

IN RE: PETITION FOR ZONING VARIANCE \* BEFORE THE  
N/S Weywood Drive, 2445' +/- \* ZONING COMMISSIONER  
W of c/1 Hanover Pike \* OF BALTIMORE COUNTY  
(5500 Weywood Drive)  
4th Election District \*  
3rd Councilmanic District \* Case No. 93-431-A  
Doneene Raye Leathers  
Petitioner

AMENDED ORDER

WHEREAS, this matter came before the Zoning Commissioner as a Petition for Variance for the subject property in which the Petitioner requested relief from the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 feet in lieu of the required 35 feet for a proposed addition, a Recreational Vehicle to be located in the front yard in lieu of the required side or rear yard, and a satellite dish to be located in the front yard in lieu of the required rear yard; and,

WHEREAS, the relief requested from the side yard setback requirements and the storage of a recreational vehicle in the front yard were denied and the variance for the satellite dish granted, by Order issued August 6, 1993, subject to a restriction which required that the existing landscaping and fencing around the dish be maintained; and,

WHEREAS, subsequent to the issuance of said Order, this Office received correspondence from the adjoining property owner, Patricia A. Strayer, a Protestant in the matter, requesting additional landscaping around the satellite dish be provided; and,

WHEREAS, in response to Ms. Strayer's letter and subsequent telephone conversations with Ms. Leathers, I suggested that the Petitioner and Ms. Strayer confer to determine what type of landscaping would be acceptable to both parties; and,

WHEREAS, inasmuch as no agreement could be reached on same, I requested the Baltimore County Landscape Architect, Avery Harden, visit the site to determine appropriate landscaping for the dish; and,  
WHEREAS, this Office is in receipt of two landscape proposals from Mr. Harden, copies of which shall be attached hereto and made a part of the record;

NOW, THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2nd day of November, 1993 that Restriction No. 2 of the Order issued August 6, 1993 be and the same shall hereby be AMENDED to require that the Petitioner landscape the property around the satellite dish in accordance with either of the attached landscape plans provided by the Baltimore County Landscape Architect. Any modification thereof shall be at the discretion of the Landscape Architect; and,

IT IS FURTHER ORDERED that all other terms and conditions of the Order issued August 6, 1993 shall remain in full force and effect.

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

LES:bjb  
cc: Ms. Doneene Leathers  
5500 Weywood Drive, Reisterstown, Md. 21136  
Ms. Patricia A. Strayer  
5412 Weywood Drive, Reisterstown, Md. 21136  
Mr. Avery Harden, Bureau of Public Services  
People's Counsel; Case File

ORDER RECEIVED FOR FILING  
Date 11/3/93  
By *Dr. Mark*

IN RE: PETITION FOR ZONING VARIANCE \* BEFORE THE  
N/S Weywood Drive, 2445' +/- \* ZONING COMMISSIONER  
W of c/1 Hanover Pike \* OF BALTIMORE COUNTY  
(5500 Weywood Drive)  
4th Election District \*  
3rd Councilmanic District \* Case No. 93-431-A  
Doneene Raye Leathers  
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property located at 5500 Weywood Drive in the Wood Glen Farms Subdivision in Baltimore County. The Petitioner/property owner, Doneene Raye Leathers, requests relief from Sections 1A01.3.B.3, 415.A.1 and 429.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 ft., in lieu of the required 35 ft.; to allow an RV to be located in the front yard in lieu of the required side or rear yard; and to allow a satellite dish to be located in the front yard in lieu of the required rear yard. The relief requested is more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance. Further, the property and the existing use thereof is clearly shown in a number of photographs submitted at the hearing.

Appearing at the public hearing held for this case was Doneene Leathers, the Petitioner/proper owner. Also appearing on her behalf was Pat Martin, a friend who resides nearby. A number of Protestants also appeared and participated at the hearing. They included Patricia A. Strayer who resides immediately next door, George and Marlene Harman, Kenneth B. Bruette and Dolores M. Cervino.

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Date 11/3/93  
By *Dr. Mark*

Testimony and evidence presented was that the subject lot is known as Lot No. 20 of the Wood Glen Farms Subdivision. The property's street address is 5500 Weywood Drive. The site is zoned R.C.2 and is approximately 1-1/2 acres in size. The property is improved with a one story vinyl siding dwelling. To the rear of the property are several sheds. A fence runs along the east side of the property line, separating the Petitioner's dwelling from the house owned and occupied by Mrs. Strayer. Also on that side of the property is a satellite dish which is the subject of one of the variances requested. An existing garage is located on the east side of the property. Access to the site is obtained by a circular gravel driveway. Both the Petitioner and Protestants appeared at this hearing without counsel. Testimony and evidence was received about a wide variety of issues. Particularly in view of the absence of counsel, emphasis must be given herein as to the legal standards that must be applied to this case.

A variance from the area requirements set forth in the Baltimore County Zoning Regulations may be granted where strict application of the said regulation would cause practical difficulty to the Petitioner and her property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

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

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By *Dr. Mark*

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

A variance cannot be granted for the mere convenience of the Petitioner. That is, the need to justify an exception should be substantial. Further, the need for the variance cannot be self imposed or self created.

Applying these standards to the case at issue, consideration is first given to the side yard setback variance mandated by Section 1A01.3.B.3 of the B.C.Z.R. As noted above, the Petitioner is required to maintain a side yard distance of 35 ft. In the instant case, a 10 ft. variance, reducing this distance to 25 ft., is requested. The variance requested relates to a proposed addition on the west side of the dwelling. In this respect, Ms. Leathers testified that her plans for the addition are not firm. Originally, she anticipated constructing an addition to house an elderly parent. However, this need is no longer present and the Petitioner's testimony is that the addition may not be necessary. Under these circumstances, clearly, the request for variance must be denied. The Petitioner has shown no compelling reason to construct the addition and, if so constructed, why same cannot be in compliance with the B.C.Z.R. Clearly, the request for the variance in this respect is based on the convenience of the property owner, rather than any urgent need. Thus, the Petition for the side yard variance will be denied.

Attention is next turned to the variance requested from Section 415.A.1 to allow an RV to be located in the front yard in lieu of the required side or rear yard. Photographs presented show a trailer located on the east side of the property extending beyond the line created by the front building envelope of the dwelling. Clearly, this trailer, which the Petitioner noted is used to transport and store race cars, is a recreation-

al vehicle. A recreational vehicle is defined in the zoning regulations as a "A vehicle type unit which is primarily designed for recreation, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle . . .". As was the case with the side yard setback, the testimony presented by the Petitioner was insufficient to support a granting of the variance. Although the Petitioner offered compelling reasons why the trailer need not be located in the rear yard, there was no testimony offered that the trailer could not be moved back slightly so as to be in the side yard, and thus, in compliance with the regulations. Thus, this variance must also be denied and the trailer must be located in the required side or rear yard, pursuant to Section 415.A.1 of the B.C.Z.R.

The final issue presented concerns an existing satellite dish. This issue generated much of the contention between the Petitioner and her neighbors. In this respect, the relevant provisions of the B.C.Z.R. provide that the satellite dish must be located in the rear yard or on the roof of the dwelling. Ms. Leathers testified that the dish was installed several years ago by a satellite company. She further advised that the company inspected the site thoroughly to determine the optimum location for the dish. She noted the existence of a line of trees on the rear of the lot and an extensive wooded area offsite to the rear. Further, she produced a letter from the President of Satellite Video Systems, Inc., the installers of the dish, noting that the back yard was unacceptable for reception. According to Ms. Leathers' testimony and this letter, the dish need be placed where located in order for it to be utilized fully and properly.

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Date 11/3/93  
By *Dr. Mark*

For their part, the Protestants objected to the dish at the present location. However, it is to be noted that some of their complaints relate to the availability of alternate television reception through cable. As I noted at the hearing, this is not the issue. Alternative sources of entertainment do not bear on the issue. The sole consideration is whether the variance may be granted under the law as set forth above.

In this respect, I am persuaded that the Petitioner cannot locate the dish in the rear yard. The testimony presented from Ms. Leathers and the letter from Satellite Video Systems, Inc., was persuasive in this regard. Clearly, the Petitioner would suffer a practical difficulty if the dish were located in the rear yard. That is, the dish would not be fully operable at that location.

As noted above, the B.C.Z.R. allows that the dish could be located on the roof of the structure. Little testimony was offered as to whether that alternative was technically feasible. However, in response to my questioning, it is clear that the Protestants would prefer the dish at its present location, as opposed to a roof top location. Installation of the dish on the roof of the dwelling would create a significant esthetic and visual detriment to the locale. For these reasons, I am persuaded to grant the Petition for Variance. Further, it is to be noted that the Petitioner has attempted to minimize the visual effects of the dish by the installation of landscaping and a fence nearby. I am persuaded that these efforts are reasonable and reduce the visual impact of the dish. Thus, I shall restrict my Order to require the Petitioner to maintain this landscaping around the dish so as to mask the visual effect of same. Further, the dish should be maintained at its current height and color in order to achieve those same goals.

ORDER RECEIVED FOR FILING  
Date 11/3/93  
By *Dr. Mark*

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 granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2nd day of August, 1993 that a variance from Section 1A01.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 25 ft., in lieu of the required 35 ft., be and is hereby DENIED; and,

IT IS FURTHER ORDERED that a variance from Section 415.A.1 of the B.C.Z.R. to allow an RV to be located in the front yard in lieu of the required side or rear yard, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that a variance from Section 429.2 of the B.C.Z.R. to allow a satellite dish to be located in the front yard in lieu of the required rear yard, in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner's satellite dish shall remain in its present location. Further, the height and color of same shall not be increased and/or changed and the existing landscaping and fencing around the dish shall be maintained and kept to minimize the visual effects of said dish.

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

LES/mmh

ORDER RECEIVED FOR FILING  
Date 11/3/93  
By *Dr. Mark*

ORDER RECEIVED FOR FILING  
Date 11/3/93  
By *Dr. Mark*

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 111, Courthouse  
400 Washington Avenue  
Towson MD 21284 (410) 887-4386

August 5, 1993

Ms. Doneene Raye Leathers  
5500 Weywood Drive  
Reisterstown, Maryland 21136

RE: Case No. 93-431-A  
Petition for Variance  
Property: 5500 Weywood Drive

Dear Ms. Leathers:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, 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

LEB:smh  
att.  
cc: Mr. and Mrs. George H. Harman  
cc: Mr. Kenneth B. Beutelle  
cc: Ms. Patricia A. Strayer  
cc: Ms. Dolores M. Cervino

**Petition for Variance**  
to the Zoning Commissioner of Baltimore County  
for the property located at 5500 WEYWOOD DRIVE  
which is presently zoned R-2

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 14B1, 13.8, 1.1, 415, A.1, A.2, 1.2 To allow a side yard setback of 25 ft. in lieu of the required 35 feet to allow a RV to be located in the front yard in lieu of the required side yard setback and to allow a satellite dish to be located in the front yard in lieu of the required rear yard setback.

A-To allow 25 ft. side setback to build addition  
B-To allow trailer to be moved back to driveway which was built for easy moving and parking. This had been approved by prior zoning inspector.  
C-To allow satellite dish to remain in side front yard at front building line. To be moved back will not allow satellites to be picked up. If allowed, it will extend fence to block dish from view.  
I, or we, agree to pay expenses of above Variance 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.

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

Correct Purchaser's Name: DONEENE RAYE LEATHERS  
Type or First Name: Doneene Raye Leathers  
Signature: Doneene Raye Leathers  
Address: DONEENE RAYE LEATHERS  
City: Reisterstown State: MD Zipcode: 21136  
Address: 5500 WEYWOOD DRIVE Phone No.: 628-2270 W  
City: REISTERSTOWN MD State: MD Zipcode: 21136  
Address: DONEENE LEATHERS  
City: REISTERSTOWN MD State: MD Zipcode: 21136  
Address: 5500 WEYWOOD DRIVE Phone No.: 833-4940 H  
City: REISTERSTOWN MD State: MD Zipcode: 21136

ESTIMATED LENGTH OF HEARING: 15 min  
Date: 7/8/93  
Next Two Months

REVIEWED BY: JEP DATE: 6-4-93 #440

ZONING DESCRIPTION FOR 5500 WEYWOOD DRIVE  
Election District: 4th Councilmanic District: 3rd

Beginning at a point on the North side of Weywood Drive (north, south, east or west) which is 50 FT (number of feet of right-of-way width) (street on which property fronts) side at a distance of 2445 FT West (number of feet) (north, south, east or west) centerline of the nearest improved intersecting street HANOVER PIKE (name of street) which is 120 FT (number of feet of right-of-way width) (name of street) Block WOOD GLEN FARMS on the subdivision of WOOD GLEN FARMS as recorded in Baltimore County and Book # 43 Page # 69 containing 65,775.24 1.51 Acres (square feet and acres)

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 4th Date of Posting: 7/14/93  
Posted for: Leathers  
Petitioner: Doneene Raye Leathers  
Location of property: 5500 Weywood Drive, 21136, Reisterstown, MD  
Location of Sign: Home on Weywood Drive  
Remarks:  
Posted by: SMH Date of return: 8/1/93  
Number of Signs: 1

**CERTIFICATE OF PUBLICATION**  
TOWSON, MD, 6/17, 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 6/17, 1993

THE JEFFERSONIAN,  
S. Zeke Orlov  
Publisher

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21284 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21284 on the following date:  
Case Number: 93-431-A (Item 440)  
5500 Weywood Drive  
Reisterstown, MD 21136  
4th Election District  
3rd Councilmanic District  
Legal Owner(s): Doneene Raye Leathers  
HEARING: THURSDAY, JULY 8, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.  
Variance: to allow a side yard setback of 25 feet in lieu of the required 35 feet; to allow a RV to be located in the front yard in lieu of the required side or rear yard; and to allow a satellite dish to be located in the front yard in lieu of the required rear yard.  
LAWRENCE E. SCHMIDT, Zoning Commissioner for Baltimore County  
NOTES: (1) Hearings are handicapped accessible. Please call 887-3353 for information concerning accessibility. (2) For information concerning the filing and/or hearing, please call 887-3391. 6/27 June 17.

**receipt**

Baltimore County Government  
Zoning Administration & Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21284

Account: R.001-6150  
Date: 6-4-93 Item Number: 440  
Doneene R. Leathers  
5500 Weywood DR (21136)  
#10 Variance \$50.00  
#080 Sign & Posting \$35.00  
\$85.00

0300390212410CARD  
PA 0311544005-06-93 185.00  
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

**ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS AND 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:

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

For newspaper advertising:  
Case No.: \_\_\_\_\_ Item No.: 440  
Petitioner: \_\_\_\_\_  
LOCATION: \_\_\_\_\_

PLEASE FORWARD ADVERTISING BILL TO:  
NAME: DONEENE RAYE LEATHERS  
ADDRESS: 5500 WEYWOOD DRIVE  
REISTERSTOWN MD 21136  
PHONE NUMBER: 833-4940 H  
628-2270 W

AJ:ggs  
(Revised 3/29/93)

Baltimore County Government  
Office of Zoning Administration and Development Management

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

JUNE 11, 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 21284 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21284 as follows:

CASE NUMBER: 93-431-A (Item 440)  
5500 Weywood Drive  
4th Election District - 3rd Councilmanic District  
Legal Owner(s): Doneene Raye Leathers  
HEARING: THURSDAY, JULY 8, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.

Variance to allow a side yard setback of 25 feet in lieu of the required 35 feet; to allow a RV to be located in the front yard in lieu of the required side or rear yard; and to allow a satellite dish to be located in the front yard in lieu of the required rear yard.

*Arnold Jablon*  
Arnold Jablon  
Director

cc: Doneene Raye Leathers  
cc: Pat Strayer

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 FILING 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 30, 1993

Ms. Doneene Raye Leathers  
5500 Weywood Drive  
Reisterstown, MD 21136

RE: Case No. 93-431-A, Item No. 440  
Petitioner: Doneene Raye Leathers  
Petition for Variance

Dear Ms. Leathers:

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 June 4, 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.

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Helene Kehring in the Zoning Office at 887-3391 or the commenting agency.

Very truly yours,  
*W. Carl Richards, Jr.*  
W. Carl Richards, Jr.  
Zoning Coordinator

WCR:hek  
Enclosures



O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

6-17-93

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.: 440 (JJS)

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 Contestabile, Chief  
Engineering Access Permits  
Division

My telephone number is \_\_\_\_\_  
Teletypewriter for Impaired Hearing or Speech  
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5862 Statewide Toll Free  
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and  
Development Management  
DATE: June 17, 1993  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning  
SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):  
Item No. 440.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey M. Long*  
Division Chief: *Carl L. Kern*

PK/JL:lw

440.ZAC/ZAC1

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee  
DATE: June 16, 1993  
FROM: Jerry L. Pfeifer, Captain  
Fire Department  
SUBJECT: June 24, 1993, Meeting

- #433 - No comments
- #434 - No comments
- #435 - No comments
- #436 - No comments
- #437 - No comments
- #438 - Building shall be built in compliance with the 1991 Life Safety Code and the Baltimore County Fire Prevention Code.
- #439 - Building shall comply with the applicable sections of the 1991 Life Safety Code and the Baltimore County Fire Prevention Code.
- #440 - No comments

JUN 17 1993  
ZADM

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management  
FROM: J. Lawrence Pilson, Director, DEPRM  
SUBJECT: Zoning Item #440  
Leathers Property, 5500 Weywood Drive  
Zoning Advisory Committee Meeting of June 14, 1993



The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Forest Conservation Regulations - This property will be exempt from the Forest Conservation Law under Section 14-402 (B) (10) if the owner files for a Declaration of Intent as no forest will need to be cut for the construction of the addition. If a Declaration of Intent is not filed, then the Forest Conservation Regulations will apply and a Simplified Forest Stand Delineation, a Forest Conservation Work Sheet and a Forest Conservation Plan may need to be submitted to the Department of Environmental Protection and Resource Management for review and approval.

JLP:GP:jbm  
LEATHERS/TXTSBP

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204  
September 21, 1993  
(410) 887-4386

Ms. Patricia A. Strayer  
5412 Weywood Drive  
Reisterstown, Maryland 21136

Ms. Doneene R. Leathers  
5500 Weywood Drive  
Reisterstown, Maryland 21136

RE: PETITION FOR VARIANCE  
N/S Weywood Drive, 2445' W of the c/l of Hanover Pike  
(5500 Weywood Drive)  
4th Election District - 3rd Councilmanic District  
Doneene Raye Leathers - Petitioner  
Case No. 93-431-A

Dear Ms. Strayer & Ms. Leathers:

This letter is in response to Ms. Strayer's letter received in this office on August 28, 1993. Moreover, this letter is to follow-up on my telephone conversation with Ms. Leathers. Both the letter and phone conversation concern the above-captioned case and my decision thereon by Order dated August 6, 1993.

To my knowledge, an appeal has not been filed within the 30-day appeal period as required within the Baltimore County Code. However, I received Ms. Strayer's correspondence during that 30-day period. Under the Code, a Motion for Reconsideration to the Zoning Commissioner may be filed within that time frame. I shall thus consider Ms. Strayer's letter as such a Motion.

The thrust of Ms. Strayer's letter and my conversation with Ms. Leathers concerns the existing satellite dish, which can remain in its present location per my Order. However, there is apparent confusion remaining as to the landscaping/fencing which should be installed to buffer that dish, particularly from the Strayer property. Although, I am cognizant of the neighbors' poor relationship, I respectfully request that you confer to determine whether agreement can be reached as to the nature of the necessary screening. Several alternatives are available; namely, the extension of the fence from the rear of the Leathers' yard, the planting of an appropriate number of evergreens, and/or a combination of plantings and fencing.

Ms. Patricia A. Strayer  
Ms. Doneene R. Leathers (Case No. 93-431-A)  
September 17, 1993  
Page 2

It was my intention within my Order to provide for some screening of the satellite dish. The precise nature of the screening is not as important to me so long as screening is provided. If the two of you can reach agreement as to the nature of screening and forward your recommendation to me, I will adopt same within my Order as a condition to approval of the variance. If you are unable to reach agreement, I will determine the nature of the screening to be installed based upon my best judgment. Kindly contact me within two weeks of the date of this letter and advise me whether you have reached a consensus on this issue.

Very truly yours,

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

LES:bjb  
cc: Case File

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: James Dyeon  
Zoning Supervisor  
DATE: 6/17/93  
FROM: James Thompson  
Zoning Enforcement Coordinator  
SUBJECT: Item No.: 440 (if known)  
Petitioner: Doneene Leathers (if known)

VIOLATION CASE # 93-2335  
LOCATION OF VIOLATION 5500 Weywood Dr  
DEFENDANT Doneene Leathers ADDRESS 5/17

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

NAME ADDRESS  
Ms. Pat Strayer 5412 Weywood Dr  
Reist 21136

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

5709-93

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER  
N/S Keywood Dr., 2445 1/2 W of : OF BALTIMORE COUNTY  
C/L Hanover Pike (5300 Keywood :  
Dr.), 4th Election District,  
3rd Councilmanic District : Case No. 93-431-A  
DONEENE RAYE LEATHERS, :  
Petitioner :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

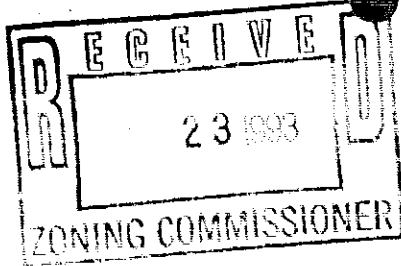
*Peter Max Zimmerman*  
Peter Max Zimmerman  
People's Counsel for Baltimore County

*Carole S. Demilio*  
Carole S. Demilio  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, Maryland 21204  
(410) 687-2188

I HEREBY CERTIFY that on this 23rd day of June, 1993,

a copy of the foregoing Entry of Appearance was mailed to Doneene Raye Leathers, 5500 Keywood Drive, Reisterstown, MD 21136, Petitioner.

*Peter Max Zimmerman*  
Peter Max Zimmerman  
ADM



November 16, 1993

5412 Weywood Drive  
Reisterstown, MD 21136

Mr. Lawrence C. Schmidt  
Zoning Commissioner  
for Baltimore County  
Suite 113 Courthouse  
400 Washington Avenue  
Towson, Maryland 21204

Re: Amended Order  
Case # 93-431-A

Dear Mr. Schmidt:

I received your letter regarding the amended order for the type of landscaping around the satellite dish on Ms. Leather's property.

Both options given necessitate trees and shrubbery being placed on my property. I have no objection to this, but it is apparent that Ms. Leathers has no intention of following your recommendation. Option 3 was taken, in which one rhododendron was placed to the rear side of the dish, not providing a buffer at all.

I would appreciate clearing this matter up as soon as possible. Ms. Leather's action in the past especially in regards to this matter, has showed me that holding a council achieves nothing. Under the circumstances, I have no other choice but to turn to you.

If there is a change in landscaping plan, I would appreciate knowing about it.

Sincerely,

*Pat Strayer*  
Pat Strayer

Sept. 3, 1993

Subject: Neighborhood Standards

To: Larry Schmidt  
Baltimore County Zoning Commissioner  
Room 113 Old Court Building  
400 Washington Ave.  
Towson, Md. 21204

I am writing this letter relative to two problems. One deals with a house which serves as a residence for several handicapped children and the second problem (and more serious) deals with a pattern of what appears to be zoning approvals.

First I would like to address the problem with the handicapped children's residence. The house in question is located at 3718 Valley Hill Drive, Randallstown, Md. 21133. (Note - I live at 3708 Valley Hill Drive.) When initially changing over 3718 Valley Hill from a one family residence to the current Handicapped residence, information put out to the neighbors was there would be no difference from an environmental standpoint. The reality of the situation is just the opposite.

During warm weather, when our windows and doors are open, or when I am sitting outside on the patio, you can easily hear a variety of screams, groans and other strange sounds (all emanating from 3718). I am aware that given the condition of the children involved, perhaps there is little if anything that can be done. However, this situation dramatically points out that 3718 should never have been changed over from single family zoning to what amounts to a "handicapped hotel".

The second, and more severe, problem is one of a very troubling pattern of zoning approvals. During the past seven or eight years there have been at least five residences, in my immediate area, which have been rezoned from single family to one permitting "group type" living. The five residences are actually within two and a half blocks of one another and the addresses and housing type are as follows:

3613 Courtleigh Drive - Handicapped Children  
3735, 3737 & 3739 Courtleigh Drive - Senior Citizens  
3718 Valley Hill Drive - Handicapped Children

One might ask, what's wrong with this type housing? While I consider myself an informed citizen and I am aware that perhaps there has to be this type of housing, my concern is the density of this type housing and what history has demonstrated this housing will do to a racially changing neighborhood.

FACESETTER HOMES, INC.  
P.O. Box 841  
Ellicott City, Maryland 21041  
(410) 750-0791

September 27, 1993

Mr. Lawrence E. Schmidt  
Zoning Commissioner  
for Baltimore County  
111 West Chesapeake Avenue  
Towson, MD 21204

Re: Case Number 94-28A

Dear Mr. Commissioner:

I met with Mr. Jeff Jeffries and received a copy of the proposed plan (attached). The plan has been shared with my customers, Tony and Mardina Boykins, who have agreed to support Mr. Jeffries' petition. Therefore, we no longer oppose Mr. Jeffries' request.

Thank you for the opportunity to provide comments on the subject petition. I appreciate the fact that you delayed a decision until after the Boykins and I could learn more about the proposal. The Boykins are no longer apprehensive about the addition.

We support the petition so long as the attached plan as represented by Mr. Jeffries is true and accurate.

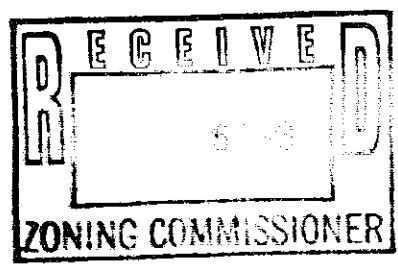
Sincerely,

*Eric L. Bers, P.E.*  
Eric L. Bers, P.E.  
President

Attachment

cc: Tony and Mardina Boykins  
Jeff and Kathy Jeffries

October 4, 1993



Ms. Doneene Leathers  
5500 Keywood Drive  
Reisterstown, Maryland 21136

Dear Ms. Leathers:

In response to your telephone call, I am notifying you that I received the letter from Mr. Lawrence Schmidt. I understand that we are to write upon landscaping to buffer the satellite dish.

I placed several telephone calls to you on different occasions, but received a pre-recorded message. I again called on Monday, October 4, 1993 at which time I left a message informing you that I was receptive to having a row of 4-6 foot pyramidal arbovitae with three-foot centers planted down the inside of your property line. These shrubs are to be run approximately five feet from your fence to the Mimosa trees that is closest to the road. I am not opposed to extending your fence beyond the allowed zoning regulations. For the sake of the other homes in the neighborhood, additional shrubbery of evergreen nature should be placed around the base of the dish.

If this is not suitable to you, I will also agree upon having four or five Leyland Cypress trees, 4-6 foot tall with eight-foot centers placed down the inside of your property line. As these trees will take longer to grow, I feel you will agree that the pyramidal arbovitae are more suited for immediate screening purposes.

I have enclosed a copy of my site plan which shows the property line involved. As you can see from this diagram, I have marked the appropriate places of the landmarks mentioned above. Since it seems almost impossible for either of us to catch one another, I hope you can understand why my ideas are being relayed through a letter.

It is my sincere hope that we can resolve this problem with the satellite dish landscaper as soon as possible.

Sincerely,

*Patricia Strayer*  
Patricia Strayer

Enclosure

cc: Mr. Lawrence Schmidt  
Zoning Commissioner  
Baltimore County

5412 Weywood Drive  
Reisterstown, Maryland 21136

Lawrence E. Schmidt  
Zoning Commissioner, Balto Co  
Suite 113 Courthouse  
400 Washington Avenue  
Towson, Maryland 21204

Re: Case No. 93-431-A  
Property: 5500 Weywood Drive

Dear Mr. Schmidt:

I am writing concerning the decision rendered in the above captioned case, regarding the Petitioner's satellite dish, which was installed in April of 1993.

I understand and respect your decision that the satellite dish remain in its present location. However, I am requesting a hold order in advance or an amendment to your decision. This request comes as a result of your statement that the existing landscaping and fencing around the dish shall be maintained and kept to minimize the visual effects of the dish.

Although photographs were submitted to you showing existing landscaping surrounding the dish, no landscaping or fencing now or ever has existed. The closest tree is a Mimosa which sits approximately 15-20 feet to the rear of the dish, with one branch extending towards the dish. No other trees or shrubbery have been planted nor is it Ms. Leathers intention to do so.

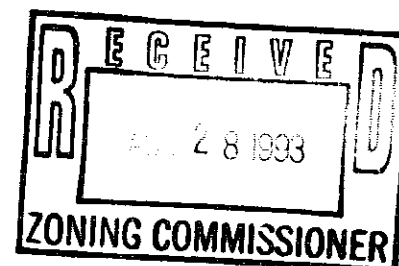
This dish is in clear vision of my home as well as the street and neighboring homes. I have enclosed photographs to substantiate these facts.

I am requesting that evergreens as well as other trees and/or shrubs be planted to do exactly what you requested; to minimize the visual effects of the dish. My requests for evergreens stems from the fact that as winter approaches, deciduous trees will show the bare effects of the satellite dish.

I am sincerely concerned over this matter, and am looking forward to hearing from you.

Sincerely,

*Patricia Strayer*  
Patricia A. Strayer



July 7, 1993

Tom Merrow  
5413 Weywood Drive  
Reisterstown, MD 21136

To Whom it May Concern:

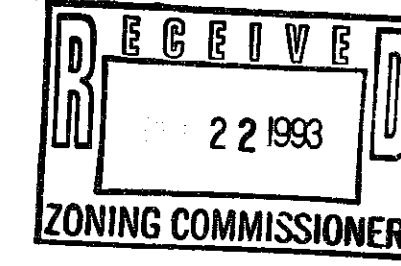
I live across and up three houses from Doneene Leathers and do not find the satellite dish she put up to be offensive in any way.

Tom Merrow

*Tom Merrow*

October 20, 1993

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



Dear Sir:

As you know, I have made several attempts to speak to Mrs. Strayer about the satellite dish. Apparently her intention is to be totally in opposition of my suggestion I make. She refuses to return my calls. This is clearly a WASTON IMPROBITY. I am asking you to please render your decision as soon as possible so I can still plant before the frost makes it impossible. If you still need your landscaper to come out, I would appreciate being notified before his visit so as to be able to discuss the appropriate species.

I do not want a 50 ft. row of arbovitae. I have several already (global to upright) and do not want more. Leyland cypress grow too close to the area as they will grow over my driveway and do not like salt. I suggested an upright holly which is a new type found at Danner's or 8 ft. pines. Mrs. Strayer ignored my call so I told you on the phone, I even went so far as to offer to move my mimosa. I have recorded that offer. She is not worth the expense nor the risk to the tree. I have been as cooperative as I can be and have spent all the time I intend on spending visiting local nurseries to please this unreasonable woman. As she indicated, I will not proceed if she cannot sign the trailer, however, she may require it necessary to keep the trailer in the rear inside the gates which are intended to be completed soon.

As the owner of 5500 Weywood Drive and the one who paid the taxes, pays for maintenance and erection of all my utility construction and my other expenses, I feel for you to expect me to spend 50 dollars of property line over an 8 foot satellite dish is ludicrous, ridiculous, and above all, unreasonably unfair and is discrimination. You would feel the same if someone dictated to you how to spend your area on your property, or a politician dictated to you how Mrs. Strayer feel the need or more than 10 or 15 feet of arbovitae and should contribute 50% to the bill or screen her property from this discrimination. She has 3 pines which screen her side of yard and her house is 70 feet away. My mimosa which she ordered to be 20 feet away from the dish is, in fact, 8 feet and hangs all over her dish. I propose one 4 foot rhododendron and 2 four foot arbovitae upright, at the base of the dish on one side. I agree to do one 10 foot large upright tree (holly, leyland cypress or pine), which would be a distance apart so as not to screen each other. I feel she should be fact that Mrs. Strayer finds it hard to get on or satellite landscaping and communication. In addition, maybe they will care, or perhaps move to a neighborhood where no one can see their dish. However, without her permission when on Wood Glen Road, several houses on this street enjoy large trees without an arbovitae. No one on this street wants an arbovitae because of people like her. Satellite dishes are all over the place in front line yards where necessary. I find her complaint unproductive in this matter.

As I expressed to your office, I am considering placement on my roof. If a satisfactory solution cannot be reached, I have no other choice. This is not my preference, but I have no alternative. Hoping to hear from you soon.

*Doneene Leathers*  
Doneene Leathers  
5500 Weywood Dr.

107 Sunnydale Way  
Reisterstown, Md. 21136  
28 June 1993

Mr. Lawrence Schmidt  
Zoning Commission  
400 Washington Ave.  
Towson, Md. 21204

Re: Variance 93431-A

This letter is in reference to zoning variance 93431-A at 5500 Weywood Drive in Baltimore County, concerning a satellite dish on the property over 120ft. from the road. The attention of the Zoning Commission was brought forth to this matter due to a faction of residents on Weywood Drive who thrive on wasting taxpayers dollars for unwarranted and unnecessary complaints. The complaint against the satellite dish is simply a fragment of persisting harassment efforts from individuals who begrudge others who have hobbies and interests different of their own. If the satellite dish on the premises is inappropriate, then so was the decaying rotten hull of a boat on cinder blocks for over two years the houses away. Garbage cans left in the street two days past collection is also inappropriate by the next door neighbor. The neighbors dog (Collie) caused my vehicle to hit the curb to avoid it as it darted in the street unattended to and unsupervised. That is also inappropriate. These individuals who continually complain are violaters themselves. The complaints are solely based on the intention of harassing neighbors and wasting precious time, resources and efforts of the County Zoning Commission, Police Dept. and most importantly-OUR TAXPAYERS DOLLARS.

*D. Bartolini, Jr.*  
Daniel Bartolini, Jr.



July 7, 1993

Patrick E. Martin  
5421 Weywood Drive  
Reisterstown, MD 21136

To Whom it May Concern:

I live directly across the street from Doneene Leathers and I in no way find the sattalite dish that she recently installed to be offensive. In fact, it's barely visable from my property and I should think that I would have the best view of the structure.

Sincerely,

Patrick Martin  
*Patrick Martin*

Baltimore County Zoning  
Subject: Glen Mason Variance Hearing

Satellite Video Systems Inc.  
421 S. Springdale Rd  
New Windsor, MD 21776  
410-675-0422/410-675-4248

Dear Zoning Board,

The antenna location for Mr. Masons installation was chosen because it is the only spot where reception of the satellite orbital belt is possible. Especially the satellites on the western end of the arc. A site survey was conducted prior to installation. From the back yard at ground level the satellite signals from the western arc were obstructed by 30 ft. of trees. The garage roof in the rear of the property was also checked. Even though the roof offered additional elevation the obstruction from the trees was worse because the garage was closer to the tree line to the west.

Every effort was made to find a location closer to the rear of the house but nothing else would work. I might add however that the aesthetics of the Mason installation are quite good. The antenna has a small diameter. It is somewhat hidden and has adjacent trees which blend with the black mesh material. Mr Mason has also offered to put trees on the east and south side of the antenna which would completely shield it from the neighbors view. Of all of the other satellite installations on the same street it is our opinion that the Mason installation is the least obtrusive by far even though it is slightly forward in the side yard.

Thank you very much,

*J. A. Smith*  
President of Satellite Video Systems Inc.  
LC

Statement to the Baltimore County Zoning Commission

My name is George Harman.  
I live at 5429 Weywood Drive, Reisterstown, Md.

I am here today to request that the zoning variances being sought for the property located directly across the street from my residence be denied. The subject property, which I believe has the address of ~~5429~~ <sup>5500</sup> Weywood Drive, is immediately adjacent to 5412 Weywood Drive, Reisterstown, Md.

It is my understanding that the zoning restrictions for the county were established to maintain property values and the aesthetic characteristics of the communities. My concerns with the requested variances before us today relate to these issues.

For each variance granted, there will a measurable reduction in both property values and aesthetic qualities of the neighborhood. The property in question has already constructed a garage that is forward of the front line of the house (presumably granted under a prior variance). An additional multi vehicle garage structure was recently constructed in the back yard that is equivalent to a small commercial mini storage facility. I was unaware of a variance issued for this structure, but based on its size it is hard to understand why a permit was issued for a structure of this size in a residential community. There are at least two additional small sheds in the rear yard that are partially visible from the road and other structures give the impression of a commercial storage facility.

The large red enclosed vehicle transport trailer (cited on the zoning notice as a recreational vehicle) which had been parked in the front yard (now adjacent to the garage which was constructed in front of the house), is clearly degrading to the aesthetic qualities of the neighborhood. The request to allow its continued "storage" in the front or even the side yard should be denied. It would be preferable to have the vehicle totally removed from the property, or at a minimum restricted to the rear yard.

The request to retain the placement of the satellite antenna in the "side" yard, which appears to be forward of the front line of the house, should also be denied. The large size contributes to the negative aesthetic conditions of the neighborhood and has the potential to reduce the resale value of neighboring properties.

The request to grant a waiver of the setback requirements for structures should also be denied. Setback requirements infringe on the rights of adjacent property owners to unobstructed views, sunlight, and shade - depending on their desires. Setbacks were established for these and general aesthetic purposes and should not be granted unless the abutting property owner(s) provide their express approval.

7/1/93

June 24, 1993

Mr. Lawrence Schmidt  
Zoning Commissioner  
400 Washington Ave.  
Rm 113  
Towson, Md 21204

Dear Sir,

I am writing this letter in reference to a zoning sign I saw on Weywood Dr. in Reisterstown. I was visiting a friend on that street and stopped to read the sign. The zoning number was 93431-A. The sign was in reference to a satellite dish and a trailer.

I felt I should write this letter because I had to actually search to find the satellite dish. It does not stand out and without really looking for it, you don't see it.

As for the trailer, the people have planted bushes in front of it, so it doesn't stand out. The whole property seems to be kept up nice and neither one stands out.

Since I've read the sign, I've noticed many satellite dishes in people's front and side yards, including that of Cal Ripken Jr. on Tufton Rd. If you are not going to allow these people on Weywood Dr. a satellite dish, then why can all the others have them.

If you need to contact me for any reason, you can reach me at work at 638-3505 or at home 692-5046.

Thank you,  
*Pamela Arney*  
Pamela Arney

P.S. I put a copy of this letter in the residence mailbox.



PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
<i>Pat Martin</i> Doneene Leathers	<i>5421 Weywood Dr.</i>

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
<i>Kenneth A. Brucette</i>	<i>5501 Weywood Dr</i>
<i>Patricia A. Strayer</i>	<i>5112 Weywood Dr</i>
<i>Marlene Harman</i>	<i>5429 Weywood Dr</i>
<i>Delores M. Cerino</i>	<i>5416 Weywood Dr</i>
<i>George H. Harman</i>	<i>5429 Weywood Dr</i>

*To Whom it May Concern,  
I often enjoy the woods and clean neighborhood on Weywood Dr, two to four times a week, while sunbathing in the community.  
I was upset to find out that Ms. Leathers was being harassed about a tv dish. Over the past few years, I have enjoyed seeing the progress the Community has made. I have taken note to how well landscaped and groomed Ms. Leathers home appears. I am appalled to hear of such harassment when myself, I can not see such objects from the street. I feel that for someone who has gone to such lengths to improve their home, Ms. Leathers should not be harassed but commended.  
Thankyou  
Deanne Selt*

# The Fight Against Unreasonable Zoning Restrictions

An Interview With Mr. Buddy Davis  
Vice Chair, SBCA Retail Council

## Introduction

The SBCA recently formed an ad hoc committee to address the problem of zoning, covenants and deed restrictions that bar the installation of home satellite television antennas. The committee will focus on zoning restrictions and developers and homeowners' associations' limits on satellite antenna installations through the use of CC&R's. What follows is an interview with the Chair of the SBCA ZCC&R Committee.

**SatVision:** Give us a quick background of who you are, your business and your position with the Association.

**Mr. Davis:** I'm Buddy Davis with Davis Antenna, in Waldorf, Maryland. We've been in the television antenna business since 1974. Our major service area is the Washington, D.C./Baltimore metropolitan area and we have an export division that does work throughout the Middle East and West Africa. With the SBCA, I am the First Vice Chair of the 1992 Retail Council and have the honor of chairing the Zoning, Conditions, Covenants and Restrictions (ZCC&R) Committee, along with many other committees.

**SatVision:** Why was the ZCC&R Committee formed?

**Mr. Davis:** We believe that as an industry one of the biggest problems dealers face is zoning and CC&R's. Over the years there has been a focus on zoning, such as the '86 FCC Preemption Order and the recent favorable ruling on the Deertfield case and some others. The CC&R's export division that does work throughout the Middle East and West Africa. Oddly enough they are a much larger issue in terms of the number of homes that are totally excluded from enjoying satellite television as a result of CC&R's. We as a committee believe that approximately 80 percent of the single family dwellings built in the United States in the last 10 years are affected by covenants or restrictions which say, in effect, *thou shalt have no outdoor antenna, period.* That's a pretty good chunk of our market.

**SatVision:** What is the make-up of the Committee? **Mr. Davis:** We have members from two of the major DBS ventures. We have representation from the programmers, manufacturers of satellite equipment, and also from distributors—so we really are a multi-segmented committee.

**SatVision:** What have you accomplished at this point and what are the near term goals for the Committee?

**Mr. Davis:** The first thing we've accomplished is to identify the depth of the problem. Through many different resource avenues we've been able to put together that statistic I just quoted above and some others. We now have concrete evidence that those are real numbers and that's the severity of the problem. Our next decision is where do we go from here. We have several avenues that we could go down, but I think the preferred path would be to try to establish a national precedent at the federal level which would provide the consumers of America some relief from these CC&R's.

**SatVision:** So we're talking potential court action?

**Mr. Davis:** I think that's correct. **SatVision:** When we look at the issue from the homeowners' association's standpoint, why do they place these type of restrictions on satellite television antennas?

**Mr. Davis:** First of all, let me note here that this is not limited to satellite antennas. It is a blanket restriction to against any outdoor antenna. It is very rare to see a covenant (I've seen only a few) that permit outdoor UHF/VHF antennas but don't permit satellite antennas. The language of most of these covenants says no outdoor antennas, period. Very simple.

As to the motivation, there's a lot of theories on that. In some cases a developer has exchanged the pre-wiring of his new homes for inclusion of that language in his covenants. That exchange is

Continued on next page...

## THE ZONING/CC&R BATTLE SIX YEARS AND COUNTING

The home satellite industry has been plagued by onerous municipal zoning ordinances and restrictive covenants for much of its history. To better understand the legal and regulatory saga surrounding the issue, let's take a look at the history of FCC and judicial rulings:

### FCC Preemption of Local Zoning or Other Regulation of Receive-Only Satellite Earth Stations

CC Docket No. 85-87 - January 14, 1986

In this important decision, the FCC ruled that "State and local zoning or other regulations that differentiate between satellite receive-only antennas and other types of antenna facilities are preempted unless such regulations (a) have a reasonable and clearly defined health, safety or aesthetic objective; and (b) do not operate to impose unreasonable limitations on, or prevent, reception of satellite delivered signals by receive only antennas or to impose costs on the users of such antennas that are excessive in light of the purchase and installation cost of the equipment."

An important and little-noticed provision in the pre-emption order stated that the FCC would act on a zoning complaint only after all other legal remedies had been exhausted. In other words, a "Court of last resort."

While the FCC preemption appeared at the time to have cleared the way for the HSD industry to grow, municipalities across the country simply ignored the FCC's action, choosing to continue enforcing old ordinances or passing new ones which clearly fly in the face of the spirit and the letter of the FCC preemption. Furthermore, the FCC preemption did not apply to deed restrictions and CC&R's.

### Van Meter vs. Township of Maplewood, N.J. U.S. District Court for the District of New Jersey October 13, 1988

In a landmark decision, Federal Court Judge Dickinson Debevoise upheld the FCC preemption order.

This allowed Kelly and Lauren Van Meter to keep their roof-mounted satellite antenna which had been in violation of the township's zoning ordinance, which allowed only rear yard, ground-mounted satellite antennas (max. 6 feet in diameter) and required screening.

## Antenna law ruled invalid

### Judge: Mishawaka rule on satellite dishes unfair restriction

By MARTI GOODLAD HELM

**SOUTH BEND** — A Mishawaka zoning ordinance unfairly differentiates between satellite dish antennas and other types of television antennas and is invalid, a Superior Court judge has ruled.

Judge William C. Whitman issued the ruling as a lawsuit filed by Mishawaka residents Dennis and Cheryl Correll challenging a code enforcement ruling.

A Mishawaka code enforcement officer had ruled in October 1981 that the Corrells violated the city's zoning ordinance by placing a satellite dish in their front yard. The zoning ordinance restricts satellite dishes to rear yards.

Judge Whitman agreed with the Corrells' lawyer that the Federal Communications Commission prohibits state and local laws which differentiate between satellite antennas and non-satellite antennas unless certain criteria are

met. Whitman found the Mishawaka law did not meet the necessary criteria for discriminating between antenna types.

"The court is unable to discern how placement of a non-satellite antenna in a front yard would not violate the city's laudable interest in preserving open green spaces," stated Whitman, in pointing out the Mishawaka ordinance provides no restrictions on placement of traditional antennas.

"A non-satellite antenna would seem to be no less of an eyesore than a satellite antenna," Whitman said.

"The city's ordinance lacks the evenhanded language required by the FCC regulation," Whitman added.

The Corrells' house at 284 Dudley Drive, Mishawaka, is at the corner of Dudley and Shelton drives. The house faces Dudley, with the satellite dish located in the side yard on the Shelton side.

Because the narrower side of the lot faces Shelton, the city considers the Shelton yard to be the front yard.

The Corrells fought the city of Mishawaka but were told by William Mayetta, code enforcement officer, that they would have to move their satellite dish or face a fine.

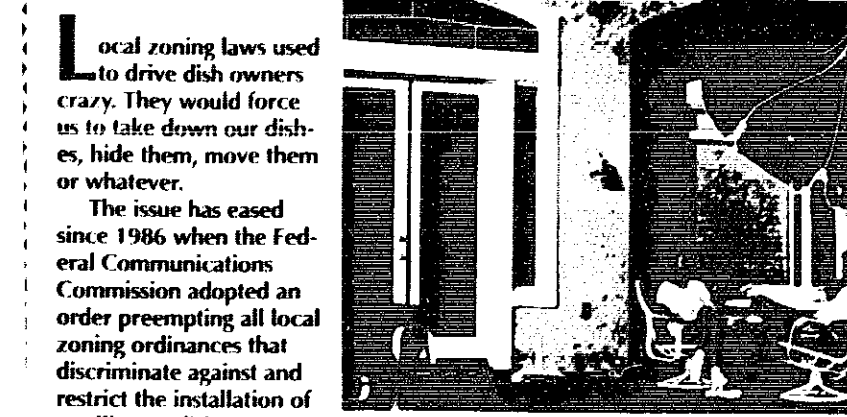
The Corrells appealed Mayetta's decision. Whitman had taken the matter under advisement following a hearing in May.

Jeff Kehl, the Corrells' lawyer, argued that Mishawaka's ordinance restricting satellite dishes to back yards was a violation of the FCC regulation. Kehl also maintained the Corrells' First Amendment rights were violated.

Mr. Correll stated at the time of the hearing that his neighbors did not object to the satellite dish, which is partially surrounded by trees. He said putting the dish in another location would cost around \$1,000 and he would be unable to receive all the signals his family wished to see.

## Defending Your Dish

Here's what to do if your dish is in conflict with a zoning law or community covenant.



Schedule's electronic umbrella is the perfect alternative to local restrictions.

Local zoning laws used to drive dish owners crazy. They would force us to take down our dishes, hide them, move them or whatever.

The issue has eased since 1986 when the Federal Communications Commission adopted an order preempting all local zoning ordinances that discriminate against and restrict the installation of satellite TV dish antennas.

Local governments still have the right to impose some regulations on dish antenna installations, as long as those regulations do not unreasonably interfere with your right to use your equipment. But most zoning ordinances aren't enforced.

However, covenants and restrictions, often referred to as CC&R's, differ from zoning ordinances in that they are created by private agreement and are unique to each subdivision. It's more complicated to fight to install a dish on your property because you, the homeowner, have signed a legal agreement with the homeowners' association.

The American Satellite Television Alliance (ASTA) was formed in 1991 to provide legal information and resources to dish owners who fight zoning and covenant restriction battles. They recommend five steps to defend your dish.

1. Get copies of your local zoning regulations or covenant restrictions. Court Newton Jr., Executive Director of ASTA, emphasizes that a dish owner needs the legal record of the CC&R's that was signed during settlement, not the booklet of interpretations of that community. The former is a legal record and enforceable; the latter is not.
2. Scout your neighborhood for other dishes that are a "violation" of zoning or covenants so you can demonstrate that the authorities consented in the past and are discriminating against you. As evidence, take photos of pools, boats, decks and basketball backboards that might also be a violation.
3. Make a good faith effort. Address your neighbor's aesthetic concerns by using fencing, shrubbery, dish covers and thoughtful dish placement. (See our sidebar "Landscaping: A Dish in Camouflage.") Landscaping costs a lot less than an attorney. "Plus it enhances the property value of your house."
4. Study every available document on the legal aspects of dish ownership. (ASTA and the SBCA publish a wealth of material on dish owners' rights.) Also, talk to your local satellite dealer.
5. Get legal counsel if necessary. Since this is a specialized area, we suggest you can ASTA for help in locating a competent attorney.

For more information on defending your dish, contact ASTA at 16 Broadway, Yonkers, New York 10595, phone: (914) 997-8192, or the SBCA at 225 Remembers Lane, Suite 600, Alexandria, Virginia 22314, phone: (703) 549-6990.

