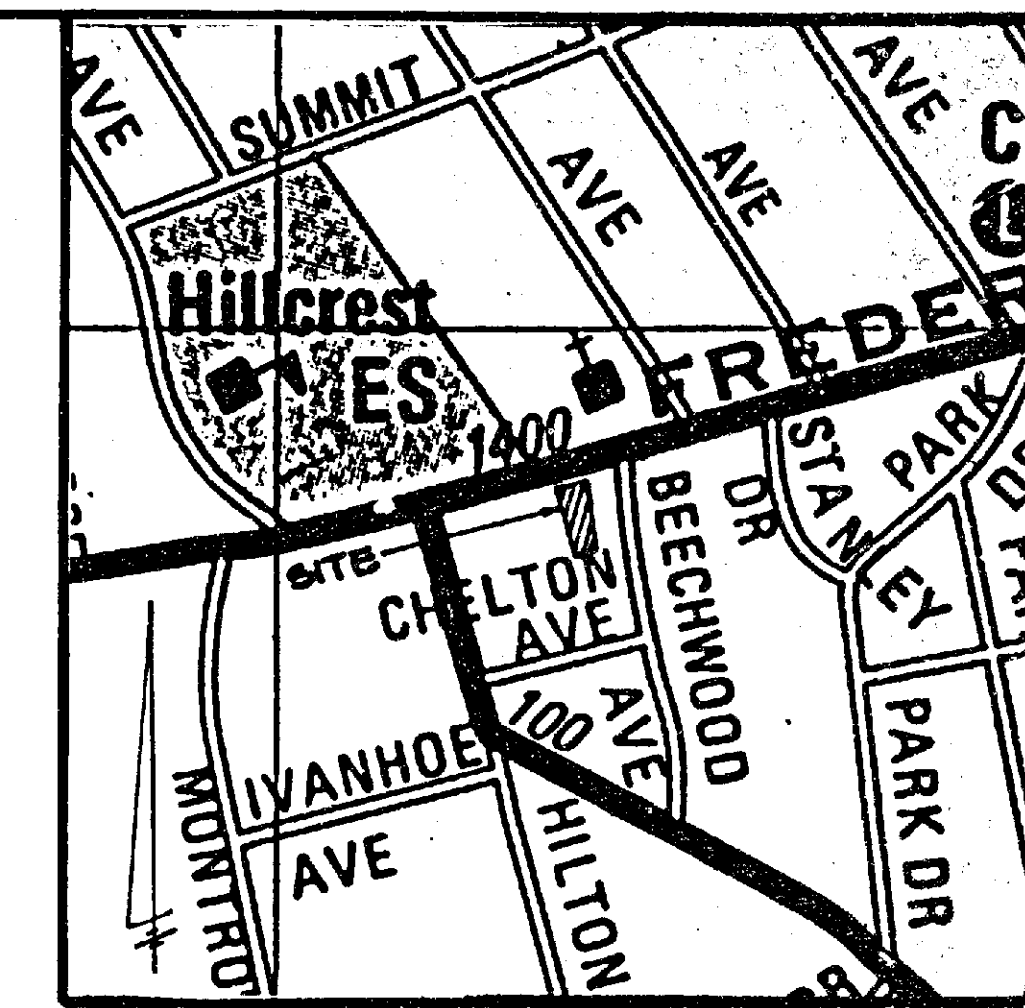
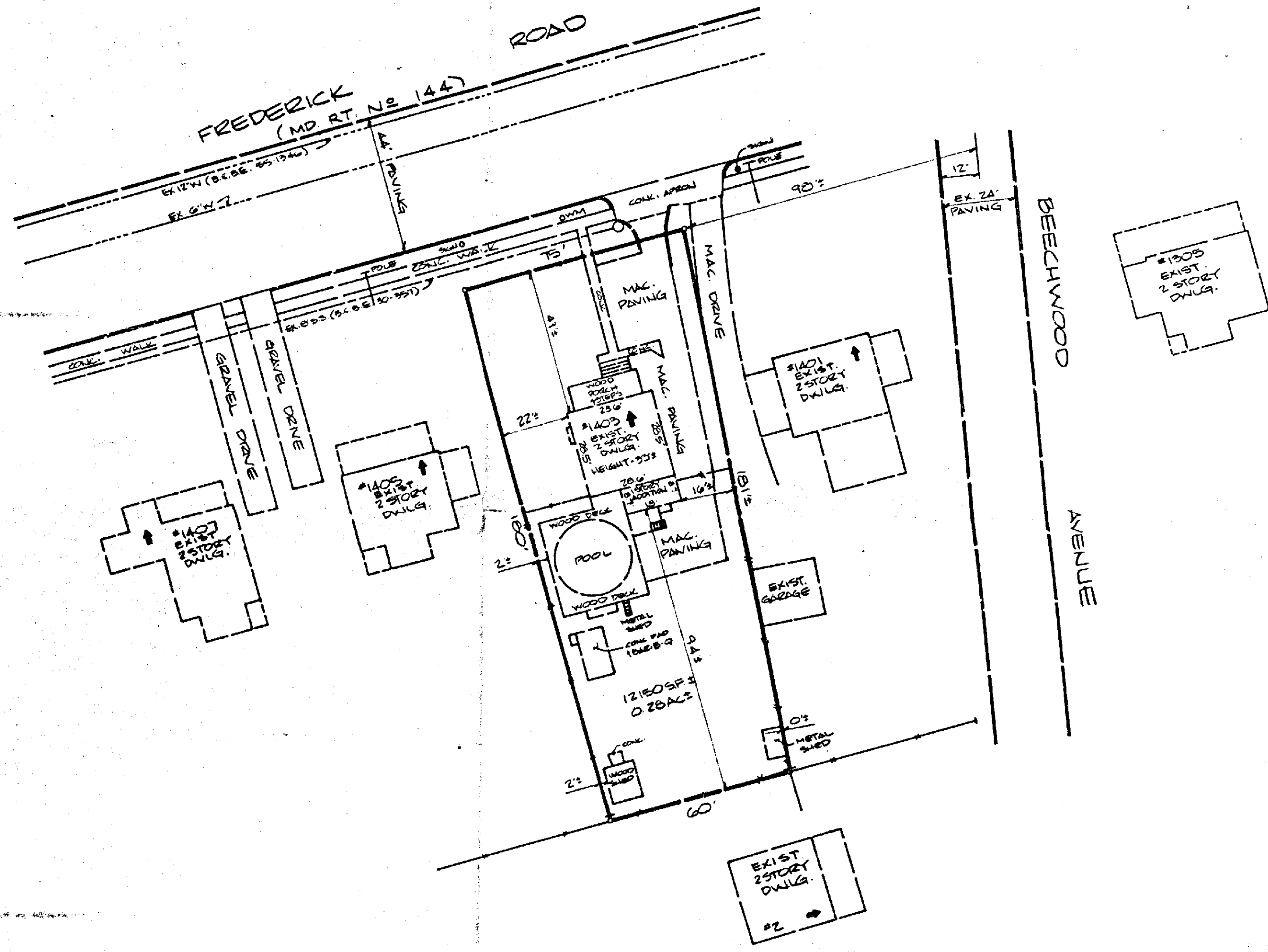


PORTION OF OFFICIAL ZONING MAP, SW. 3-G
ADOPTED OCTOBER 13, 1980 SCALE: 1" = 200'

FREDERICK ROAD



BUILDING DETAIL
SCALE: 1" = 20'



LOCATION MAP
SCALE: 1" = 500'

SITE & SURROUNDING AREAS ZONED D.R. 3.5.
SITE IS LOCATED IN COUNCILMANIC DISTRICT #1.

1. PURPOSE for SPECIAL EXCEPTION:
TO USE PROPERTY FOR A PROFESSIONAL OFFICE WITHIN A DWELLING PURSUANT TO B.C.Z.R. 1801.1.C.9B.
2. PURPOSE for SPECIAL HEARING:
TO ALLOW THE USE OF A PORTION OF THE SUBJECT PREMISES FOR THE HOME OCCUPATION OF A NURSING REGISTRY PURSUANT TO B.C.Z.R. SECTIONS 101 AND 1801.1.A.14(d) OR IN THE ALTERNATIVE TO DETERMINE THAT THE OWNERS ARE PROFESSIONAL PERSONS AS USED IN THE B.C.Z.R.
3. A VARIANCE FROM B.C.Z.R. SECTION 301.1 TO PERMIT AN EXISTING OPEN DECK PROJECTION IN A SIDE YARD TO BE LOCATED 2 FEET FROM THE SIDE PROPERTY LINE IN LIEU OF THE 7.5 FEET REQUIRED, AND VARIANCES FROM B.C.Z.R. SECTION 400.1 TO PERMIT ONE EXISTING ACCESSORY BUILDING TO BE LOCATED 2 FEET FROM A SIDE PROPERTY LINE AND TO PERMIT ONE EXISTING ACCESSORY BUILDING TO BE LOCATED 0 FEET FROM A SIDE PROPERTY LINE, BOTH IN LIEU OF THE 7.5 FEET REQUIRED.

PETITIONER'S
EXHIBIT 1

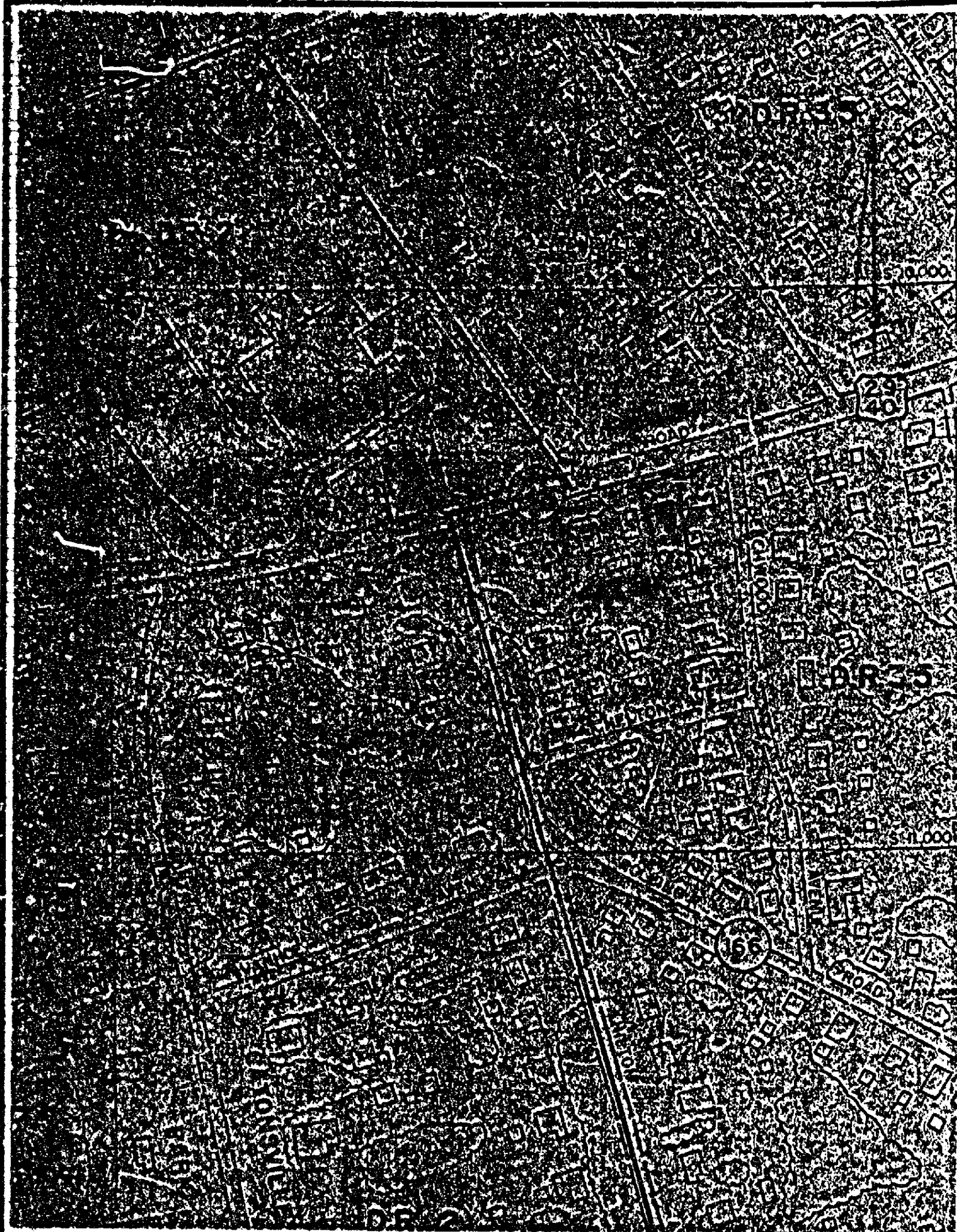
1d2

90-512-SPHYA

J.S. DALLAS, INC.
Surveying & Engineering
4932 Hazelwood Avenue
Baltimore, Md. 21206
(301) 866-2001

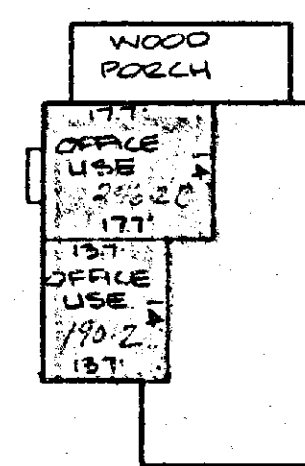


PLAN TO ACCOMPANY PETITION
FOR SPECIAL EXCEPTION, SPECIAL HEARING
ON ZONING VARIANCES AT
#1203 FREDERICK ROAD
1ST. ELECTION DISTRICT BALTIMORE COUNTY, MD.
SCALE: 1" = 20' MAY 20, 1990
OWNER: THEDA A. ROSEN & MARGARET C. LEGGIERI
DEED REFERENCE: 3M.0330/434



PORTION OF OFFICIAL ZONING MAP SW. 3-9
ADOPTED OCTOBER 13, 1950 SCALE: 1" = 200'

FREDERICK ROAD



BUILDING DETAIL
SCALE: 1" = 20'

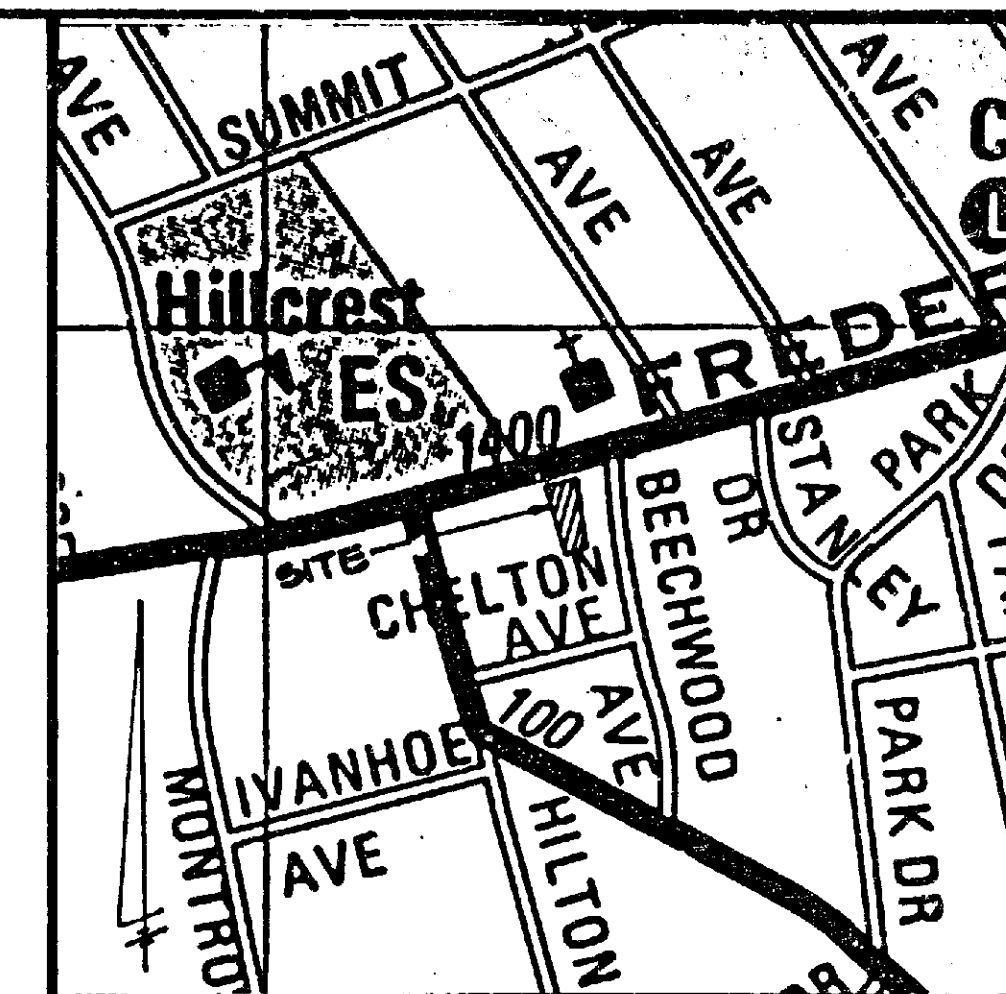
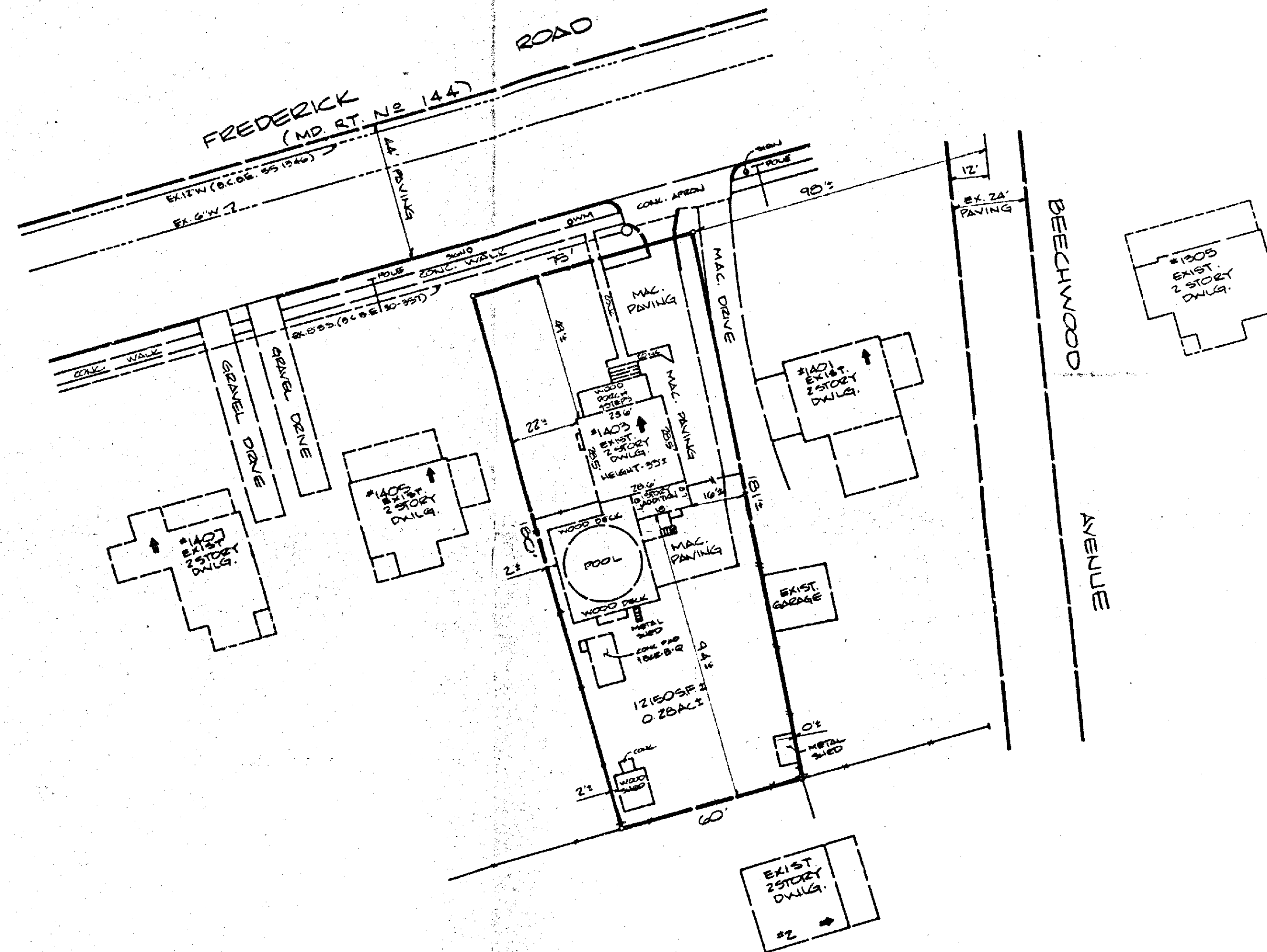
1ST FLOOR 809.9 ±

2ND FLOOR 809.9 ±

1ST FLOOR ADD. 154.5 ±
(EXISTING)

1774.3 ± LIVING AREA EXCLUSIVE OF
CLUB BASEMENT

PROF. OFFICE OCCUPIES
APPRX. 436.4 ± = 24.6% ± OF TOTAL LIVING AREA



LOCATION MAP
SCALE: 1" = 500'

SITE & SURROUNDING AREAS ZONED D.R.S.S.
SITE IS LOCATED IN COUNCILMANIC DISTRICT #1.

1. PURPOSE for SPECIAL EXCEPTION:
TO USE PROPERTY FOR A PROFESSIONAL
OFFICE WITHIN A DWELLING PURSUANT
TO B.C.Z.R. 1801.1.C.9.D.

2. PURPOSE for SPECIAL HEARING:
TO ALLOW THE USE OF A PORTION OF THE
SUBJECT PREMISES FOR THE HOME
OCCUPATION OF A NURSING REGISTRY
PURSUANT TO B.C.Z.R. SECTIONS 101 AND
1801.1.A.14(4) OR IN THE ALTERNATIVE
TO DETERMINE THAT THE OWNERS ARE
PROFESSIONAL PERSONS AS USED IN
THE B.C.Z.R.

3. A VARIANCE FROM B.C.Z.R. SECTION 20.11 TO
PERMIT AN EXISTING OPEN DECK PROJECTION
IN A SIDE YARD TO BE LOCATED 2 FEET FROM
THE SIDE PROPERTY LINE IN LIEU OF THE
7.5 FEET REQUIRED; AND VARIANCES FROM
B.C.Z.R. SECTION 400.1 TO PERMIT ONE
EXISTING ACCESSORY BUILDING TO BE
LOCATED 2 FEET FROM A SIDE PROPERTY
LINE AND TO PERMIT ONE EXISTING
ACCESSORY BUILDING TO BE LOCATED 0 FEET
FROM A SIDE PROPERTY LINE, BOTH IN LIEU
OF THE 2.5 FEET REQUIRED.

PETITIONER'S
EXHIBIT 1
202

J.S. DALLAS, INC.

Surveying & Engineering
4932 Hazelwood Avenue
Baltimore, Md. 21206
(301) 846-2001



PLAN TO ACCOMPANY PETITION
for SPECIAL EXCEPTION, SPECIAL HEARING
ZONING VARIANCES AT
#1403 FREDERICK ROAD

1ST ELECTION DISTRICT BALTIMORE COUNTY MD
SCALE: 1" = 30' MAY 01, 1990
OWNER: THEA A. ROSEN & MARGARET C. LESSIERE
DEED REFERENCE: SM. 0550/454

PETITIONER'S EXHIBIT 2

This Deed, Made This 30th day of November 1990, in the year one thousand nine hundred and eighty-nine, between KATHERINE B. ROTHENHOEFER

of the State of Maryland, of the one part, and MARGARET C. LEGGIERI and THEDA A. ROSEN of the second part.

WITNESSETH, That in consideration of the sum of One Hundred Thirty Thousand Dollars (\$130,000.00) the receipt whereof is hereby acknowledged,

the said party of the first part does grant and convey to the said parties of the second part, as joint tenants and not as tenants in common, their assigns, the survivor of them, and the survivor's personal representatives and assigns, in fee simple, all that lot of ground situate in Baltimore County, State of Maryland and described as follows, that is to say:

BEGINNING FOR THE SAME on the south side of Frederick Road and at the distance of 300 feet easterly from the intersection of the south side of Frederick Road with the east side of Hilton Avenue and running thence southerly parallel with Hilton Avenue 180 feet thence easterly parallel with Frederick Road, 60 feet thence northerly 181 feet, more or less, to the south side of Frederick Road at a point distant 75 feet easterly from the place of beginning; and thence westerly binding on the south side of Frederick Road 75 feet to the place of beginning. The improvements thereon being nor or formerly known as 1403 Frederick Road.

BEING the same lot of ground which by Deed dated December 10, 1974, recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 3497, folio 480 was granted and conveyed by Natalie J. Hopwood unto George P. Rothenhoefer, Jr. and Katherine B. Rothenhoefer, his wife, as tenants by the entireties. The said George P. Rothenhoefer, Jr. departed this life on or about July 14, 1988, thereby vesting title in Katherine B. Rothenhoefer, the grantor herein.

The undersigned Grantees hereby certify under the penalties of perjury that the property hereinabove described is residually improved real property and that said property will be occupied by the Grantees as their principal residence.

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

FORWARDING TRANSFER TAX
Due Amount \$15.00

SIGNATURE DATE 12/30/90 B 280****208000-87 2132A

LAW OFFICE'S LEVIN & GANN

A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
301-321-0600
FAX 301-296-2801

January 15, 1990

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

Re: Absolute Nursing Care, Inc.
1403 Frederick Road

Dear Mr. Haines:

I recently spoke to Mr. Dyer of your office concerning the home occupation of Theda Rosen and Margaret Leggieri who are the principals of Absolute Nursing Care, and he advised me to write a letter requesting your office's opinion concerning the use of the property as a home occupation for a Nursing Registry.

My clients have been in business for approximately three years in Silver Spring and Catonsville. The business is a licensed nursing registry.

Their occupation deals in the supplying of nursing staff for hospitals, nursing homes and private duty service in addition to pediatric nursing in the home for children under eighteen years of age, pursuant to the State Model Waiver Program. The nurses are all independent contractors and not employees of Absolute Nursing Care or its principals. Their charges for services are paid to Absolute Nursing Care and in turn paid to the independent contractor nurses minus the registry fee. Virtually the entire business is conducted through the mail with the nurses, hospitals, nursing homes and the recipients of services.

Absolute Nursing Care issues approximately 150 checks per week. Virtually all payments to the nurses are sent through the mail. There are, however, approximately 15 persons that will pick up their checks during an 8-hour period on Friday. Otherwise, the business will not generate any traffic, pedestrian or otherwise, during the balance of the six days of the week.

HAND DELIVERED

PETITIONER'S
EXHIBIT 3

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

Julius W. Lichter, Esq.
Levin & Gann
305 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Lichter:

In regard to your letter of January 15, 1990 concerning the proposed operation of Absolute Nursing Care, Inc. from a home at 1403 Frederick Road, a review of the pertinent information reveals that under authority of the Baltimore County Zoning Regulations, a home occupation is an accessory use allowed by right in residential zones.

As defined in Section 101, B.C.Z.R. as follows:

Accessory Use or Structure: A use or structure which (a) is customarily incidental and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served.

Home Occupation: Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes. A "Home Occupation" does not include fortune-telling. (B.C.Z.R., 1955, Bill No. 124, 1978; No. 27, 1981.)

But specifically excluded from a home occupation because they appear as Special Exception uses under Section 1B01.1.C.9B are:

Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other professional persons, provided

PETITIONER'S
EXHIBIT 4

1403 Frederick Road
Absolute Nursing Care, Inc.

Dennis F. Rasmussen
County Executive

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

Julius W. Lichter, Esquire
Levin & Gann
305 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Zoning Verification for
a Home Occupation (Nursing Registry)
Absolute Nursing Care, Inc.
1403 Frederick Road
1st Election District

Dear Mr. Lichter:

This letter references your correspondence received by this office on January 17, 1990, requesting zoning approval for a home occupation (nursing registry) at the above listed location.

According to the information provided, this use does not appear to comply with the policy guidelines for a home occupation as limited by Zoning Policy (RM-17) adopted September 14, 1989 (copy enclosed). This use could be considered to be an office of an other professional person as defined under Section 1B01.1.C.9B. In order to permit this use, a special exception hearing is required along with a special hearing to determine the professional status of Ms. Rosen as the principal party residing at this location.

Should you require further information, please do not hesitate to call me at 887-3391.

Very truly yours,

JAMES E. DYER
Zoning Supervisor
By: John L. Lewis
Planning & Zoning Associate

RECEIVED
FEB - 5 1990

JLL/jat
cc: File

PETITIONER'S EXHIBIT 1

June 26, 1990

J. Robert Haines, Esquire
Zoning Commissioner for Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: 1403 Frederick Road

Dear Commissioner Haines:

I am writing to you regarding the zoning hearing scheduled for 1403 Frederick Road; the signs posted on the property indicate that you reference the property as 90-512SPHX.

I want to go on record as supporting the continuation of the nurse scheduling operation occupying a small portion of this property. These ladies perform an invaluable service to our community and beyond.

The property is kept in immaculate condition and the new owners are committed to retaining the residential character and appearance of the house. If anything, the present owners have made a great improvement to this property and are an asset. Other, more intense uses are operating in our neighborhood without challenge.

We encourage you to approve the zoning provisions necessary to enable these owners to remain.

Sincerely,
Carl Swan
116 Hillside Rd.
Belt, Md 21228

RECEIVED
JUL 10 1990

ZONING OFFICE

PETITIONER'S EXHIBIT 1

June 26, 1990

J. Robert Haines, Esquire
Zoning Commissioner for Baltimore County
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: 1403 Frederick Road

Dear Commissioner Haines:

I am writing to you regarding the zoning hearing scheduled for 1403 Frederick Road; the signs posted on the property indicate that you reference the property as 90-512SPHX.

I want to go on record as supporting the continuation of the nurse scheduling operation occupying a small portion of this property. These ladies perform an invaluable service to our community and beyond.

The property is kept in immaculate condition and the new owners are committed to retaining the residential character and appearance of the house. If anything, the present owners have made a great improvement to this property and are an asset. Other, more intense uses are operating in our neighborhood without challenge.

We encourage you to approve the zoning provisions necessary to enable these owners to remain.

Sincerely,
E.S. Hutton Jr.
Lisa E. Shilton
102 N. Rolling Rd.
Crownsville, Md.

SAVE THIS PORTION OF CARD AND USE IT TO OBTAIN THE
FOR NAME AND/OR ADDRESS CHANGE. PLEASE
MUST BE NUMBER OF THESE CHANGES ONLY.

PROF OF
NURSING
4201 PATTERSON AVE, 3RD FL
BALTIMORE MD 21215

LYNNE P SHERMAN R.N.
179 MARINE OAKS DRIVE
BALTO MD 21221

MARYLAND NURSES ASSOCIATION
DISTRICT 02

LYNNE P SHERMAN
179 MARINE OAKS DRIVE
BALTIMORE MD 21221

IDENTIFICATION NUMBER 216725294-4 DATE 06/30/91

COMMONWEALTH OF MARYLAND
DEPARTMENT OF PROFESSIONS

BOARD OF NURSING
LICENSE TO PRACTICE AS
A REGISTERED NURSE
0001113573 05-31-92

LYNNE P SHERMAN
428 3RD STREET
BALTIMORE, MD 21224

SIGNATURE *Lyne Sherman*

PETITIONER'S
EXHIBIT 8

State of Maryland
MOTOR VEHICLE ADMINISTRATION
803049

CERTIFIED COPY OF TITLE AND/OR REGISTRATION

By virtue of the authority vested in me, as Administrator of Motor Vehicles, under the provisions of the Maryland Vehicle Laws, I do hereby certify that the following is a true copy now on file or computer print out-data record and part of the records of this agency.

This is to certify that the attached is a true copy of the title record no.

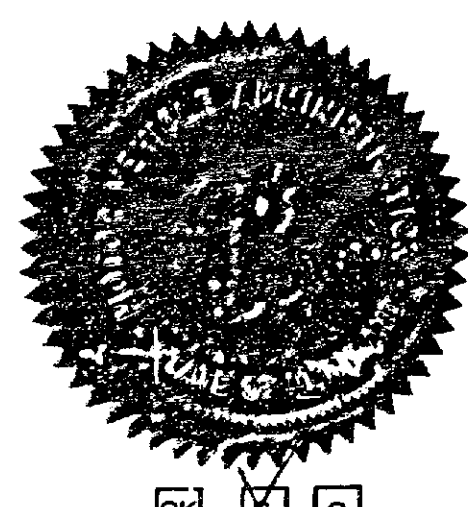
This is to certify that the attached is a true copy of the registration covering tag no.

This is to certify that the attached is a computer print out-data record for NURSES

Our records fail to reflect any information for the listed below

HOWARD L. MURL JR.

In testimony whereof, I hereto subscribe my name, and affix the seal of the Office of the Motor Vehicle Administration of the State of Maryland, this date 7-9-90



ADMINISTRATOR OF MOTOR VEHICLES



803048

MOTOR VEHICLE ADMINISTRATION

6601 RITCHIE HIGHWAY, N.E.
GLEN BURNIE, MARYLAND 21062

CERTIFIED COPY OF TITLE AND/OR REGISTRATION

By virtue of the authority vested in me, as Administrator of Motor Vehicles, under the provisions of the Maryland Vehicle Laws, I do hereby certify that the following is a true copy now on file or computer print out-data record and part of the records of this agency.

This is to certify that the attached is a true copy of the title record no. _____

This is to certify that the attached is a true copy of the registration covering tag no. _____

This is to certify that the attached is a computer print out-data record for _____

Our records fail to reflect any information for the _____ listed below

HOWARD L. WHEELER

In testimony whereof, I hereto subscribe my name, and affix the seal of the Office of the Motor Vehicle Administration of the State of Maryland, this date 7-09-90

313

ADMINISTRATOR OF MOTOR VEHICLES

VR-231 (9-87)



803050

MOTOR VEHICLE ADMINISTRATION

6601 RITCHIE HIGHWAY, N.E.
GLEN BURNIE, MARYLAND 21062

CERTIFIED COPY OF TITLE AND/OR REGISTRATION

By virtue of the authority vested in me, as Administrator of Motor Vehicles, under the provisions of the Maryland Vehicle Laws, I do hereby certify that the following is a true copy now on file or computer print out-data record and part of the records of this agency.

This is to certify that the attached is a true copy of the title record no. _____

This is to certify that the attached is a true copy of the registration covering tag no. _____

This is to certify that the attached is a computer print out-data record for _____

Our records fail to reflect any information for the _____ listed below

HOWARD L. WHEELER, JR.

In testimony whereof, I hereto subscribe my name, and affix the seal of the Office of the Motor Vehicle Administration of the State of Maryland, this date 7-09-90

313

ADMINISTRATOR OF MOTOR VEHICLES

VR-231 (9-87)

CATONSVILLE 2000, INC.

OFFICERS

Michael L. DeLuca
President
Richard W. Decker
Vice President
William Holley
Treasurer
Stephen W. Whalen, Jr.
Secretary

DIRECTORS

Thomas E. Booth
Richard W. Decker
Michael L. DeLuca
William Holley
Berchie Manley
Fran Medicus
Harry McGurk
James W. Mohler
Louis Morsberger
Greg O'Donnell
Paul Stack
Henry Stansbury
Don Walsh
Stephen W. Whalen, Jr.

STANDING COMMITTEES

LAND USE PLANNING

Henry Stansbury

TRAFFIC & PARKING

Harry McGurk

STREETScape & ARCHITECTURE

Fran Medicus

RESOURCE MATERIALS

Stephen W. Whalen, Jr.

ADVISOR TO THE BOARD

William Huey

First District Planner

Baltimore County

Office of Community Planning

July 2, 1990

CATONSVILLE 2000, INC.
ANNUAL GENERAL MEETING AND
BOARD OF DIRECTORS MEETING HELD 6/28/90
MEETING MINUTES

The Board of Directors' meeting for Catonsville 2000 convened on Thursday, June 28, 1990, in the boardroom of Henry Stansbury's office. The meeting commenced at approximately 7:15 p.m. In attendance were the following: Tom Booth, Mike DeLuca, Leo Fitzsimmons, Bill Holley, Patty Beere, Berchie Manley, Fran Medicus, Jim Mohler, Lou Morsberger, Paul Stack, Jean Walsh, Steve Whalen, Henry Stansbury, Nan Florence, Kent Adams.

Tom Booth announced that Harry McGurk and Richard Decker were unable to attend. Tom read a letter written by Richard Decker, a copy attached.

A motion was introduced that the Treasurer can sign checks up to \$200.00 with his signature alone. The motion was seconded and unanimously approved.

We had a short discussion with Lou Morsberger about his request for D.R.16 zoning on property around Melrose Avenue. It was suggested that Lou pursue the discussion with Paul Stack's neighborhood group along with Catonsville 2000 zoning committee.

Tom Booth discussed his concerns for a zoning request on property located at 1403 Frederick Road (residential property being used for nursing/administrative offices and certain variances). A hearing date is set for July 11, 1990 at 9:30 a.m.; the case number is 90-519-SPHX. A motion was passed that our zoning committee attend the hearing and oppose this request. One person was in opposition to the motion.

Patty Beere, representing Bill Hughey, said that submissions to the Planning Board are best made during the months of September, October and December.

Steve Whalen and Fran Medicus are to research the correct method as to how we, Catonsville 2000, will be submitting our report to the Planning Board. Steve expects to talk to Scott Graham, Chet Madigan and Ron Hickernell.

For Legg Mason's final report to the public, we picked tentative dates of July 24, 1990 and July 31, 1990. Fran Medicus is to check the Catonsville Women's Club and Patty Beere is to check with Legg Mason.

A motion was passed to draft our comments into letter form to be sent to John Sherwood of Legg Mason.

ADVISOR TO THE BOARD
William Huey
First District Planner
Baltimore County
Office of Community Planning

from Mrs. M. N. Tsch
25. Bachwood

When I first started taking vehicle tag numbers, I was interested only in checking if there was more than one employee. Therefore, I listed only those vehicles that appeared to be "regulars." Later on, starting in June, I realized that the volume of vehicles far exceeded their estimate of fifteen (15) only on Fridays, & none other days.

The regulars appear to be the following:

VLF - 365
XDM - 360
WVF - 752
WPH - 408
NURSES
ABSOLUT
SKF - 962
WFE - 204
623 - 367
VHE - 092

PROTESTANT'S
EXHIBIT 8

Thursday, 4-26-90

VLF - 365
XDM - 360
VNG - 165
WPH - 408
WVF - 752
49876 Temp.
WVF - 752

Friday, 4-27-90

VLF - 365
XDM - 360
WPH - 408
WVF - 752
49876 Temp.

Monday, 4-30-90

VLF - 365
WPH - 408
SKF - 962
49876 Temp.

Thursday, 5-3-90

WVF - 752
XDM - 360
WPH - 408
VLF - 365

Friday, 5-4-90

VLF - 365
XDM - 360
WPH - 408
WVF - 752

Page 1 of 7

TO: BALTIMORE COUNTY
ZONING COMMISSIONER
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204

RE: Case no. 90-336 A B C
1403 Frederick Road
1st Election District
& Petitions for a Special Hearing, a Special
Exception and Variances Known as Item No. 391

ALL COMPLAINANTS: We, the undersigned, do hereby sign our names as protesting the continued use of 1403 Frederick Road, Catonsville, Maryland as against the Zoning Laws of Baltimore County, Maryland by Absolute Nursing Care.

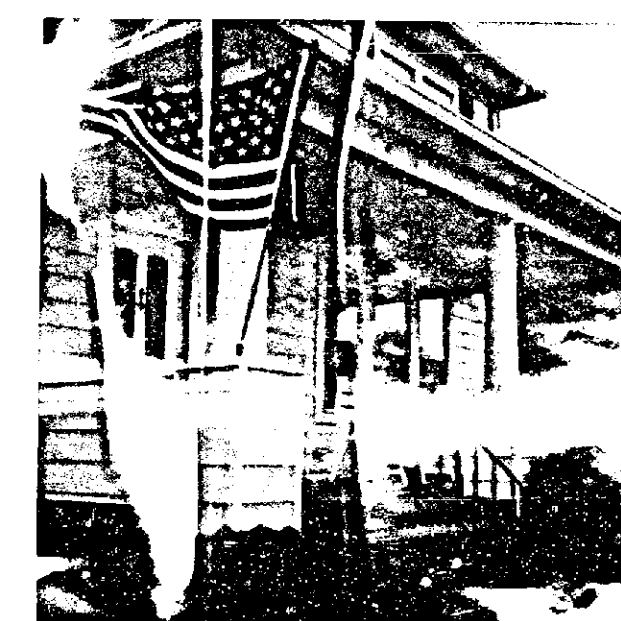
John D. Stinson
Stephen E. Chevrant
Bastien M. Crawford
John C. Smith
Ethel J. Hilgash
Bog McComas
Shirley Kautz
John J. Miller
John W. Miller
Hank W. Miller
Kipper Blackwell

4 Stanley Drive 21228
1205 Frederick Rd 21225
1305 Frederick Rd. 21228
1005 Frederick Rd 21227
1212 Frederick road
108 Park Dr. 21208
111 Park Drive 21228
3 American Ct 21228
1113 Gary Drive 21228
2 Shirley Dr 21229
1308 Frederick Rd 21228

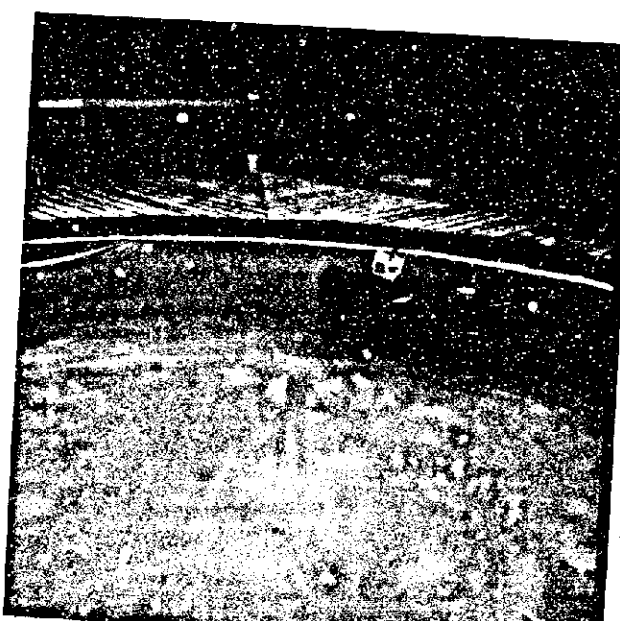
PROTESTANT'S
EXHIBIT 11

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGETSTANDARD
INDUSTRIAL
CLASSIFICATION
MANUAL

Protestant's
PETITIONER'S
EXHIBIT 12 1987

1403, FREDERICK ROAD
Front of House

Front Porch



Back Yard Pool



1st Floor Foyer



Kitchen/Dining Room



1st Floor Back Room

Petitioner's Exhibit 6



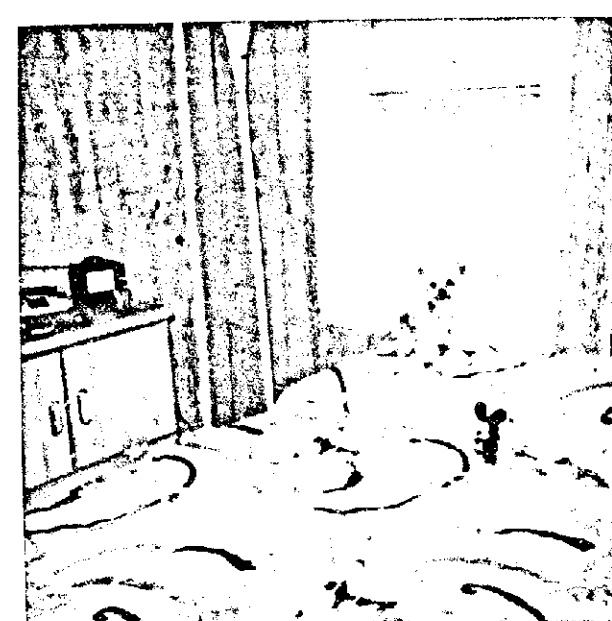
2nd Floor



Bedroom #1



Bedroom #2



Bedroom #2



Bedroom #2



Bedroom #2



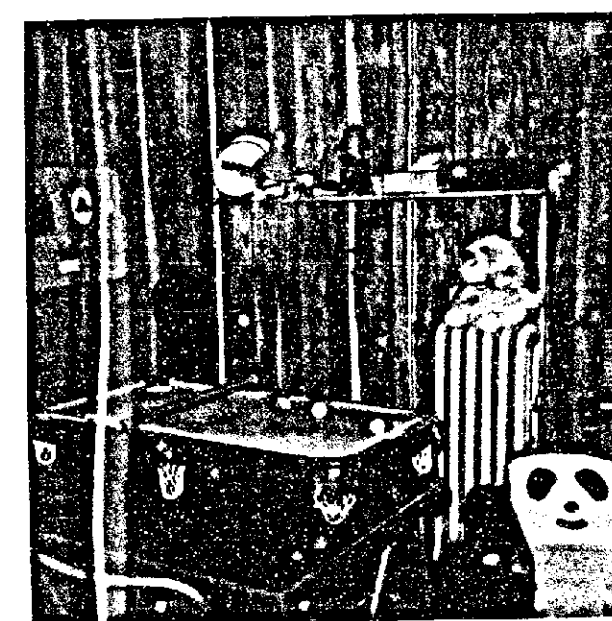
Living Room



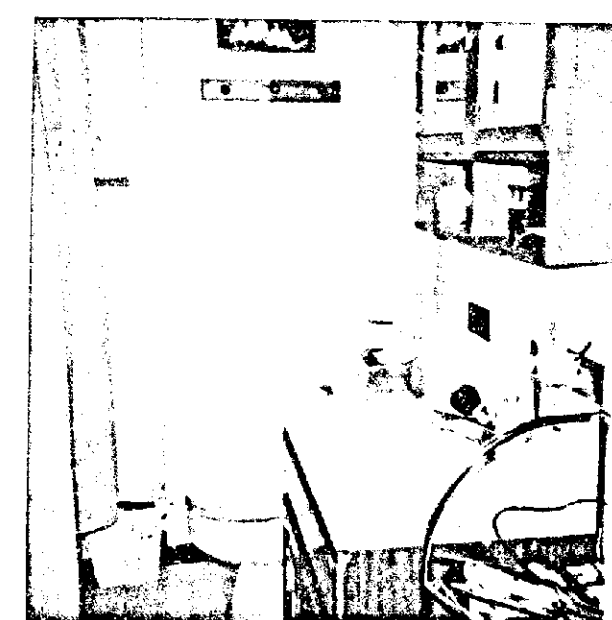
Living Room



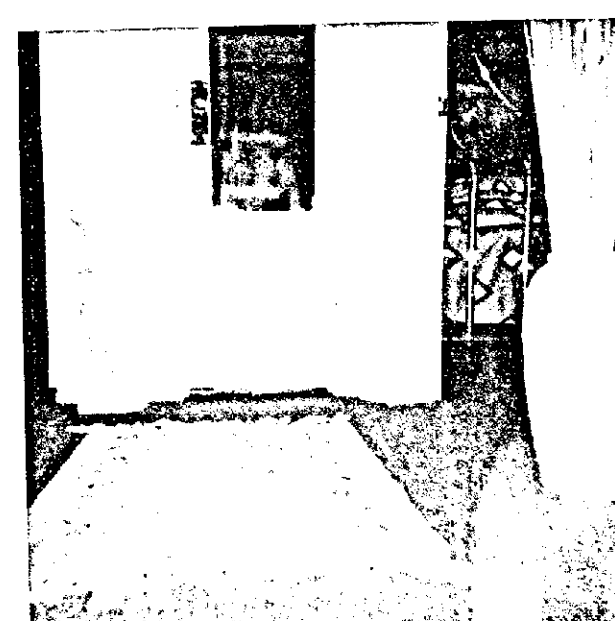
Living Room



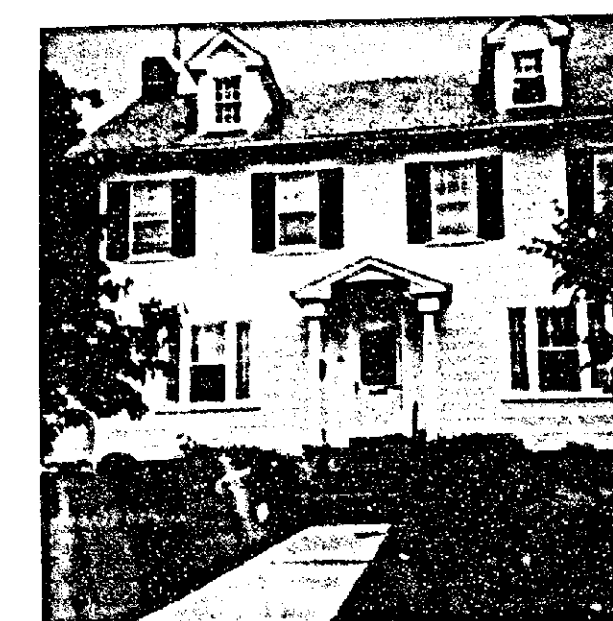
Den 2nd floor



2nd floor Bath



2nd Floor Hallway



2 STANLEY DRIVE
Howard Muhl 3rd
Bail Bond Service



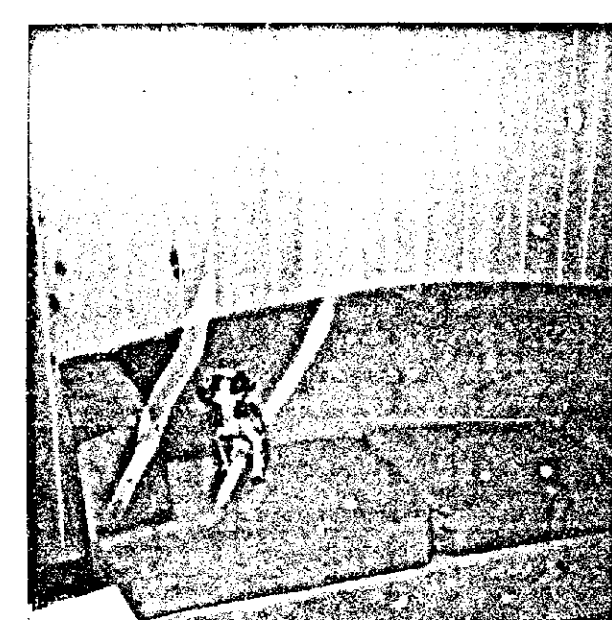
1401 Frederick Road
NORWICH WIDE IMPORTS

Ellicott City
24 HOUR SERVICE
ANY COURT ANY WHERE
7 DAYS A WEEK
HOWARD L. MUHL 3RD
744-1326

IMPORTERS	
THAI TRADING CO. INC.	539-1728
TRILUNA TRADING COMPANY	539-8225
TURKISH CORPORATION	539-1522
UNITED CORPORATION	539-1505
WESTERN IMPORTS	539-1505
WESTERN IMPORTS	539-1505
WESTERN IMPORTS	539-1505
WESTERN IMPORTS	539-1505



CLUB ROOM
Basement



CLUB ROOM
Basement



CLUB ROOM
Basement



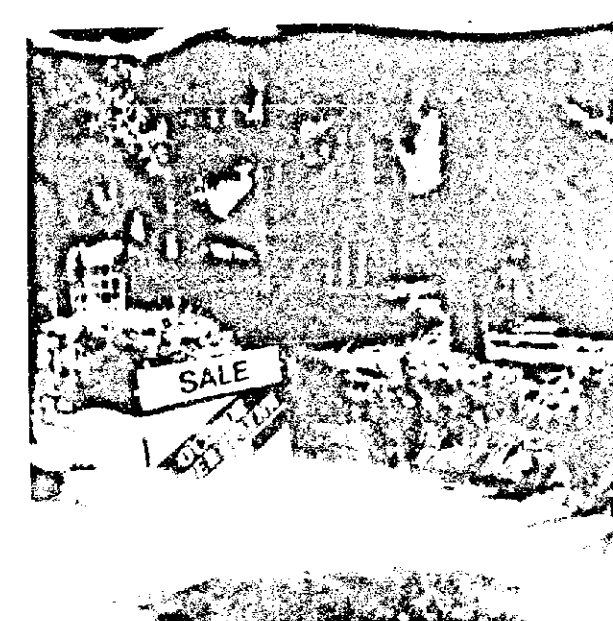
Professional office



Professional OFFICE



No. Virginia
25. Portman St. SOLD



Mr. Schwartz
24. (For Sale)

Photostats
Exhibits
1, 5, 6, 7, 10
Photographs
80-512-SPIXA



Photostatic
Exhibits
1, 5, 6, 9, 10

Photographs
B-512-SPKKA

