

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
 W/S Rolling Road, 510 ft. S * ZONING COMMISSIONER
 of c/1 Munford Road * OF BALTIMORE COUNTY
 2038 North Rolling Road * CASE No. 93-419-X
 1st Election District
 1st Councilmanic District
 Nibondh Chaiyapatumpa
 Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception for that property known as 2038 North Rolling Road in the Chadwick Manor subdivision of Baltimore County.

The Petitioners seek approval to use the subject property as a doctor's office (professional office) pursuant to Section 1801.1.C.9.b of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and the relief requested is more particularly shown on Petitioner's Exhibit No. 1, the site plan to accompany the Petition for Special Exception.

Appearing at the public hearing held for this case was the property owner/Petitioner, Nibondh Chaiyapatumpa. Also appearing was Suthichai Gasrapong, an Architect who prepared the site plan. The Petitioner was not represented by counsel. Several neighbors whose properties adjoin the subject lot appeared in opposition to the request. These included Rev. Lewis A. Wright and Ella Daily, both of whom reside on Kennicott Road to the rear of the subject site. Also appearing in opposition was Donald Quinn and Barbara Quinn who reside at 2040 Rolling Road immediately next door to the subject property.

Testimony and evidence presented by the Petitioner was that the subject site is .179 acres and is zoned D.R.5.5. The property is improved by 1-1/2 story framed dwelling which contains a basement. The size of the dwelling is 1,154 sq. ft. As noted above, the property is located in the Chadwick Manor subdivision, an older residential subdivision located in

Woodlawn near the Social Security Complex.

The Petitioner advised that he wishes to convert a portion of the building (approx. 288 sq. ft.) to accommodate his medical practice. He anticipates operating a small practice from the site where he will consult approximately 5 to 7 patients each day. He noted that he is affiliated with and maintains an office at Maryland General Hospital and, therefore, the subject site would not be the only location where he would see patients. Further, he anticipates employing one non-professional employee, a receptionist, at the site and will operate from 2:00 to 6:00 P.M., five days a week, Monday thru Friday.

Dr. Chaiyapatumpa described the history of the site. He noted that he originally purchased the property in 1979 and lived there until 1986. His neighbors confirmed that he was a good neighbor during his period of occupancy. Apparently, the property has been leased to a series of tenants since Dr. Chaiyapatumpa and his family vacated the house. He anticipates moving back in once his practice is established at this location. He also described in detail the proposed parking arrangements, which will permit two parking spaces in the front of the lot and a turn around area behind the dwelling. Although significant testimony was offered by the doctor and Mr. Gasrapong in support of the Petition, it does not appear that the Petitioner's plans are firmly in place as to the potential use. That is, the Petitioner appeared unsure about the exact dimensions of the proposed office, the date when he and his family would move back into the residence, etc.

Significant testimony was taken from the Protestants as to their objections to the proposal. They noted that the property is located in the middle of the block on North Rolling Road, between Security Blvd. and Munford Road. They believe that the establishment of the medical office at

this site would change the character of this residential locale, which is already adversely impacted by the Social Security complex nearby. They also noted that the property has not been kept up since Dr. Chaiyapatumpa and his family moved and they are concerned that conversion of a portion of the dwelling to an office use would be detrimental to the appearance of the site and property values of the residences nearby.

A major concern voiced by the Protestants regards traffic in the area and the proposed parking arrangement. The Protestants noted that the driveway serving this site is similar to the other driveways located on the residential lots nearby. That is, the driveway is very narrow and angled so as to make entry to the property difficult from North Rolling Road. The Protestants fear that the office use of the property will cause further traffic congestion and, perhaps, a dangerous traffic pattern at this location. In their view, the special exception should be denied.

As noted above, the property has a residential zoning classification, namely, D.R.5.5. Baltimore County Zoning Regulations permit professional offices by special exception. Moreover, the regulations require that the professional office be located within the same building serving as the professional persons' primary residence and does not occupy more than 25% of the total floor area. As to these requirements, the Petitioner's testimony was unclear and not persuasive. Although indicating that he and his family would be moving back into the dwelling, Dr. Chaiyapatumpa admitted that he maintains another residential property nearby where his family presently resides. Further, he indicated that he has no intention of selling that property and was not clear as to when he anticipates moving back to the subject property. Further, there were no floor plans offered detailing the proposed office arrangement. In these respects, the testimony and evidence offered by the Petitioner was deficient.

In addition, I am not persuaded that the Petitioner has satisfied the burden imposed at law by Section 502.1 of the B.C.Z.R. Although a doctor's office is permitted by special exception in a D.R.5.5 zone, the Petitioner bears the burden of adducing competent testimony and evidence that the proposed use will not adversely affect the health, safety and general welfare of the surrounding locale, pursuant to the standards set forth in Section 502.1 of the B.C.Z.R. These standards include such considerations as to whether the use will overcrowd the land, negatively impact traffic, etc. In this case, I do not believe that the Petitioner's plans are sufficient so as to assure that there will be no adverse impact, particularly as it relates to traffic consideration. The Protestants, who have all lived in the area for a long time, were convincing that the proposed parking and access/exit layout from this site was not sufficient. I concur that the proposed parking arrangement is not feasible. For all of these reasons, the Petition for Special Exception should be denied.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 6th day of July, 1993 that the Petition for Special Exception to use the subject property as a doctor's office (professional office) pursuant to Section 1801.1.C.9.b of the B.C.Z.R., be and is hereby DENIED.

Lawrence E. Schmidt
 LAWRENCE E. SCHMIDT
 Zoning Commissioner for
 Baltimore County

ORDER RECEIVED FOR FILING
 Date _____
 By _____

ORDER RECEIVED FOR FILING
 Date _____
 By _____

ORDER RECEIVED FOR FILING
 Date _____
 By _____

ORDER RECEIVED FOR FILING
 Date _____
 By _____

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning
 Suite 113 Courthouse
 400 Washington Avenue
 Towson, MD 21284 (410) 887-4386

July 2, 1993

Dr. Nibondh Chaiyapatumpa
 2038 N. Rolling Road
 Baltimore, Maryland 21244

RE: Petition for Special Exception
 Case No. 93-419-X
 Property: 2038 N. Rolling Road

Dear Dr. Chaiyapatumpa:

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

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

Very truly yours,
Lawrence E. Schmidt
 LAWRENCE E. SCHMIDT
 Zoning Commissioner

LES:mmm
 att.
 cc: Reverend Lewis A. Wright
 Ms. Ella Daily
 Mr. Donald Quinn
 Ms. Barbara Quinn

Petition for Special Exception
 93-419-X
 to the Zoning Commissioner of Baltimore County

for the property located at 2038 N. ROLLING ROAD
 which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

TO USE AS A DOCTOR'S OFFICE (Professional Office)
 per Section 1801.1.C.9.b

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

Contact Purchaser/Lessee:
 (Type or Print Name) NIBONDH CHAIYAPATUMPA
 Signature *Nibondh Chaiyapatumpa*
 Address _____
 City _____ State _____ Zipcode _____
 Signature _____
 Address _____
 City _____ State _____ Zipcode _____
 Signature _____
 Address _____
 City _____ State _____ Zipcode _____
 Signature _____
 Address _____
 City _____ State _____ Zipcode _____
 Signature _____
 Address _____
 City _____ State _____ Zipcode _____

ESTIMATED LENGTH OF HEARING _____
 The following date _____
 ALL OTHER _____
 REVIEWED BY: *mmk* DATE: *5/18/93*

ZONING DESCRIPTION

93-419-X

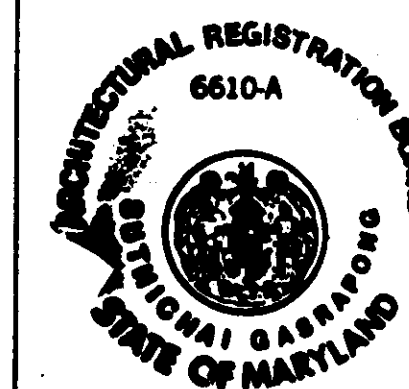
BEGIN AT A POINT ON THE WEST SIDE OF ROLLING ROAD, WHICH IS 70 FT. WIDE AT THE DISTANCE OF ±481.75 FT. SOUTH OF THE CENTER LINE OF MUNFORD ROAD THENCE THE FOLLOWING COURSES AND DISTANCES:

- TYPICAL METES AND BOUNDS:
 1) R=2048.48', L=77.94'
 2) S 66° 03' 30" W, 49.98'
 3) N 14° 18' 20" W, 79.78'
 4) N 66° 57' 20" E, 47.88'

TO THE PLACE OF BEGINNING
 AS RECORDED IN DEED LIBER 6021, FOLIO 268

#426

2038 ROLLING RD.
 BALTIMORE, MARYLAND.



CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

93-419-X

District: 4+ Date of Posting: 6/4/93
 Posted for: Special Exception
 Petitioner: Nibondh Chaiyapatumpa
 Location of property: 2038 (W/S) N. Rolling Rd., 510' S of Munford Rd.
 Location of Sign: Rolling Road, on property of petitioner
 Remarks: _____
 Posted by: M. Schmidt Date of return: 6/10/93
 Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 6/10, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/10, 1993

THE JEFFERSONIAN,

S. Zabe Olson
 Publisher

receipt

Baltimore County Government
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21286

Account: R 01-4190
Number: 426 # 426
Taken by: MJK

Date: 5/25/93 93-419-X

Nibonh Chaiyapatumpa -
2038 N. Rolling Road

050 - Special Exception - \$ 300.00
080 - 1 sign (\$35) - \$ 35.00
Total - \$ 335.00

Please Make Checks Payable To Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

426

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon, Director

For newspaper advertising:
Item No.: 426
Petitioner: Nibonh Chaiyapatumpa
Location: 2038 N. Rolling Road

PLEASE FORWARD ADVERTISING BILL TO:
NAME: Suthichai Gasrapong
ADDRESS: 106 Spruce Ave
Pasadena, MD 21122
PHONE NUMBER: (301) 647-5479

AJ:ggg (Revised 04/09/93)

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

JUNE 7, 1993

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-419-X (Item 426)
2038 N. Rolling Road
405 Rolling Road, 500' S of c/j Rowford Road
1st Election District - 1st Councilmanic
Petitioner(s): Nibonh Chaiyapatumpa
HEARING: THURSDAY, JUNE 24, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Special Exception for a professional office (doctor's office).

Arnold Jablon, Director

Nibonh Chaiyapatumpa
Suthichai Gasrapong

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

June 14, 1993

Mr. Nibonh Chaiyapatumpa
2038 N. Rolling Road
Baltimore, MD 21244

RE: Case No. 93-419-X, Item No. 426
Petitioner: Nibonh Chaiyapatumpa
Petition for Special Exception

Dear Mr. Chaiyapatumpa:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on May 25, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: June 11, 1993
Zoning Administration and Development Management

FROM: Robert W. Small, Senior Engineer
Development Plan Review

RE: Zoning Advisory Committee Meeting
for June 14, 1993
Item 426

The Development Plan Review has reviewed the subject zoning item. Adequate onsite parking must be provided. This site is subject to Landscape Manual requirements.

RWB:DAK:ie

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

6-3-93

Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 426 (MJK)

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for John Contestable, Chief
Engineering Access Permits
Division

My telephone number is _____
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
Inter-Office Correspondence

TO: Zoning Advisory Committee DATE: June 7, 1993

FROM: Captain Jerry Pfeifer

SUBJECT: June 14, 1993 Meeting

#425 No Comments
#426 Building shall comply with the 1991 Life Safety Code
#427 No Comments
#428 Building shall comply with the 1991 Life Safety Code
#429 No Comments
#430 No Comments
#431 No Comments
#432 No Comments

RECEIVED
JUN 8 1993
ZADM

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration & Development Management

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

DATE: June 14, 1993

SUBJECT: 2038 N. Rolling Road

INFORMATION:
Item Number: 426 93-419-X
Petitioner: Nibonh Chaiyapatumpa
Property Size: _____
Zoning: D.R. 5.5
Requested Action: _____
Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:
Based upon the information provided and the analysis conducted, staff recommends the request be denied for the following reasons:

1. This section of North Rolling Road is entirely residential in character. If the professional office use is granted, it would set a precedent which could make future requests difficult to deny. In addition, the request, if granted, would destabilize the neighborhood.
2. The applicant's small lot and house size, which is characteristic of the neighborhood, is not conducive to office conversion. The required parking and general office related activity would be detrimental to the general welfare of the Quinns and Dalleys, the immediate neighbors.
3. The required office parking would negatively impact the front yard of the applicant's property, thereby interrupting the pattern of front yards along North Rolling Road.

Prepared by: Jeffery W. Lewis
Division Chief: Carol K. Lewis
PK/JL:lw

426.ZAC/ZAC1 Pg. 1

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
<u>Robert Lewis A. Wright</u>	<u>2033 Kennicott Rd. 2124117</u>
<u>Elle Darley</u>	<u>2031 Kennicott Pl. 21244</u>
<u>Donald Quinn</u>	<u>214 Rolling Rd. 21229</u>
<u>Richard Juana</u>	<u>2040 Rolling Rd. 21244</u>

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
<u>NIBONDI CHAIKUPATUMPA</u>	<u>2038 N. ROLLING ROAD, BALTIMORE, MD. 21229</u>
<u>SUTHICAI GASRAPONG</u>	<u>106 SPRUCE AVE., PASADENA, MD. 21122</u>

93-419-X
426

Note to the Hearing Officer:

The petitioner was advised that the plans should have been prepared by a surveyor or engineer and that he was responsible for any conflicts with property lines of the adjacent. The petitioner enclosed an original survey and copied from that for the subject plan. Any questions, let me know.

Michal Kallman

