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IN RE: PETITION FOR ZONING VARIANCE E/S McPhermon Court, 71 N of c/l Cthoridge Road

. OF BALTIMORE COUNTY

9th Election District Timothy W. Frost, et ux

. Case No. 92-476-A

. RULING ON MOTION FOR RECONSIDERATION

The above captioned matter originally came before me as a Petition for Zoning Variance for that property known as 1301 McPherson Court in the Lutherville section of Reltimore County. By my Order dated August 10, 1992, the Petition was denied for reasons fully set forth therein.

Subsequently, the Petitioner/property owner, Timothy W. Frost, submitted a letter dated August 20, 1992 requesting reconsideration of my decision. Additional correspondence, dated August 31, 1992 and September 3, 1992 were, likewise, received from the Petitioner. These letters, taken collectively, will be considered as a Motion for Reconsideration

By way of a brief history of the case, it is to be noted that Frost resides on a corner lot at the intersection of McPherson Court and Othoridge Road. His dwelling fronts McPherson Court.

Several years ago, Mr. Frost caused to be constructed a satellite receiving antenna/dish in the rear yard of his property. However, because the dish was not in compliance with Section 400.1 of the B.C.Z.R. which requires same to be located within the rear one-third of the lot farthest removed from any street, a zoning violation case was instituted by Baltimore County against him. In an attempt to resolve the issue before any action by the Court, Mr. Frost filed a Petition for Zoning Variance from

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Section 400.1 of the B.C.Z.R. This variance requested permission for Mr. Frost to keep the dish where located, notwithstanding the provisions of

denied the Petition for Zoning Variance by his Order dated April 5, 1990. A timely appeal was filed by Mr. Frost to the County Board of Appeals which, likewise, denied the Petition on January 8, 1991. There were no further appeals taken from the Board of Appeals' decision; thus, the Board's calalon became final

Monetheless, Mr. Frost refiled his Petition in 1992. The case case before me for hearing on July 27, 1992. By my opinion and Order dated August 10, 1992, I denied the Petition for Zoning Variance. My written Findings of Fact and Conclusions of Lew fully set forth the basis of m

Particularly, I ruled that relitigation of the Petition was barred by the doctrine of res judicate. Specifically, I determined that both the subject dish and its location were identical to those issues in the prior case. Further, the same relief from the same section of the B.C.Z.R. was requested. Thus, in my view, the decision of the County Board of Appeals was final and relitigation of the identical subject matter and governing

Within Mr. Frost's correspondence, he has offered several arguments in support of his request that my decision be reconsidered. These will be

First, Mr. Frost notes that his property is located in that subdivision known as Devonshire Forest and that the plat for that subdivision was proved on or about October 25, 1954. Therefore, the Petitioner arquer -2-

Section 400.1 of the B.C. 2.R., as provided above That came came before then Zoning Commissioner, J. Robert Haines, who

that the provisions of the B.C.Z.R. which govern the use of his property are not the regulations presently in effect, but rather those in force in 1954. Those regulations had been originally promulgated and adopted by Baltimore County in 1945. Thus, Mr. Front reasons, because the 1945 vernion of the B.C.Z.R. contains no provisions for regulations of the satellite dish antenna, the variance is unnecessary and his use is not in violation of any zoning regulation

Admittedly, the 1945 regulations may be relevant for the determination of certain issues regarding this property. For example, a Petition for Special Hearing for a nonconforming use would be governed by those regulations. Purther, Sections 103.1 and 1802.3(B) of the B.C.Z.R. provide that setback, area, use and height standards shall be as prescribed by the zoning regulations in offect at the time the subject subdivision was approved by the Planning Woard or its predecessor, the Planning Commission. Notwithstanding these provisions, the property owner has misconstrued the law in arguing that the 1945 regulations are applicable to his satellite dish. Clearly, it is well settled at law that absent any grandfathering provision, the regulations in effect at the time any property is improved, altered, or changed are applicable to that improvement or alteration. See e.g., Rockville Puel and Feed Co. ve. City of Galthersburg, 266 Md. 117, 291 A2d 672 (1972). If that were not the additions and/or amendments to properties which had been initially developed prior to the adoption of zoning in Baltimore County in 1945, would go unregulated. Clearly, Mr. Frost placed his satellite dish antenna in its present location well after the adoption of the comprehensive set of zoning regulations in 1955. Further, the issue presented in the instant case does not relate to height, use, area or setback requirements

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and in, thereby, not grandfathered by Sections 103.1 and 1802.3(8). Am much, the current regulations govern that alteration/improvement to the property. Thus, Section 400.1 of the B.C.Z.R. must be satisfied unless variance is obtained. Therefore, the Petitioner's argument that the recordation of his subdivision prior to the adoption of the 1955 regulations should prohibit the application of the current standards of the B.C.Z.R. is inappropriate.

A second basis of Mr. Frost's Motion for Recognideration is offered in his letter of August 20,1992. To summarize, Mr. Frost overs that then Zoning Commissioner Haines made several mintakes when his decision was authored in April 1990. Thus, the Petitioner argues that res judicata is not anni icabie.

This argument, likewise, must be dismissed for two reasons. First It must be noted that the decision which bars the property owner's current Petition was that authored by the County Board of Appeals. As noted, on appeal of Zoning Commissioner Haines' decision was timely made and the case heard de novo before the County Board of Appeals. The Board of Appeals' decision superseded that decision made by Zoning Commissione Haines and, in fact, is the munci judicial determination which have relitigation of the case. Thus, whatever Zoning Commissioner Haines may have or have not done is irrelevant, in that his decision was not the final decision in the earlier case

Secondly, even if the Board of Appeals is alleged to have made the same wistake attributed to Zoning Commissioner Haines, their action is not "mintake" of the nature which would permit reopening of this case. The Petitioner confuses the meaning of the word "mistake" within its everyday usage as compared with what that term means at law. Simply stated, a

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ZONING COMMISSIONES

. OF BALTIMORE COUNTY

. Case No. 92-476-A

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(410) 887-4386

mistake is not made by the Hearing Officer because one disagrees with his reasoning process in arriving at a decision, rather the mistake alleged must be as to a jurisdictional issue or of such similar magnitude. See Bernstein v. Kapneck, 46 Md. App. 231, 417 A2d 456 (1980).

I see no evidence in the Motion before me that such a fundamental mistake was made or even alleged. Rather, the Petitioner argues that the Complesioner improperly instituted the zoning violation case against him. Even if this allegation is true, which is in and of itself highly debatable, such action by the Commissioner is not in the nature of a mistake which would permit relitigation of this case

Lastly, the property owner argues that the instant Petition for Variance was filed at the recommendation of members of this office and, thus, should be entertained on its merits. Specifically, Mr. Frost alleges that the Deputy Zoning Commissioner, Timothy M. Kotroro, and the Director of Zoning Administration and Development Management, Arnold Jablon, instructed him to file his Petition. Mr. Motroco's response to this allegation is set forth within his letter to the Petitioner dated August 28, 1992. He denies ever giving such advice or making such a recommendation. Further, it is a long standing practice of this office to refuse to provide legal advice in response to any inquiries made to it. As Mr. Kotroco's letter clearly notes, all determinations as to the merits of any Petition are to be made by the hearing officer who entertains that case.

Thus, for the aforementioned reasons, I am persuaded that Mr. Frost's Motion for Reconsideration must be denied. As I pointed out in my earlier opinion, he may have laudable reasons to offer in support of his request to permit the satellite dish where located. However, quite frankly, this case has been decided by the County Board of Appeals. If any redress was

sought from their decision, the proper appeal to the Circuit Court should have been filed. Absent freud, substantial change, mistake, surprise or ance the natur decision count he relitioused. More of these factors are present in this case

EPCRE, it is this 18 day of Acti. 1992

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Mr. Timothy W. Frost 1301 McPherson Court

Suite 113 Courthouse 400 Washington Aven Towson, MD 21204

In response to your letters dated August 20, August 31, and Sep 3, 1992 requesting a Motion for Reconsideration of Decision regardin above captioned case, please find enclosed my Ruling on Motion for R

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Zoning Variance for that property known as 1301 McPherson Court in the Lutherville section of Baltimore County. The Petitioners herein request a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the placement of a satellite dish antenna in the rear yard of a corner lot, but not within that one-third portion of the rear yard which is the farthest removed from any street, as is required under the regulations.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for

N of c/1 Othoridge Road

9th Election District

Timothy W. Frost, et ux Petitioners

ers

The Petitioners/property owners, Timothy M. and Carol Ann Front. peared and tentified at the hearing. Also appearing on behalf of the Petition was Walter Frazier of Stansbury Satellite, Inc. Mr. Frazier operates the company which sold the subject satellite dish to the Petition ers. There were numerous Protestants present. These included representa tives of the neighborhood in which the subject property is located.

Although the propriety of the subject variance is contested, the underlying facts are clear and uncontroverted. Mr. and Mrs. Frost are the owners of that property located at 1301 McPherson Court in Lutherville They, their two children and Mrs. Frost's mother reside therein. The

subject property is a corner lot approximately .17 acres in size and is zoned D.R.5.5. The property is improved by an existing dwelling which fronts McDerson Court.

Mr. Prout traitified that in approximately Asspart of 1999, he purchased from Standary Satellite a satellite system for installation and use at the smbject property. Purther, testimony was presented that the satellite system provides its owner with access to IS different satellites which are located above the coult-meters borizon. Mr. Prazier, in emplaining the technical requirements of the cystem, stated that the 16841 location for the satellite dish was in the rear/side year of the property adjacent to Otheridge Road. He indicated that, although the dish could be located on the roof of the dealing, remarks of surver trees, both on the subject property and the neighbors property, would be necessitated in order to obtain full reception for the system. Mr. Presize and Mr. Presize also jointly testified that there were no there ground locations within the site which were acceptable locations for the dish. Specifically, it was stated that if the dish were located in that portion of the rear year further, from Otheridge Road, that reception would be hisdared.

Trailmony was also presented as to the system, itself. The midject displays and the system of the sy

As indicated above, numerous residents of the community testified in opposition to the Petition. These included Dale Rauschenberg, Peter Liveright, Robert Anderson and George Kron. All of those elinesses object

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to what they preveive as the unsightly appearance of the dish and its location on that portion of the lot issuediately adjacent to Otheridge Model. The Procedurate believe that the dish is unsightly and is an eye-sere. They also opine that greating of the variance may couse a proliferation of satellite dishes in the community. This would adversally affect the property values in their community. In addition to the factual information smallited by the Politioner, Mr. Frost advanced several logal arguments in support of the Politions. Mr. Frost advanced several logal arguments in support of the Polition. These included a statement that prohibit on of the placement of the dish where same is placed would infrince under the property of the proper

Although, all of these arguments might have merit, a threshold issue ment of the determined before they may be addressed. Specifically, evidence and testimony presented was that this is not the first occasion in which this case has come before the Joning Commissioner. Specifically, the Philiomer previously filled for an identical variance under case 80.0-5106. Specifically, the reliair requested therein was a repeat to presit the dish at the identical location as presently proposed. That is, within that case, the Patitioner also scought a variance from Section 600.1 of the S.C.I.S. to allow the dish to be placed in the third of the loc closest to the street. This is the same section of the S.C.I.S. which is under consideration in the present case. The prior case came before the then Zoning Commissioner, J. Robert Nainee, and the variance was denied on parties, 1980. A Limity appeal was filled by Mr. and Mrs. Front to the

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County Board of Appeals which, likewise, denied the Petition on January 8, 1991. There were no further appeals taken from the Board of Appeals' decision. Thus, the Board's colsion become final.

Noving, therefore, concluded that this issue was previously litigated, a determination must now be made as to whether the doctrine of rea aludicate prohibits consideration of the present case. Here significant is essentially defined as that legal doctrine which prohibits litigation in a subsequent action between the same parties, related to the same facts, or issues. Persens healty v. Lingo, 249 Md. 33 228 Add 100. At least same of the principals of this doctrine are applicable to the doctions by Zonion Boards. See Board of County Communicators v. Recips. 24 Md. App. 435, (1975). The basis for this doctrine is to prevent uneding litigation over the same issue. The Counts have recognized that when an issue is conclusively settled by a final judgment in the first case, that same should not be litigated apsin, and epain. If this doctrine did not exist, lititation would be unedding.

In Bache, supre, the Courts applied the doctrine of res sjudicate to administrative proceedings wherein it and "We recognize, as indeed now must, that an uncervened final decision by a notion board, passed in the owercise of its discretion upon issues of fact or upon mixed issues of insurant fact, are fully binding upon the parties to the cause and their prices at to all issues determined thereby. It is only when there has been a substantial change of conditions or it is shown that the decision was a product of freed, surprise, mixtube or inadvertence, that such as administrative body way reverse its prior decision in litigation between the same parties." (p. 450)

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In the instant case, there is no evidence, nor even allegation of fraud, surprise, mistake or inadvertence as it relates to the initial hearing. Rather, the Petitioner evers that there has been a substantial change of conditions which would justify the rehearing of this case Specifically, those conditions are that, (1) the satellite dish is now lower (12 ft. v. 10 ft.) then when the case was considered by Commissione Heires, and (2) that the Petitioner has provided landersmine assent the base of the satellite dish which will ultimately reduce its visibility. However, clearly, neither of these conditions constitutes a substantial change from the issue previously decided. The variance previously requested and, indeed, the current variance request, seeks permission to place the satellite dish at a location in the side/rear yard closest to the Thus, the issue presented is whether a variance from the regulation which governs the location of the dish, within the subject lot. is permitted. In both cases, the requested variance as to this location is the same. Whether the dish is higher or lower, landscaped or not, is immaterial to the question as to whether the dish should be permitted at that precise place on the Petitioner's property.

In that the issues are the same, I feel compelled to conclude that under the <u>Bacins</u> bolding as set forth above, the doctrine of residuates available the relitioner adjudicate prohibite re-litipation of this case. Perhaps, the Petitioner should have pursued his appellate rights of the Board of Appeals' decision to the Circuit Court. Finding to freed, sintake, surprise, indevertence or substantial change of conditions, I cannot concelled that Commissioner Baines' decision was incorrect. Therefore, the subject Petition for Variance and the decision was incorrect.

DOLLAR SHARE

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

TORRETORS. IT IS COMMEND by the honing Commissioner for Baltimers County this D day of the comment of the Baltimers County this Barriance from Section 4500 of the Baltimers County Soning Sepulations (S.C.S.L.) to permit the placement of a establish dah antenna in the rear yard of a corner lot, but not within the one-third portion of the lot furthest resorved from any streat, in accordance with Petitioners' Exhibit No.), he and as hereby DORING.

LANGENCE E. SCHOOLT Zoning Commissioner

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Italianner County Communication
Coffice of Flamming and Zoning
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for the property house	municularies of Bultimure County at 1301 to Profitor court (STREAMLE to 210
THE ABAR YARD OF A CORNER	LOT BUT NOT WITHIN THE REAR VS OF
SEE ATTACHED SHE	47
Property is to be posted and advertised as pro- t or m, spec to per opened of short futures about the board by the saving regulations and resistance of Bull	exceptions by Zerning Plagmanians. Interpretable State of the pattern, and butter agree to and on to these County extended persons to the Zering Law to Enthropy County.
Orași Aurilia	
-	THOUTHY W. FROST
	CAROL ANN A FRANK
	Cault Mario
Residence .	UTHENVILLE MP 21083-5508
	Timothy W. Frost
	Imster W. Frost 965-2/98



A practical difficulty exists with strict compliance to the Baltimore County Zoning Regulations (B.C.Z.R) regarding the installation of my satellite dish antenna in the following ways:

In Sirici compliance with requirements at 6 role in the following ways:

1. Sirici compliance with requirements at 6 role in the EC.2. Mult unexambly and amountaintonally preven the use of my properly for a permitted purpose. This is because a staffill edit anients, in cord to work at all, man where an unrestricted line of sight tensaris the equater to the south and to the contheses. No such line of sight estaint from either the part of my and permitted by the EC.2. In unless arenet later to the contract of the contract

2. Pallant to grant the variance requested would be substantial injustice to the applicant as well as other property owners in the district. All concerns which were expressed by other property owners concerned the surfacelsc. The satellite disk is now located on the ground in 800 pounds of concerne. Suntherly sub been plasted arround the attentas which will, is time, you was a leight of more than 15 feet. This will address all aesthetic will be a supported to the property of the district. If the satellite disk is moved to the roof of the dwelling, then is will be impeable to exceen its view in any way.

3. Relief can be granted in such a fushion that the spirit of the ordinance will be observed and public safety and welfare secured. If the variation is granted, then, in time, the dish will be acrement from view, thus deferring everyon's seatheric concerns. Since the dish is excertly mounted in the ground, and, in fact, has weathered the passing of hurricane things window damage or movement, the public safety and welfare is secured. Welfare the public safety and welfare is secured, which we desire the secured is not of the dwelling will make in more attractive to lightning along with railing day promisity of damages or lay loss in the event of a secure.

4. No increase in residential density beyond that allowed by the B.C.Z.R. will occur.

5. It is in strict harmony with the spirit and intent of height, area, off-street parking, and sign

6. Relief can be granted without substantial injury to public health, a fety and general welfare.

Pallurs to grant the relief requested will be in violation of the property owner's Civil Rights
under the First Amendment of the U.S. Constitution and applicable Regulations of the
Federal Communications Commissions.



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ZONING DESCRIPTION Q12-476-A

Deginning at a point on the cost side of McPherson Court which is 36 flot wide at the distance of 71 that north of the centerline of Ottoridae Road which is 36 flot wide. Being let 64, Block ion #2 in the subdivision of Devonshire Forest as recorded in Bubimore County Plan Book #20, Polio #132, containing 7,314 square flot. Also known as 1301 McPherson Court and

\$ 506

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92-476-A men geth Des at Page 7-6-52 Variance Clarify of Bart, and Court Court Livet of the City of Bart of the Court of the Cour Des et res 7-10-92 MICROFILMED

CERTIFICATE OF PUBLICATION

TOWSON, MD. 11992 THIS IS TO CERTIFY, that the annexed advertisement was shed in THE JEFFERSONIAN, a weekly newspaper published

Sacaba_ Orlan

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6/03/98 PUBLIC HEARING FEES 03.7 PRICE 010 -ZONING VARIANCE (TIL) \$50.00 TOTAL . LAST HAME OF OWNERS PROSE

receir PUBLIC HEARING FIRES DBO -POSTING SIGNS: / ADVERTISING 1 X LAST HAVE OF DIMER: FROST MICROFILMED

Please Make Checks Payable For Bullimore County \$63.18 BA 1008:35AM27-27-92

receipt

MIGROFILMEL

(410) 887-3353

(41m 887,3363

NOTICE OF HEARING

The Zoning Commissioner of Bultimers County, by estherity of the Soning Set and Regulations:

County will bobs a public hearing on the property identified berein in

Nows 106 of the County Office Smilding, 111 M. Champundo Sonone in Toman, Maryland 20094

CARE PG2-FG-4 (time 506)
1/9 inCherama Court, 71° s of c/j Otheridge Send
1/3 inCherama Court
7th Election Interior - 4th Comertimente
Puttiment(s): Timodry 8. Front and Comed has Front
MARICHEN HERMER, 2017 77, 1992 of 1905 Aus. in Sh. 118, Courtimente Variance to permit planement of a metallite disk extense in the year pand of a corner lot but not within the year 1/3 of the lot furthest removed from any street.

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111 West Chesapeake Av Towson, MD 21204

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Socioned are all commonts submitted than for from the answers of the task offers or compact information on one spiritum. If subtimum, and an account are received from other mashers of Mc.7: will forward than to your Othersion, any comment that is not informative will be placed to your other place. The prelition was excepted for filling on the date of the placed filling contributions of a hearing annual filling contribute one of hearing annuals.

1) The Director of Zoning Administration and Development Resonant has instituted a system observer, sessioned soning comply with all aspects of the soning regulations and patitions filing requirements can file their patitions with this office cultured the accessity of a preliminary review by Zoning paraconal.

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Your petition has been received and eccepted for filing this

Petitioner: Timothy W. Front Petitioner's Attorney:

111 West Chesapeake Avenue Towson, MD 21204

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INTEROFFICE COUNTY, MARYLAND

TO: Arnold Jablon, Director DATE: June 22, 1992 Zoning Administration and Development Management FROM: Robert W. Bowling, P.E.

Zoning Advisory Committee Meeting for June 22, 1992 Item 506

Timothy V. and Carol Ann H. Front 1301 Hofberson Court Lutherville, Maryland 21093-5508

MAI (MAI 972-474-6 (time 506)
A/S Réference Court, 71's of c/2 Othoridge Sond
12/3 Réference Court
This Reference Court
This Reference
This Reference Court

Please be advised that \$ 63.16 is due for advertising and porting of the above captioned property and bearing date.

THIS FIRE MET'S A PAID AND THE CONTESS SIGN & POST SET(S) RETRIBUTE OF THE LAST OF THE REALIZE OF THE CONTESS AND A POST SET(S) FIRST THE PAST CONTEST OWER, NO MOT AND OF THE SEALOW.

Plants formed your check via return multio the Koning Office, County Office Building, 111 s. Casespania breeze, Born 109, Tomon, Saryland 21204. Flace the case number on the check and main arms people to Bultimere County, Saryland. In order to would oblay of the immunous of proper credit and/or poor Coder, immufacts attention to this matter is supported.

The Developers Engineering Division has reviewed the subject zoning item and we recommend that a landscape plan be required, providing for effectively acreening the dish from the neighbors and the street.

Robert N. Bowling / DAK ROBERT N. BOWLING, P.E., Chief Developers Engineering Division

RWB: DAK: 6

REGINVER



IN THE MATTER OF THE APPLICATION OF TIMOTHY W. FROST, ET AL FOR A ZONING VARIANCE ON PROPERTY LOCATED ON THE NORTHEAST CORNER MCPHERSON COURT AND OTHORIDGE

BEFORE THE

COUNTY BOARD OF APPEALS

* BALTIMORE COUNTY

ROAD (1301 MCPHERSON COURT) 9TH ELECTION DISTRICT ★ CASE NO. 90-350-A 4TH COUNCILMANIC DISTRICT

OPINION

.

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

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

February 8, 1991

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

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

Dear Mr. and Mrs. Frost:

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

Legal Secretary

√cc: Mr. and Mrs. Dale Rauschenberg

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111 West Chesapeake Avenue Towson, MD 21204

February 26, 1991

Baltimore County Government

Zoning Commissioner
Office of Planning and Zoning

887-3353

Mr. Dale Rauschenberg 29 Othoridge Road Lutherville, Maryland 21093

Mr. Jay Esser 21 Othoridge Road Lutherville, Maryland 21093

Mr. John Trueschler 39 Othoridge Road Lutherville, Maryland 21093

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

Gentlemen:

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

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

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

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

Zoning Enforcement Coordinator

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

Baltimore County Government Zoning Commissioner

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

August 28, 1992

Office of Planning and Zoning

(410) 887-4386

- + + > 2 to 12

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

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

Dear Mr. Frost:

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

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

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

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

> Deputy Zoning Commissioner for Baltimore County

Very truly yours,

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

Dear Tim.

111 West Chesapeake Avenue

Mr. Timothy W. Frost

Ms. Carol Ann Frost

Ms. Rosalie L. Frost

1301 MacPherson Court

Ladies and Gentleman:

Baltimore County.

circuit court case.

side and rear property lines.

the memorandum prepared by Baltimore County.

Lutherville, Maryland 21093

Towson, MD 21204

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

Baltimore County Government Office of Zoning Administration

January 30, 1992

RE: Case No. C-90-758

On or about March 29, 1991 as plaintiffs, you entered a request for a

The enforcement section, per the then County Attorney, Arnold Jablon,

To date, this office has no record of an actual hearing as to this issue. However, a review of the circuit court file, 73/350/91-CSP-587, on

Therefore, the current placement of the satellite dish is in violation

If this action cannot be taken within the next fourteen days, this

hearing as to the alleged zoning violation pertaining to the satellite dish

located at 1301 MacPherson Court within the Circuit Court of Maryland,

directed our division to withhold further action per the outcome of the

January 27, 1992, indicated that the Honorable Alfred L. Brennan, Sr.

rendered a decision on April 11, 1991. He noted that your complaint for

interlocutory and final injunctive relief should be dismissed based upon

of the Baltimore County Zoning Regulations. However, rather than issue a citation immediately, Baltimore County will afford you the opportunity to

either place the dish on the roof of your dwelling or in that third of your rear yard farthest away from any street and at least 2 1/2 feet from the

office will need written verification/contract as to when your installer

can accomplish this task. Failure to respond to this matter will result in

1301 MacPherson Court

9th Election District

(410) 887-3353

and Development Management Office of Planning & Zoning

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

1301 McPherson Court

Lutherville, MD 21093-5508

August 20, 1992

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

111 West Chesapeake Avenue Towson, MD 21204

February 24, 1992

MICROFILMED

Mr. Dale Rauschenberg 29 Othoridge Road Lutherville, MD 21093

Mr. Jay Esser 21 Othoridge Road Lutherville, MD 21093 Mr. John Trueschler

Lutherville, MD 21093

39 Othoridge Road

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

Gentlemen:

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

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

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

Zoning Inspector

MICROFILMED

(410) 887-3353

335

Vey truly yours, Walter a. Mc Chan

1302 McPherson Court Luthwille, mel. 21093

Sometime in the past, I attended what I believe was the initial Leaving relating to the improper

location of a satellite dish on the susperty known as

I was unable to attend today's hearing

on a variance to the zoning regulations reguling

this matter, but for the record, I would like

it known, that unless greater valid and/or

bun presented then were presented at the

hearing & attended, I do not believe a

variance should be greated.

compelling reasons to grant a variance have

(1301 Mc Plenson Court, Luthewill, manilal.

. BEFORE THE

IN THE MATTER OF THE
APPLICATION OF TIMOTH W.
PROST, ET AL FOR A SORING
VARIANCE ON PROPERTY LOCATED
ON THE MORTHRAST CORNER
MCPHERSON COURT AND OTHORIDE
HOAD (1301 MCPHERSON COURT)
9TH ELECTION DISTRICT
4TH COURCLAMANTE DISTRICT

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

MICROFILMED

(410) 887-3363

County Board of Appeals of Ballinge County COUNTY OFFICE BUILDING, ROOM 315

Pahruary 8, 1991

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

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

un and Mrs. Front!

As so further opposis here been taken reparding the subject case, we have closed the file and returned same to the Office of the Soning Commissioner along with any anhibit entered became beard. The Soning Commissioner is not an and file, please contact the contact Commissioner's office at 837-133 immediately upon receipt of this letter. By copy of this letter, all parties of record that any have an interest in said file have been outlined.

Sincerely, Linda Le M. Kasyman Lindalee H. Russman Lagar Secretary

CC: Mr. and Mrs. Dale Rauschenberg

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

February 26, 1991

Mr. John Trueschier 39 Othoridge Road Lutherville, Maryland RE: Case No. C-99-758 1301 MacPherson Court 9th Flortion District

When this office has a time and date as to the injunctive hearing, we

MICROFILMED

111 West Chesapeake Avenue

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

RE: Case No. C-90-759 1301 MacPherson Court 9th Election District

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

To date, this office has no record of an actual hearing as to this issue. However, a review of the circuit court file, 72/50/91-USP-537, or rendered accision on gapil 11, 1991. He noted that your complaint for interlocutory and final injunctive railed should be dismissed based upon the associated prepared by Baltinor County.

Therefore, the current placement of the satellite dish is in violation of the Sallinger Courty Scaling Deputation. However, rather than issue a rither place the dish on the roof of your dealing or in that this of very reper year (arthest may from any street and at least 2 1/2 feet from the side and the reporty lines.

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

or the street

E E B O V B F

AUG 2 5 1992

Mr. Dale Rauschenberg 29 Othoridge Road Litherville, MD 21093

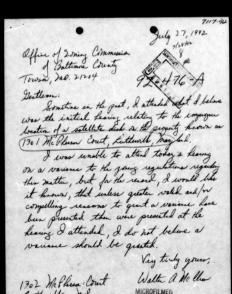
111 West Chesapeake Avenue Towson, MD, 21204

with the setallite died page to the office's better of immary 30, 1982 and the setallite died page to be relocated par the halfacere County Zoning Namalacions, we here gone to the edeath to prepare for the setallite of the seta

Finally, this office has evidence within our case file that the property owners of 1301 MacPherson Court have once again filed for in unctive relief theseelves within the Circuit Court for Baltimore Co As always, if further questions remain, please contact this 887-3351.



MICROFILMED



Luthwille, mel

21093



August 28, 1992

Mr. Timothy M. Frost 1301 McPherson Court Lutherville, Maryland

RE: PETITION FOR ZONING VARIANCE

Suita 113 Courtho 100 Washington Avenu Towson, MD 21204

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

When I spoke to you reporting the filling of your second variance request. I informed you that I could not hear the case speak feat that I as a knowled with this issue while supplyed in the Office of Law. These reporting would be permitted or whether your changes were "more statistic would be permitted or whether your changes were "more statistic" i informed you that the bearing officer, Fr. Schmidz, would be not be that determination. I gowe no sebrice to you on the visbility of proceeding with your second withintom for Variance.

I trust that this letter will refresh your recollection of the

Muthy Kotroco

TMX:bis

MICROFILMEL

I was very surprised and disappointed when I received a ruley for its patients in the property of the property straightforward way that you knew satisfied my in this case in the past. Even though this has born a most suplement part of my illife for the part there parts, challen ji why no and Jim Thompson. It particular, that make it almost, and I know you will failt this incredible, enjoyable. I has to be particularly a support of the particular that the particular that the particular that the constant is almost a consense who has no perdiposition on the case. I have exclude a copy of a motion for reconstituted that the particular that the particular that the particular that the past to be consense who has the particular that the particular that the past to be consense who has the particular that the past to be consense who has the particular that the past to be consense who has the past to be past to be consensed to the past to the past to be past to the past to the past to be past to the past to the past to be past to the past to the past to be past to the past to th

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

Dear Mr. Schmidt,



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

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

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

MICROFILMED

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

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



Dear Mr. Schmidt.

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

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

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

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

> 1301 McPherson Court Lutherville, MD 21093-5508

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

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

Dear Mr. Schmidt,

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

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

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

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

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

September 3, 1992

MICROFILMED

Move that dish couple living in Lutherville told **■** Frosts' neighbors complain about their satellite dish.

By Glenn Small Staff Writer Inside their Lutherville bungalow, Tim and Carol Ann Frost might be watching, at any given time, a Spanish talk show, the Winter Olympics — in French — or a dehate in the British House of Commons. The Frosts own a satellite dish - a \$4,000 electronic device that enables them to get nearly 250 television and radio channels from around the world. The 12-foothigh and 10-foot-wide dish has also gotten them into hot water with Baltimore County



home. The county has been trying to get them to move it either behind their home

or onto their roof. It is threatening to fine

Move that dish, couple is told

they'll lose reception, they said.

"I want to go before the judge," Mr. Frost said. "I want to talk to the A court date has not yet been scheduled. But, with the gusto of a private investigator, Mr. Frost has researched the law accessory structures in the county structures in the county of the county of

dishes and can produce a hefty stack of paperwork to prove it. He's acting as his own attorney.

As such, satellite dishes usually are allowed in back yards of homes, he said — even if the location is to

to put the dish where it now sits. That re After they were shown a diagram of his property, in the 1300 block of McPherson Court, and the away from the corner that fronts on the found out that the Frosts away from the corner that fronts on the found out that the Frosts on the found out the found out that the Frosts on the found out the fo proposed location of the dish, Mr. the main road. Frost said, those officials gave him the green light. That's because, they told him, Baltimore County zoning law allows satellite dishes in back wards, and his proposed location.

But Mr. Frost says he is right, that the dish can legally stay where it is. And he said he will fight to keep it there. He's offered to plant shrub-lives down the first that the dish can legally stay where it is. And he said he will fight to keep it there. He's offered to plant shrub-lives down the first that the dish can legally stay where it is right, "If they put it on the roof, you'll be able to see it for miles," said John Trueschler, who lives down the yards, and his proposed location bery around the dish to mitigate was, indeed, behind his house.

But, soon after the dish was in
bery around the dish to mitigate complaints about the alleged eyesore, but two of the neighbors who now."

street from the Frosts.

"It'll be 10 times worse than it is now."

DISH, From 1A

stalled in September 1969, three of the Frosts' neighbors complained.

They didn't like the looks of the huge, jet-black dish. Because the Frosts have a corner lot, and the satellite dish faces Othoridge Road, "It just hits you right in the face," said Terri Rauschenberg, who lives directly behind the house—they'll lose recention they said.

"It really is a monetonity and an appeals also denied their respect."

"It really is a monstrosity and an nation to get rid of the disk," said whole situation," said Mr. Frost.

taking so long to make the Frosts comply with the law, is equally frustrated — and determined. He claims that before he bought the side, but still behind, the house—
the expensive dish, he asked Baltimore County soning and building inspection officials if it would be OK to put the dish where it now sits.

That regulation requires accessory

"I really don't care if he gets good reception or not," said Mrs. Rauschenberg. "We're going to take it right to the end. We're not going to back down." "I really don't care if he get

Mrs. Rauschenberg, who said she

47 C.F.R. & 25.104.



In the Matter of Preemption of Satellite Reference No: DA 91-145 Antenna Zoning Ordinance

of Town of Deerfield, New York MEMORANDUM OPINION AND ORDER Adopted: March 17, 1992;

Before the

Washington, D.C. 20554

Federal Communications Commission

By the Commission: I. INTRODUCTION

1. Petitioner, Joseph A. Carino, requests the Commission to issue a declaratory ruling preempting the satellite dish soning ordinance of the Town of Deerfield, New York (Deerfield). Mr. Carino's Polition is supported by several commenters! and opposed by Deerfield. 2. Mr. Carino bases his request for preemption on the Commission's rule, Section 25.1/14", which preempts to cal regulations that differentiate however smellite earth stations and other antennas and that do not have a reasonable, clearly defined health, safety or aesthetic objective. and impose unreasonable timitations or excessive costs on reception of satellite signals. The Commission's order adopting this rules indicates that it is based on the concern that excessive local regulation would unduly interfere with the federally guaranteed right of earth station antenna users to receive certain satellite signals for private home viewing. However, the Onler also states that the Commission does not intend to become a national zoning board and that individuals requesting Commission review will be expected to show that other available remedies have been exhausted. II. MR. CARINO'S CASE

3. Mr. Carino provides the following details about his efforts to obtain Deerfield's permission to install a satellite dish at his home. Mr. Carino is a resident of Deerfield, New York and lives on a lot less than one-half acre in size. The zoning code of Deerfield prohibits the installation of "dish" antennas and any "tower-type" antennas weighing more than one hundred pounds on any lot less than one-half acre in size. Despite this prohibition, Mr. Carino installed a ten foot satellite receiving antenna in his back yard. In February 1987, Deerfield issued an "Appearance Ticket" for violation of the zoning code; Mr. Carino appeared in criminal court, posted \$100 bail and idvised the court that he wished to apply for a variance to the ordinance. In March 1987, he applied to the Zoning Board of Appeals for a variance, paid a \$50 application fee and brought a petition signed by most of his neighbors endorsing the installation of his earth station. None of his neighbors opposed the antenna. Mr. Carino's application for a variance was denied by the Board for failure to show a "hardship" sufficient to justify the issuance of a vari-

4. After this denial, Mr. Carino filed an action in the New York state trial level court (Supreme Court) for review of the Board's decision. This action was taken pursuant to a procedure typically used to review soning oard decisions in the state of New York. 18 The Supreme Court ruled that the ordinance was valid. 11 The court based its opinion on the fact that the ordinance applied to both dish antennes and tower antennas12 and thus, in the court's opinion, it did not differentiate or discriminate against satellite earth stations.

5. Mr. Carino appealed to the Appellate Division and to the Court of Appeals of the State of New York, Both courts ruled against him.13 After the rejection of his appeals in state courts, Mr. Carino's criminal case was reaclivated, he was fined \$100, and he was advised that his anienna would be removed in March. 1989. The appeal of this conviction is pending.

6. On December 15, 19KK, Mr. Carino filed an action in he United States District Court requesting a declaration that the Deerfield ordinance is preempted by Section 25.104. In an opinion dated November 23, 1990, the District Court dismissed Mr. Carino's case, stating that he was barred by the doctrine of collateral estopped from relitigating in that court the issues decided by the state courts, including the issue of whether or "not the ordi-

1 Commencer supporting preemption include American Set-ellite Television Alliance (ASTA), National Americation of Association (SBCA), and United States Satellite Broadcasting Company, Inc. (USSB). Reply comments were filed by NAB and Video Services Corporation/Atlantic Satellite Communications. Inc. (VSC). Both petitioners and the Time of Deerfield requested authority to file late comments which has been granted or sond cause shown.

Although the pleading filed by Deerfield is captioned as an "Answer," in substance it is an apposition to Mr. Carino's fetition and we will consider it such. Preemption of Local Zoning or Other Regulation of Receive-Only Satellite Earth Stations, (Orders, 54 KR 24 1973, 51 Fed.

Order at para. 40.
Deerfield does not dispute these facts.
Deerfield's zoning ordinance is set furth in full in Appendix This proceeding is referred to as an Article 7% proceeding Carino v. Pilon, R.J.I. #32-KT MIN (July 27, 1-444). The court's opinion dues not mention that the ordinance's

lot size restriction applies only to antenna towers weighing over IIII pounds. ¹³ The New York State Appellate Division stated that an Article 7st proceeding is not the proper procedure to challenge the constitutionality of a coming ordinance. Neither of these



ARNOLD JABLON ZONING COMMISSIONER

JEAN M. H. JUNG DEPUTY ZONING COMMISSIONER

SUBJECT: POLICY MANUAL 9/20/85

This POLICY MANUAL is a compilation of legislative, executive, and administrative public policies. These policies are promulgated by the Zoning Commissioner of Baltimore County, pursuant to the Baltimore County Charter, §522.1, and the Baltimore County Zoning Regulations, §500.8. The principles enunicated herein have the limited purposes of facilitating and improving the implementation of procedures throughout the Baltimore County Department of Planning & Zoning Administrative Offices.

The policies organized here are subject to alteration, modification, or revision in accordance with the authority under which they are initially adopted. As such, the policies have no binding effect within a Court of law, although they may be utilized by the Courts to interpret and construe pertinent zoning regulations. Hofmeister v. Frank Realty Co., Inc., 373 A 2d 273 (1977); Farber's, Inc. v. Comptroller of the Treasury of the State of Maryland, 266 Md 44 (1972).

This Manual could not have been prepared without the experience and knowledge of James Dyer, Zoning Supervisor; Diana Itter; Douglas Swam; and Nicholas Commodari, Zoning Coordinator; and especially without the time, effort and ability of Carl Richards.

EXHIBIT 1 PAGE I

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME TIMOTHY W. FROST WALTER FRAZIER Roschie Front

1301 MaPHERSON CT 1013 Roke FARM (N. 21220 1301 mc Pherson Ct. 21093 1301 MF Leeson Ct 21093

PROTESTANT(S) SIGN-IN SHEET

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1992 Edition

Baltimore County Zoning Commissioner's Policy Manual



amended May 13, 1982

Administrative Supplement to the Baltimore County Zoning Regulations

EXHIBIT 2 PAGE 1

.vICROFILMED

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



August 20, 1992

Dear Mr. Schmidt.
You stated in your decision on my case that the principle of my indicates applied. I materials that, based upon the case which you cited. Beard of County Commissioners v. Bacties, 24 Med.
App. 435, 1973, he principle of res pulcated soes not apply because a misside of law was made in the original case. The basis of the original complaint against me was that section 400.1 for the Baltimore County Zooing Regulation (16.C. E.N.) applied to my installation. The Regulation of the Case of the County Zooing Regulation (16.C. E.N.) applied to my installation. The Regulation is the control of the Regulation of the Regulation (16.C. E.N.) applied to my installation. The Regulation is the control of the Regulation of the Regulation (16.C. E.N.) applied to my installation. The Regulation of the Regulation (16.C. E.N.) applied to my installation. The Re

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thus medicing that enries section of the law invalid. By making such a decision, Commissioner, Hances effectively decision and any process of law. For a various was that both Mr. Timely, Hances effectively decision and any process of law. For a various was that the Mr. Timely Kerotos, your deputy, and Mr. Amodd Jablon, the Director of Zoolag Administration and Development Management, told me and Mr. Walter Passir from Stansbury Satellite that if we made the modifications to the size of lowering the disk closer to the ground and plasming was to the condition of soil under the process of the size of the condi-tion of size of the variance was not made in an arbitrary and capticious manner, but based upon advice from members of your said which we thought to be sound.

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

GOCARA 4-13-12 Outeral Communications Com

1. INTRODUCTION

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Additional information shout are years has just come to any streaming about an error which was made in my original hearing which it which you to consider.

The development in which my home is located in in Devenatine Forest. The plants for my committed years appeared on Clother 22, 1985. Because of this, he noning regulations which committed years appeared on Clother 22, 1985. Because of this, he noning regulations which the committed of the committee of the

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In the 1965 regulations, accessory structures must be placed in the rear yeard of a corner lot to the 1965 regulations, accessory structures must be placed in the rear lot of the located in my rearrange of the commission of the located in my rearrange year. In the lot of 22 deer from the street, I can, benefits assisting with the located far further towards the north, and be in full compliance with the 1965 regulations.

In the light of them facts, I request that you reconsider my request for variations bead upon the minimizery and law forester facts. I request they uncreased the protection of the policity of the yellowing of the located protection of the protection of the yellowing of the located protection of the yellowing the the yell

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M. MR. CARDIO'S CASE

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

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

Additional information about my case has just come to my attention which I with you to consider, deposed in which my home is located in in Docushier Forest. The glass for my community were approved on October 25, 1954 as stand on deed of tout and associated documents attended as exhibit I. Rosenses my property was approved in 1954, the version of the B.C.Z.B. which governs my home is the one which was in effect in 1945. When my case for first band by \$MP. Hillers, so mention of this fact was made by him or myper during my sense first band by \$MP. Hillers, so mention of this fact was made by him or myper during my the work of the stands of the contract of the stands of the stands of the stands of the my sense of the stands of the R.C.Z.B. could not proposed for the mystalion of assisting data attention. Therefore, there is not now nor has there ever been my valid law which can regulate instands are assisted in the stands on my property. The stands of the

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Move that dish couple living in Lutherville told Frosts' neighbors complain about their satellite dish.

By Gloss Small Sail Veter ser Leberville bes

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Move that dish, couple is told

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De Order on parts the ching of U.S.C. 6 and.

Order on parts 18.

State of the This percenting is referred to an an Article In percenting.
Carlon v. Pilan. B.A.L 433-07 and globy 37. I-beta.
The open't against due not microlas that the orderance to the carlona again as an analysis of the carlona against a selection against a subject to regulate the p players. the pleading filed by Morrfield is experience as an a subsequence in its an approximat to Mr. Carlog's ion of Loral Zoning or theor Reputation of Receive-MICROFILMED

DALTIMORE COUNTY OFFICE OF PLANNING & ZONING TOWSON, MARYLAND 21204

ANNOLD JACKON POWERS COMMISSIONER SUBJECT: POLICY MANUAL EAN M. H. AING DEPLITY ZONING COMMISSIONER

9/20/85

This POLICY MARMAL is a compilation of legislative, executive, and administrative public policies. These policies are promulgated by the Zoning Commissioner of Saltimore County, pursuant to the Saltimore County Charter, \$522.1, and the Seltimore County Zoning Regulations, \$500.8. The principles enunicated herein have the limited purposes of facilitating and improving the implementation of procedures throughout the Baltimore County Department of Planning & Zoning Administrative Offices.

The policies organized here are subject to alteration, modification, or revision in accordance with the authority under which they are initially adopted. As such, the policies have no binding effect within a Court of law, although they may be utilized by the Courts to interpret and construe pertinent zoning regulations. Hofmeister v. Frank Realty Co., Inc., 373 A 24 273 (1977); Parber's, Inc. v. Comptroller of the Tressury of the State of Maryland, 266 Me 44 (1972).

This Manual could not have been prepared without the experience and knowledge of James Dyer, Zoning Supervisor: Diane Itter; Douglas Swam; and Micholas Commodari, Zoning Coordinator; and especially without the time, effort and ability of Carl Richards.

EXHIBIT 1 PAGE I

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN STEET

TIMOTHY W. FROST WALTER FRAZIER Roschie Front Carol Ann Fest

1301 MAPHERSON CT 1013 Robe Fram (N. 21220 1301 ms Cherson 4. 21093 1301 MF Leesen & 21093

PROTESTANT (S) SIGN-IN SHEET

HAME	ADDRESS
Dale Rauschenberg	29 Othoridge Rd.
Leo za L. Krom	28 other sides Rd
June cher	31 Ottollage Rd
Stateher anderson he	30 Thoudge Rd
Gladys anderson	30 Otheridge Kd.
Keber Anderson	30 Oflicking RD
Kelest B Hetherington	Iror Purly CT 2105
Mary The sungter	" 0. " 2109
totals hiverget	3 Malby ct 21073
Devleva Juringhit	3 Melbay Ct 21093
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1992 Edition **Baltimore County**

Zoning Commissioner's Policy Manual



named at Nov 12, 1881 adopted May 21, 1961

iministrative Supplement to the Baltimere County Zoning Regulations

EXHIBIT 2 PAGE 1

.diCROFILMED

Arnold Jablon, Director - Zoning Administration & Development

June 17 1992

FETITIONS FROM ZONING ADVISORY COMMITTEE - June 15, 1992

The Office of Planning and Zoning has no comments on the following petitions:

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



ZONING OFFICE

MICROFILMEL

MICROFILMED

FINAL TOTALS

Rales j Tamb! 0000 6/22/92 Walver Number Stonegate at Patapsco (Azreal Property) 90476 ZON DED TE (Waiting for developer to submit plans first) / Hashington Homes, Inc NIC 16-15-92 DED DERBH RP STP TE Aurelia Loveman For Joseph H. Loveman NICI DED DEPRM RP STP TE Timothy W. And Carol Anne M. Frost NIL 1 DED DEPRM RP STP TE James B. And Brenda G. Thomas NICV DED DEPRH RP STP TE NILV DED DEPRH RP STP TE Victor E. And Sandra J. Fiorenza NICL DED DEPRM RP STP TE Lane Gutes NIC DED DEPRH RP STP TE COUNT 7 NIC A-8-92

MICROFILMEL.

Date 6.22-73 Project Name Waiver Number Heeting Date Robert N. And Joan M. Greene mproces Batimore Gas And Electric Company Aprices COUNT D Albert F. And Ann P. Nocar waterronments перры TE Gene Nelson And Paulette Ensor Agrees Lawrence F. And Ruth C. Solomon In process COUNT 2 Washington Homes, Inc. A prous DED DEPEN OF STE TE Aurelia Loveman For Joseph H. Loveman Aprices Timothy W. And Carol Anne M. Frost NO COMMENTS ED DEPRH AF STP TE NO COMPLETS DED DEPRM RP STP TE James E. Bishop, Sr. inprocess Victor E. And Sandra J. Fiorenza NO COMMENTS

6355597

(410) 887-4500

JUNE 12. 1992

Arnold Jablon Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, Mb 21204

700 East Joppa Road Suite 901 Towson, MD 21204-5500

RE: Property Owner: TIMOTHY W. FROST AND CAROL ANN M. FROST 01301 HCPHERSON COURT Locations

Item No.: 506 (JCM) Zoning Agenda: JUNE 15, 1992 Centlemen.

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 Pire Prevention Burenu has no comments at this time.

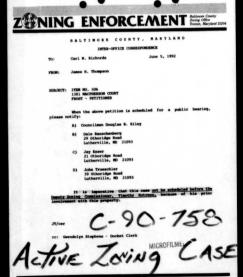
REVIEWER: Anthony Planning Broup) Approved Planning Broup) Fire Prevention Bureau Special Inspection Division

JP/KEK

EGALV. JUN 15 1997 ZONING OFFICE

ROFILMED







NOTICE OF HEARING



2m.331 Puttion for Inning Veriance GENIE & April 5 1890
CKS NAMEDIN 90-350-A
RE/Corner Reframen Court and Otheridge Road
1301 Reframen Court
Bith Election District - 4th Councilments
Reframe Court
Reframe
Refr Committee

the search that this facilities is granded, a halfding promit may be insued within the this of granded promises. The Tender Commissions with insurance, extremely and commissions of the of the Lineaus of reality promises the things the parties for good manner of the things of the commission of the

(IT "PRINCE 13" of the "SMAN DERICKLY FLOW" In in offset in Baltimore Casety on the close having date, the linearing skill be postponed. In the event of seas, Salaphane BFT-228 to confirm Pearing date.)

MICROFILMED

Bond of Apposis 887-3180



County Board of Appeals of Baltimore County COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3180 January 8, 1001

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

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

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

Linda Lee M Luymans LindaLee M. Kuszmaul Legal Secretary

Enclosure CC: Mr. and Mrs. Walter Frazier

VR. and Mrs. Dale Rauschenberg

P. David Fields

Pat Keller Minnes
Ann N. Emstarowicz

James E. Dyer

W. Carl Richard, Jr.

Docket Clark - Eoning

Arnold Jablon, County Attorney

Arnold Jablon, County Attorney

FINDINGS OF PACT AND CONCLUSIONS OF LAN

The Bette Course havely required a variance from Section 400.1 to security ment of a satellite dish antenna in the rear yard of a corner lot, not within the year 1/3 of the lot farthest removed from new atreat. a particularly described on Putitioner's Exhibit No.1.

Petitioners, Timothy W. Frost and Carol Ann Prost, appeared and Accessing and testifying on behalf of the Potition, was Walter President of Stansbury, Inc. Also appearing on behalf of the was Rosalie L. Frost. Appearing and testifying as Protestants Florence Soury, Helen Williams, Caroles Pasor, John J. Reser, Thorses rg, Dale Rauschenberg and George S. Kross. Appearing and testify-Hills Committe Association. Inc.

Testimony indicated that the subject property, known as 1301 McPherson Court, is a corner lot consisting of .17 scree +/-, seed D.R.S.5, and improved with a single family dwelling. Testimony indicated that the Petitioners have erected a 15' high satellite dish in the rear yard portion of their course lot along Otherston Bond on indicated on Battitionaunt Publish Ho.

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

EXHIBIT 3 MICROFILMED

DEED OF TRUST

THE PURCHASE MONEY DEED OF TRUST is made this 33Ad day of April 19 D. smoog the Gamine Timothy W. Prost, and Carol Avn M. Prost, his wife, and Revalie

Rivin M. Hard and David C. Haffroy (herein "Retrover"), (herein "Truster HALTHORE PERENAL CAVINDS AND LIAN ASSOCIATION acoptestion organized and existing under the live of the United States of Associates in 19 R. PARETTE STREAM, MAINTIMENE, MD 21202 herein "Lender"

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, inserocably grants and pys to Truster, in trust, with power of sale, the following described property located in the Pacetion District Co. Unity of Full timore State of Mayland:

EEING known and designated as Lot No. 4 in Block E as shown on the Plat of Section 2 of Devenhire Borest, which Plat is duly recorded among the Land Records of Baltimore County in Plat Book CES No. 20, page 132. The is growments thereon being known as No. 1301 Asthereon Court.

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

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

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

The descript propry budgeter production is when on given with the most count bright. The countries will make the production of the countries of the countries of the production of the countries of the production of the countries of the production of the countries of the countri

To Secure to Leoke (a) the repayment of the indebtodness eithered by literover's note dated of event date between Most?, in the principal sun of $= (\frac{5}{24}, 200, 00)$ with the record of the first of the secure thereon, providing for monthly installments of principal pad intervals with the balance of the most of the secure of the secu

Buttower covernates that Borrower is Lewfully whited out the existe hearby conveyed and has the right to grant and conveyy her Property, that the Property is unencumbered, and that Bostowers will werennt and defend specially the title to the buyering against a distinct and demands, subject to any declarations, exercents of restrictions finited in a schedule of exceptions to coverage in any title insurance policy insuring Lewise's interest in the Property.

MICROFILMED MARYLAND -1 to 4 family -2/26 PRINCIPELING UNIFORM INSTRUMENT

EXHIBIT 1

PLAN TO ACCOMPANY ANING VARIANCE OR SPECIAL HEARING VICINITY 120 -30 ### TING WA 30 14711177 OTHORIDGE ROAD (60' R/A", 36' PAVING)

PLAT FOR ZOMING VARIANCE (OR SPECIAL MEARING) COT SIZE: 7,314 SE MICROFILMELY ACRE OWNER - TIMOTHY W. AND CAROL ANN M. FROST DISTRICT - 7, ZONED - D.A. - S.S SUBDIVISION - DEVONSHIRE POREST, SECTION 2 SCALE: 1" - 30" LOT 4, BLK. 8, BOOK NO. 20, FOLIO 132

EXISTING PUBLIC UTILITIES IN MEPHERSON COURT THIS PROPERTY IS NOT IN CAITICAL AREA ZONING HISTORY: 90-350-A; BO OF APPEALS DENIED

July 24 1992 1 No

N

Mr. Joseph Nolan Office of the Building Face

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

- hy does Baltimore County have a building code? (I presume that the answer will be something like "The building code is intended to set standards of construction which will present the public health, safety, and welfare for persons who are located inside and sotistide of the buildings."
- Is it true that the building code requires that a building permit be obtained for the
 installation of a satellite dish on the roof of a building? (I know that the answer here is
 "yet".)
- Is it true that the building code does not require that a building permit be obtained for the installation of a satellite dish on the ground? (I know that the answer here is also "yes".)
- minimization or a numeric uses on the general; I move must the instearch of in num 'yes, .j.
 A. Why does the short officially called the short of statistic dishes which are installed on the roof of a building and the fact of a paradual for smalled fields which are installed on the ground? (I persumed that short official the short of the shor
- 5. Where would you recommend that a satellite disk antenna be installed to ensure that the public health, safety, and welfare be given optimal protection? (in the light of our telephone conversation of Workeday, July 23, 1992, I presume that your recommendation would be not. the ground. If that is not your answer, please provide a detailed reason why a nord installation would be safety.

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



MICROFILMED

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3610

On July 24, 1992, I received the hand delivered letter of inquiries we efly discussed by telephone on July 23, 1992 and the following is a ponse to those question; in the same numerical order as addressed in

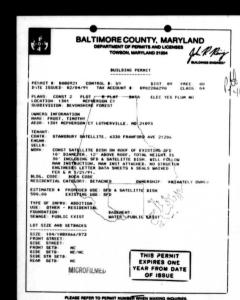
1. Section 100.4 of the code provides, this code shall be construct to secure its empressed iteach, which is to inserve point sardiny, health and walfare insofar as they are affected by building construction, through structural streams of openess femilities, easilier, structural streams of the structural structural structural structural structural structural structural structural structural secure the endity to live and property from all hazards incident to the design, sretchin, repair, noward, demultion or use and economy of

2. The building code does require permits for actellite dishes on control section 452.7.1 of the Building code requires permits for any building or other requires permits for any building or extructure. Section 452.7.2 perovides that satellite antenna's larger than 2' in dismeter shall be subject to the structural provisions of the building code including united and most loads.

Baltimore County does not require permits for ground moun satellite dishes. They must, however, be installed in compliance w Zoning requisitions.

4. The disparity mists for permit requirements for roof or building mounted and prouds montain stallile dishes because of concerned code strength to satisfy apport to self-times long-invariantly used londs on the building or structure. Officials do not building or structure. Officials do not builden provide a section of the protection of the protect

MICROFILMED



111 West Chesapeake Avenu Towson, MD 21204 887-3610 Timothy Frost 1301 McPherson Ct. LOCATION: 1301 McPherson Ct. MR. HILANO "04" COMMENTS PLANS REVIEW-PHONE 887-3987 YOUR PLANS ARE RELEASED FROM THIS DEPARTMENT AND DO NOT REQUIRE A DIRECT REPLY, UNLESS REQUESTED. COMMENTS SHALL BE REQUIRED WITH, ANY OTHER DEPARTMENT OR AGENCY. COMMENTS SHALL BE REQUIRED DIRECTLY WITH THE DEPARTMENT OR AGENCY. DURING PLAN RESIDOS PROME CALLS WILL ONLY BE ACCEPTED THIS REVIEW COVERS ONLY MAJOR CODE REQUIREMENTS. THE LAW REQUIRES COMPLIANCE WITH ALL CODE PROVISIONS, WHETHER POINTED OUT BY THE REVIEW OF NOT.

Afr. Lawrence Zoning Commissioner County Office Building 111 W. Chesapeake Ave. Room 109

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

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

I believe that forcing Mr. Frost to place his satellite dish on the roof of his house would perceptate. Placeman of the satellite dish on the roof of Mr. Prost's house would make ossible for Mr. Prost to screen it from view and might result in damage to Mr. Frost's

Mary Trueschler ST OTHORIDGE RAD

MICROFILMED

8

4th Councilmenic District

Timothy W. Frost, et al Petitioners

* Case No. 90-350A

* ZONING COUNTRATORER

. OF BALTIMORE COUNTY

. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

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

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



EXHIBIT 3

DEED OF TRUST

THIS PURCHASE MONEY DEED OF TRUST is made this 23 nd day of day of . among the Grantor Timothy W. Frost and Carol Ann M. Frost, his wife, and Rosalie

Edwin M. Hurd and David C. McElrov (herein "Trustee"), and the Beneficiary, BALTIMORE FEDERAL SAVINGS AND LOAN ASSOCIATION a corporation organized and existing under the laws of the United States of Maerica , whose address is 19 E. FAYETTE STREET, BALTIMORE, MD 21202

(herein "Lender") BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the 9th Flection District County of Baltimore , State of Maryland:

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

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

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

which has the address of 1301 McPherson Court, Baltimore, Maryland, 21093

(herein "Property Address");

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

To Secure to Lender (a) the repayment of the indebtedness evidenced by Borrower's note dated of even date herewith(herein "Note"), in the principal sum of \$51,200.00 Dollars, with interest thereon, providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on May 1, 2010 ; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and

agreements of Borrower herein contained; and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to paragraph 21 hereof (herein "Future Advances"). Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend specially the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of

MARYLAND -1 to 4 family -7/76 FNMA/FRLMC UNIFORM HISTRUMENT

exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

EXHIBIT 1

Baltimore County Government Department of Permits and Licenses

111 West Chesapeake Avenue Towson, MD 21204

July 24, 1992

(410) 887-3610

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

Re: Satellite dish

Dear Mr. Frost

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

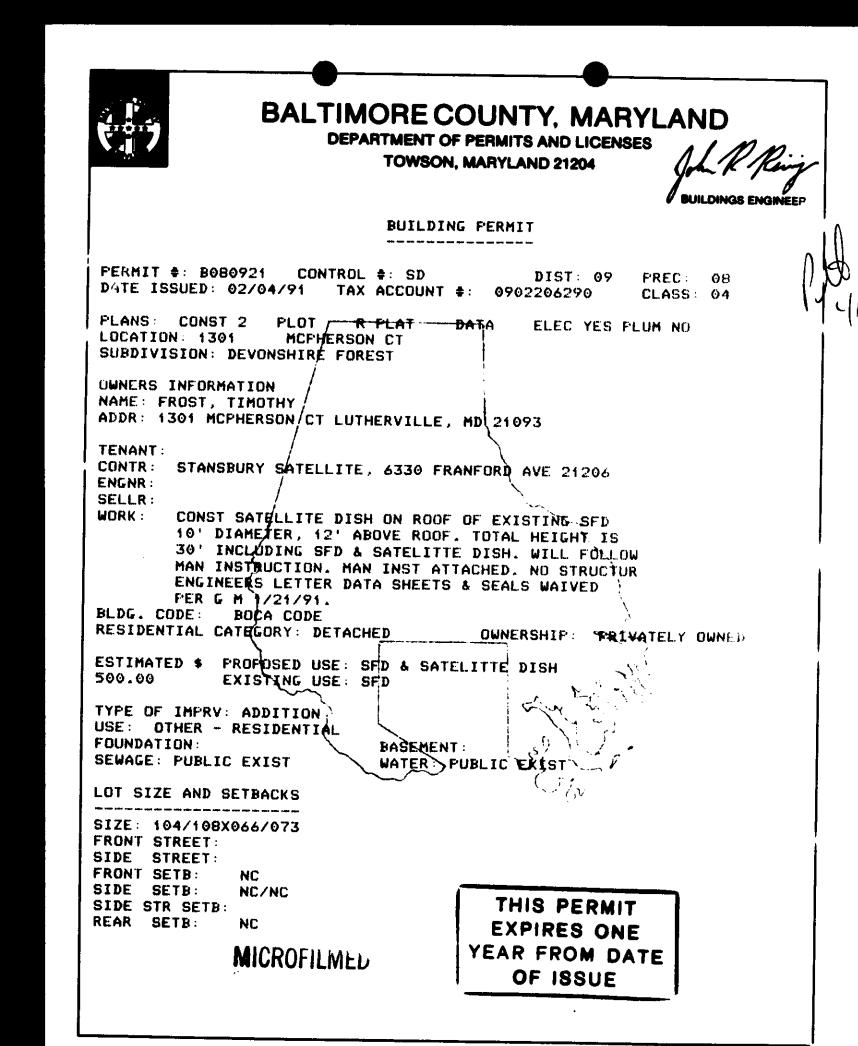
1. Section 100.4 of the code provides, This code shall be construed to secure its expressed intent, which is to insure public safety, health and welfare insofar as they are affected by building construction, through structural strength, adequate means of egress facilities, sanitary equipment, light and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

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

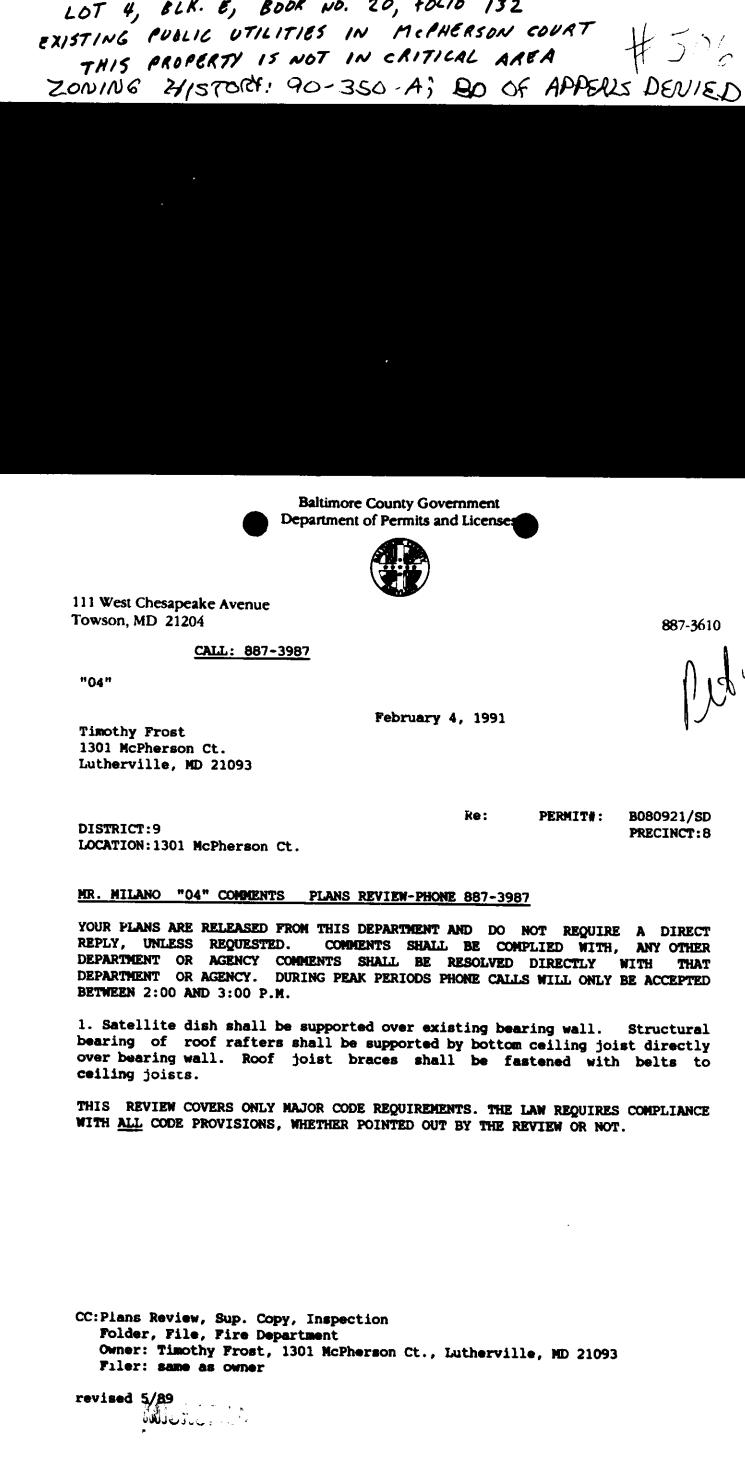
Baltimore County does not require permits for ground mounted satellite dishes. They must, however, be installed in compliance with Zoning regulations.

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

MICROFILMED



PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.



PLAN TO ACCOMPANY ONING VARIANCE OR SPECIAL HEARING VICINITY MAP Exist ING DWELWE NO. 1303 LOT 5: EXISTING OVERHEAD POWER LINE exisT/N6 DWELLW 6 DWELLING NO. 30

OTHORIDGE ROAD (60' R/W, 36' PAVING)

PLAT FOR ZONING VARIANCE (OR SPECIAL HEARING) LOT 5/28: 7,3/4 SOF OWNER - TIMOTHY W. AND CAROL ANN M. FROST --- 17 ACRE

63.56'

E.DISTRICT - 9, ZONED - D.A. - 5.5

SUBDIVISION - DEVONSHIRE FOREST, SECTION 2 SCALE: 1"= 30' LOT 4, BLK. E, BOOK NO. 20, FOLIO 132

EXISTING PUBLIC UTILITIES IN MCPHERSON COURT IL

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

July 24, 1992

Dear Mr. Nolan. Please provide written answers to the following questions about the Baltimore County Building

1. Why does Baltimore County have a building code? (I presume that the answer will be something like "The building code is intended to set standards of construction which will protect the public health, safety, and welfare for persons who are located inside and outside of the buildings."

2. Is it true that the building code requires that a building permit be obtained for the installation of a satellite dish on the roof of a building? (I know that the answer here is

3. Is it true that the building code does not require that a building permit be obtained for the installation of a satellite dish on the ground? (I know that the answer here is also "yes".)

4. Why does the above disparity exist between regulation of satellite dishes which are installed on the roof of a building and the lack of a standard for satellite dishes which are installed on the ground? (I presume that the answer to this question will be some like "Satellite dish antennas which are properly installed on the ground in accordance with manufacturer's specifications, by the very nature of the location and installation, pose virtually no threat to either the public heath, safety, and welfare, or the structural stability and integrity of any building. Satellite dish antennas which are installed on the roofs of buildings, even though they are installed in accordance with manufacturer's specifications and in accordance with the provisions of the Baltimore County building code, may, during periods of unusual weather conditions, pose a threat to the health, safety and welfare of persons located both inside and outside of the affected building.")

5. Where would you recommend that a satellite dish antenna be installed to ensure that the public health, safety, and welfare be given optimal protection? (In the light of our telephone conversation of Wednesday, July 23, 1992, I presume that your recommendation would be on the ground. If that is not your answer, please provide a detailed reason why a roof installation would be safer.)

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



MICROFILMED

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

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

Dear Mr. Schmidt.

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

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

39 OTHORIDGE ROAD

cc: Mr. Timothy W. Frost

MICROFILMED

Printed on Recycled Paper

July 26, 1992

Baltimore County Zoning Commission

This ease (C-90.758) Timethy

Front, et.al. ws. Baltimore County has
been dragging on since Tronsmber, 1989.

Mir. Front's satalite dish is in malation

G. zoning regulations for a corner lat

(Section 4001).

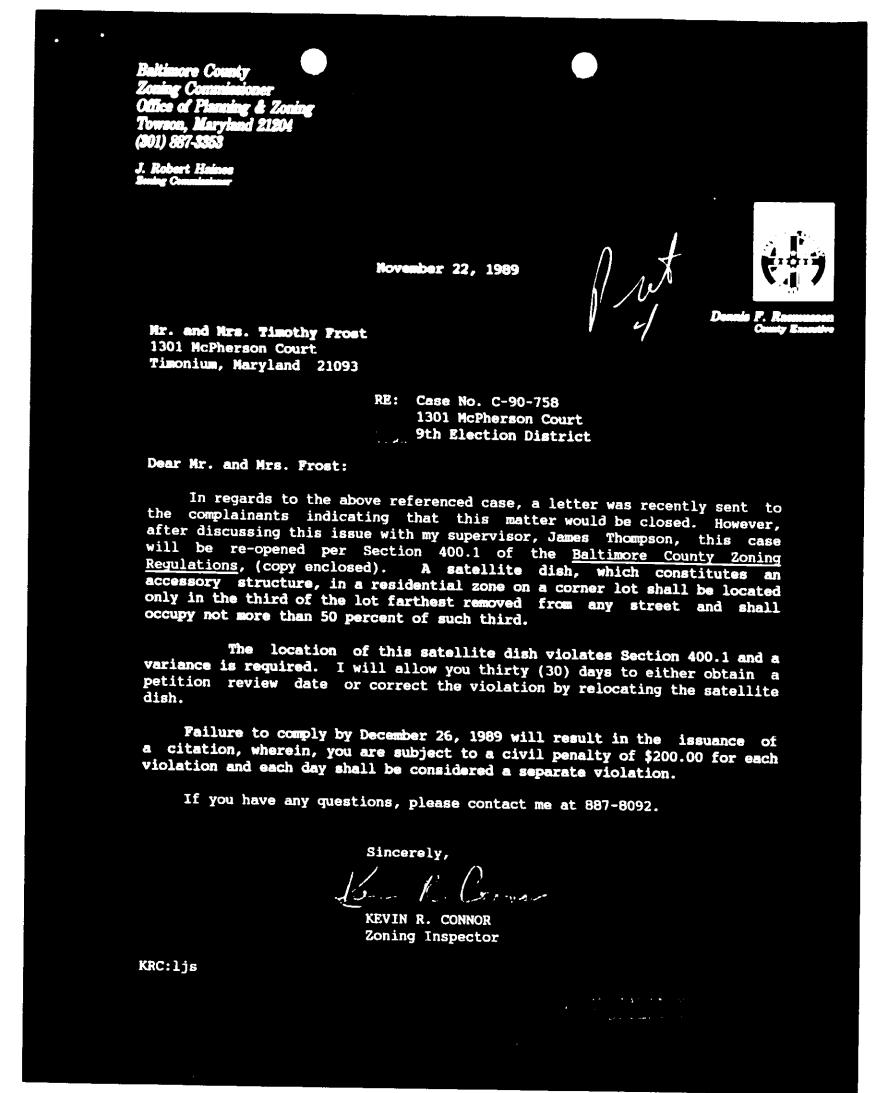
Mir. Frost has had his day in

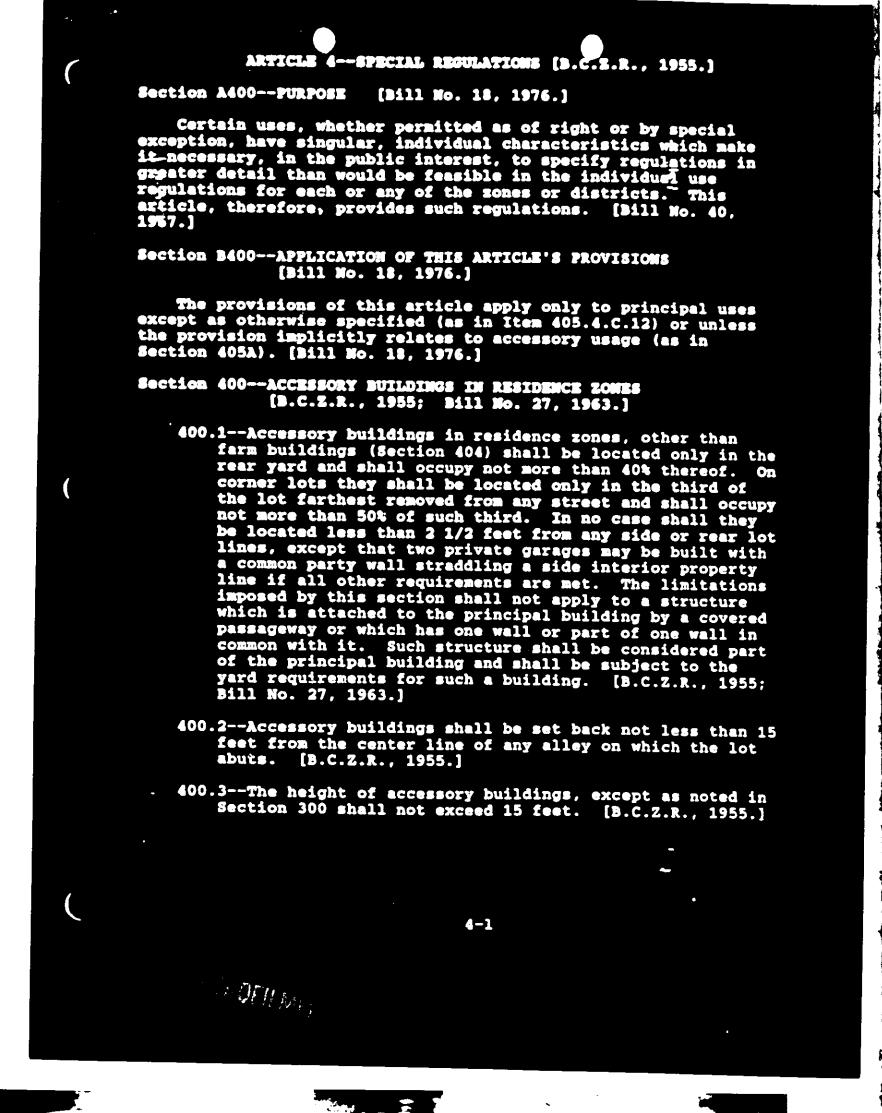
1. There was a heaving before the zoning Commission on March 14, 1990. The request for a varience was denied. Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204

Chartes Cacit 92-476A

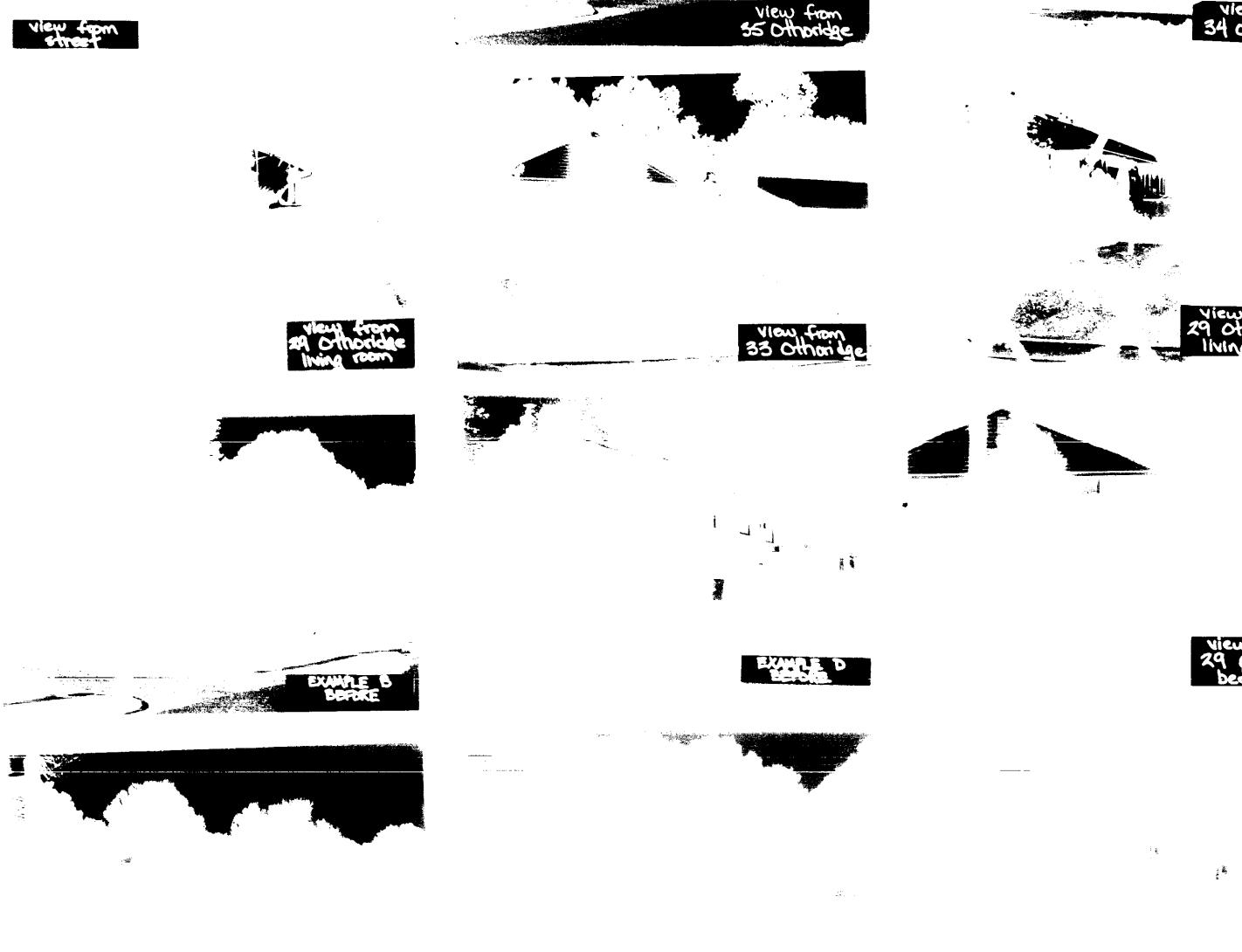
Othoridge Rd

32

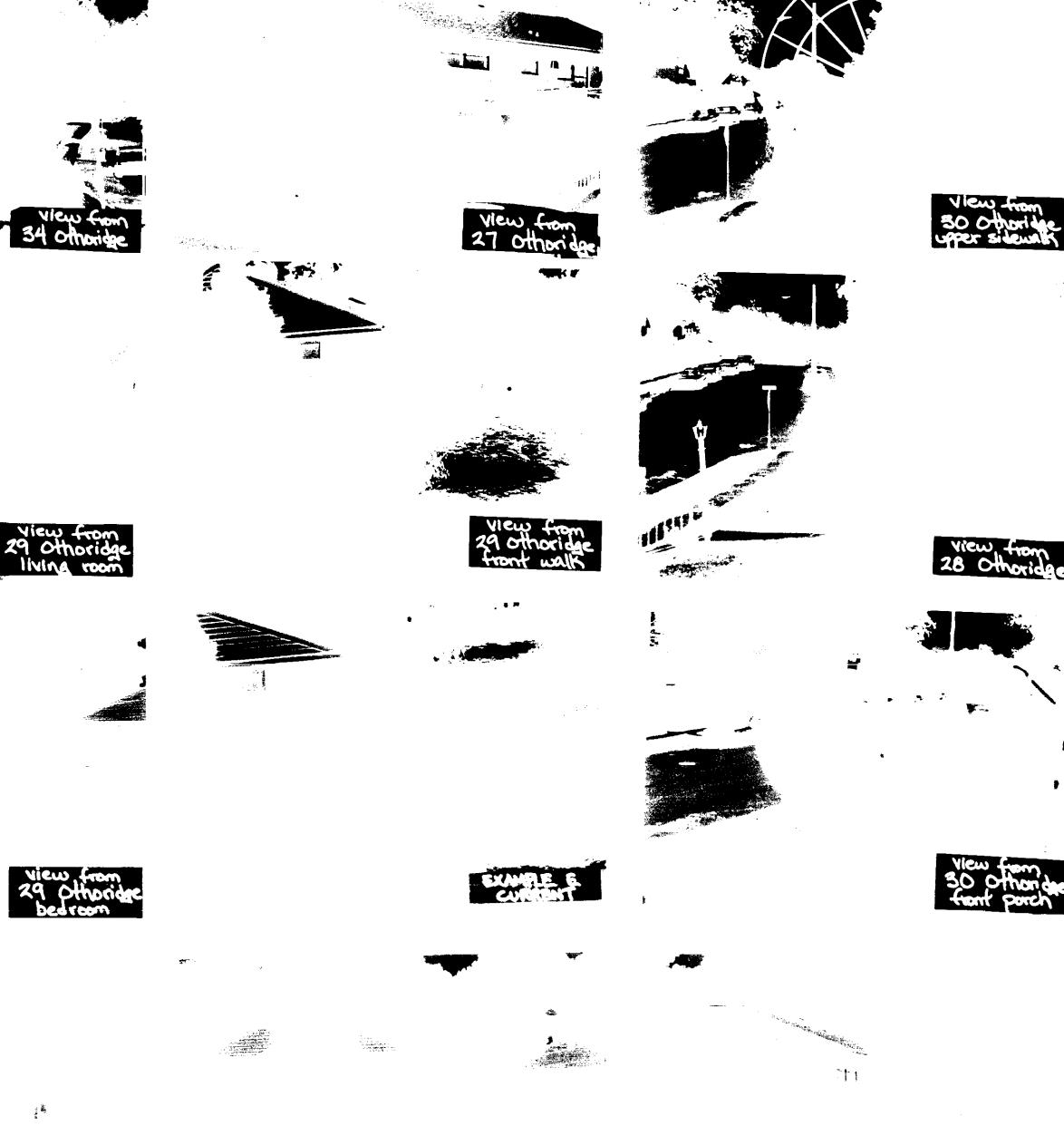


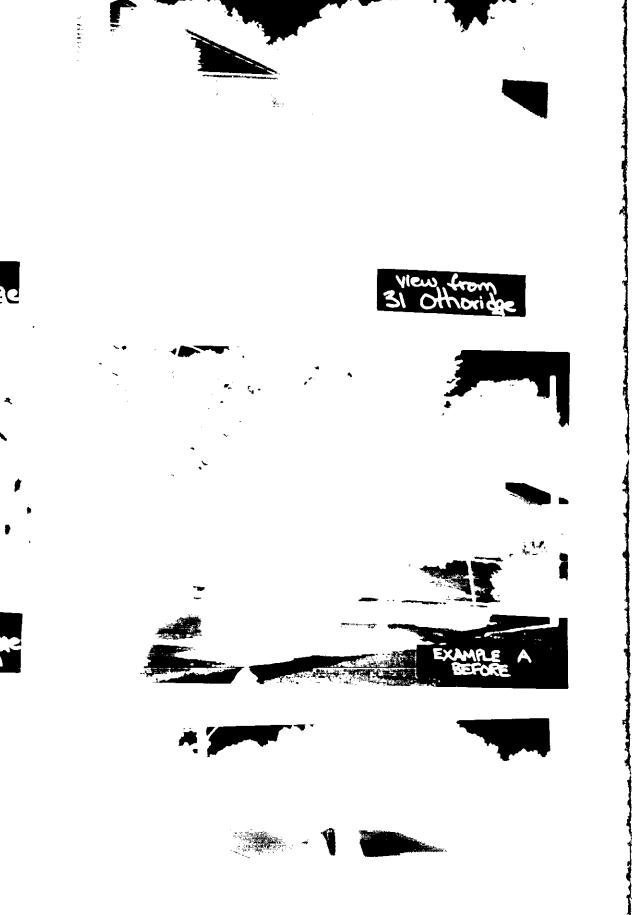






EXAMPLE E





EXAMPLE D CURRENT









July 26, 1992

Baltimore County Zoning Commission

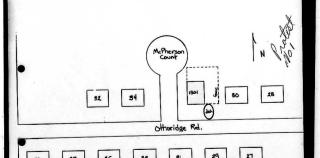
Jentleman ;

This rase (2-90-758) Timathy Front, et. al. no. Baltimore County has been dragging on since november, 1989. mr. Frost's satalite dish is in violation of youing regulations for a corner lat (Section 400.1).

Mr. Frast has had his day in court :

1 . There was a heaving before the youing Commission on much 14, 1990. The request for a varience was denied ,

MICROFILMED



16 - P. Corner

MICROFILMED

Section A400--PURPOSE [Bill No. 18, 1976.]

Cortain uses, whether permitted as of right or by special sceneption, how election; intrividual contractantion with an he in-consequence, in the public interest, to specify requisitions in supporter detail than would be foresible in the individual use of the contractant of the c

Section 3400--APPLICATION OF THIS ARTICLE'S PROVISIONS
[Bill No. 18, 1976.]

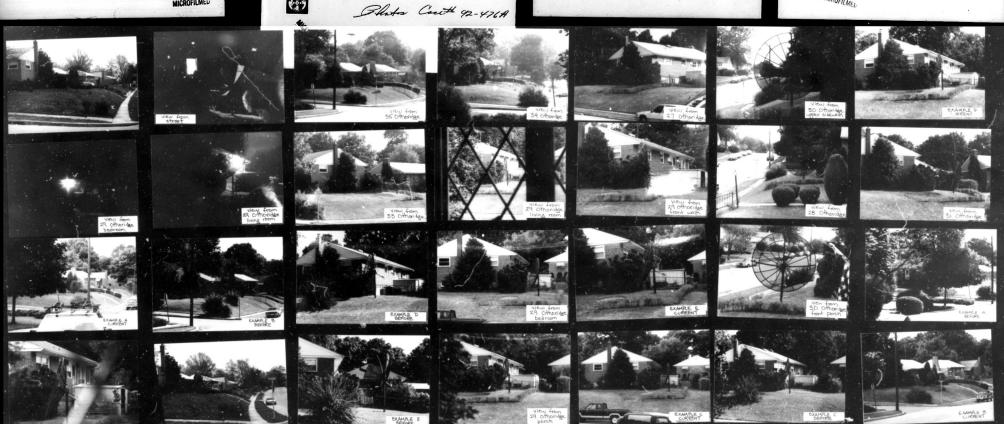
The provisions of this article apply only to principal uses except as otherwise specified (as in Item 405.4.C.12) or unless the provision implicitly relates to accessory usage (as in Section 405A). [Bill Mo. 18, 197.]

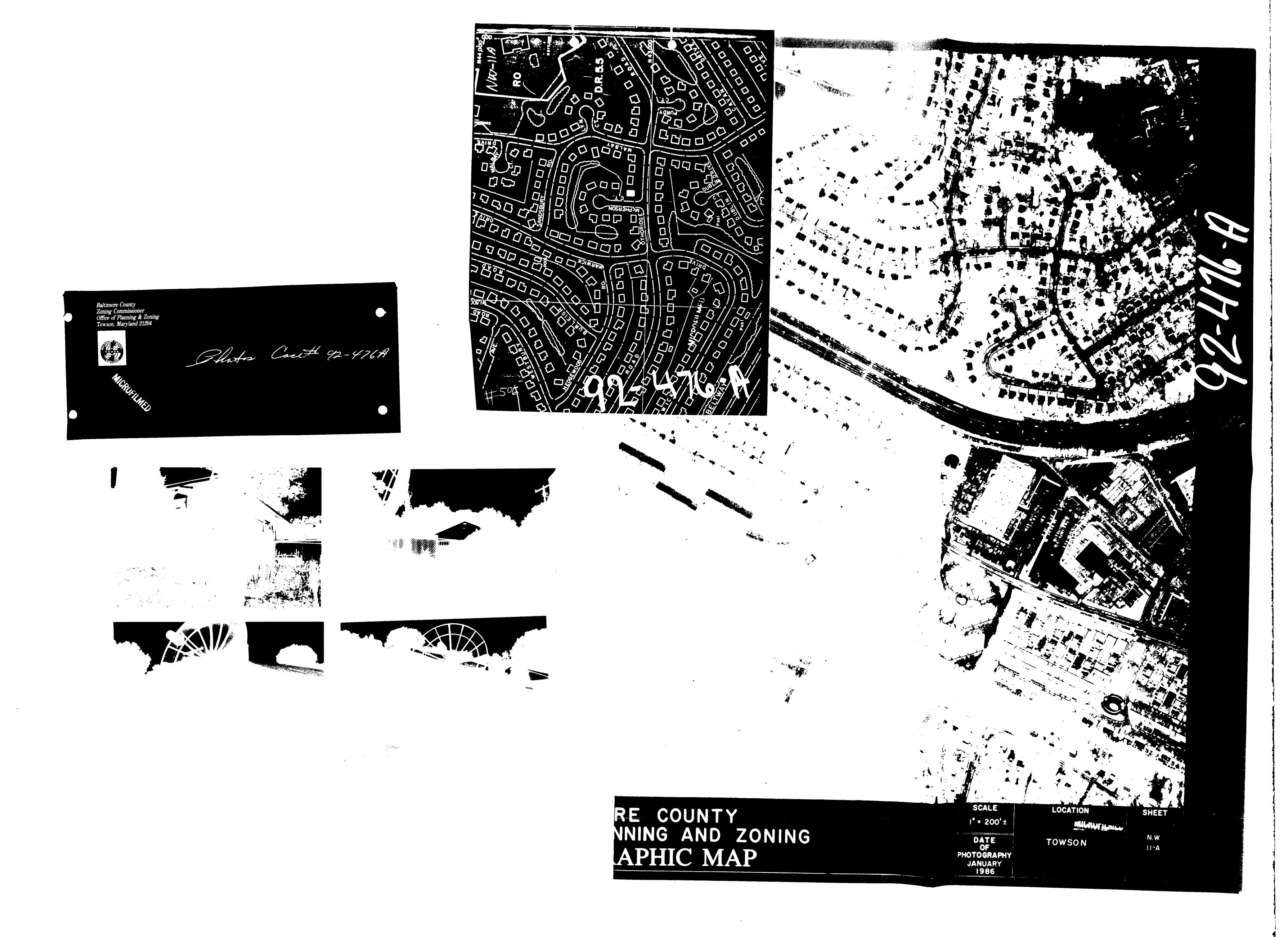
Section 400--ACCESSORY BUILDINGS IN RESIDENCE SORES [B.C.E.R., 1988; Bill No. 27, 1963.]

(B.C.S.R., 1986; Sill No. 27, 1983.)

600.1--accessory welldings in residence some, other than form buildings (Section 60) shall be located only in the result of the section of the secti

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

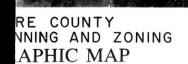




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Photos Carit 42-476A



SCALE LOCATION SHEIL

1' = 200' ± MILITUFILITIE

DATE TOWSON N.W.
PHOTOGRAPHY
JANUARY
1986