

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE - SE/Corner Joppa *
Road and Fuller Avenue * DEPUTY ZONING COMMISSIONER
(3201 Joppa Road) * OF BALTIMORE COUNTY
11th Election District *
6th Councilmanic District * Case No. 94-344-XA
Charles W. Becker, et al *
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 3201 Joppa Road, located in the Carney area of eastern Baltimore County. The Petitions were filed by the owners of the property, Charles W. and Ruth Becker, and the Contract Purchaser, Gerald C. Ruter, Esquire. The Petitioners request a special exception to permit a professional office in a residential property for the law practice of a sole practitioner and a variance from Section 1801.1-C.9.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a professional office with a floor area of 61% of the total floor area of the home in lieu of the maximum permitted 25%. The subject property and relief requested are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Gerald Ruter, Esquire, Contract Purchaser, and Jeffrey Long with the Baltimore County Office of Planning and Zoning. There were no Protestants present.

At the onset of the hearing, the Petitioners withdrew their request for variance, citing a miscalculation in the percentage of area to be utilized as a professional office. The Petitioner apparently thought he could utilize the square footage of only the first floor as opposed to the square footage of the entire dwelling. A recalculation of the actual

floor area to be utilized by the professional office indicated that the Petitioner would be using less than 25% of the total floor area of the dwelling. Thus, the requested variance is not needed. Therefore, the Petition for Variance was dismissed as moot and the matter proceeded on the Petition for Special Exception.

Testimony revealed that the subject property consists of 0.16 acres, more or less, zoned D.R. 5-5 and is improved with a single family dwelling. The Petitioner filed the instant Petitions to permit the use of a portion of the subject property as a professional office by Mr. Ruter. Mr. Ruter testified that in addition to residing on the premises, he is desirous of establishing a professional office for his law practice on the subject site. Petitioner's Exhibit 2, a site plan of the property and improvements thereon, depicts the floor area to be utilized for the professional office. Furthermore, Mr. Ruter offered as Petitioner's Exhibits 1A through 1D, affidavits from nearby property owners demonstrating that they have no objection to his utilizing the subject property as a law office.

On behalf of the Office of Planning and Zoning, Mr. Jeffrey Long, appeared and testified. Mr. Long modified the previous comment issued by his Office and testified that the Office of Planning and Zoning supports the relief requested in the Petition for Special Exception.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1219 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

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

THEFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of April, 1994 that the Petition for Special Exception to permit a professional office in a residential property for the law practice of a sole practitioner, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1801.1-C.9.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a professional office with a floor area of 61%

of the total floor area of the home in lieu of the maximum permitted 25%, be and is hereby DISMISSED.

1) The Petitioners may apply for their use permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Timothy N. Kottoc
TIMOTHY N. KOTTOCO
Deputy Zoning Commissioner
for Baltimore County

THK:bjs

ORDER RECEIVED FOR FILING
Date *4/29/94*
By *[Signature]*

ORDER RECEIVED FOR FILING
Date *4/29/94*
By *[Signature]*

ORDER RECEIVED FOR FILING
Date *4/29/94*
By *[Signature]*

- 2 -

- 3 -

- 4 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113, Cornerhouse
340 Washington Avenue
Towson, MD 21204

(410) 867-3386

Gerald C. Ruter, Esquire
604 E. Joppa Road
Baltimore, Maryland 21236

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
SE/Corner Joppa Road and Fuller Avenue
(3201 Joppa Road)
11th Election District - 6th Councilmanic District
Charles W. Becker, et al - Petitioners
Case No. 94-344-XA

Dear Mr. Ruter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted and the Petition for Variance dismissed in accordance with the attached order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact the Zoning Administration and Development Management Office at 867-3391.

Very truly yours,

Timothy N. Kottoc
TIMOTHY N. KOTTOCO
Deputy Zoning Commissioner
for Baltimore County

cc: Mr. & Mrs. Charles W. Becker
15117 Old Hanover Road, Upperco, Md. 21155
People's Counsel
/s/

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Law Practice for a sole practitioner. Corridor of
A PROFESSIONAL LAW FIRM

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

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

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

Contract Purchaser/Owner:
GERALD C. RUTER, ESQ.
(Type or Print Name)
Gerald C. Ruter
Signature
604 E. Joppa Road
Address
Baltimore, MD 21236
City and State

Legal Owner(s):
CHARLES W. BECKER
(Type or Print Name)
Charles W. Becker
Signature
RUTH BECKER
(Type or Print Name)
Ruth Becker
Signature

Attorney for Petitioner:
GERALD C. RUTER, ESQ.
(Type or Print Name)
Gerald C. Ruter
Signature
604 E. Joppa Road
Address
Baltimore, MD 21236
City and State

15117 Old Hanover Road, #21-1076
Upperco, MD 21155
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted:
Fidelity Architectural Co., Inc.
720 S. Montford Ave. #21-102
Baltimore, MD, USA
Phone No. 312-7128

RECEIVED FOR FILING
DATE
ALL
RECEIVED BY
DATE



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 3201 Joppa Road, Baltimore, Maryland

which is presently zoned RX-5.5

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 Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for AN OFFICE OF A PROFESSIONAL (IN THE PROFESSIONAL PERSONS PRIMARY RESIDENCE)
WITH A FLOOR AREA OF 61% IN LIEU OF THE MAXIMUM PERMITTED 25% OF THE TOTAL FLOOR AREA OF THE HOME.
of the Zoning Regulations of Baltimore County, to use the following reason: (Indicate hardship or special circumstances)

TO BE DETERMINED AT HEARING.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of 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.

Contract Purchaser/Owner:
Gerald C. Ruter
(Type or Print Name)
Gerald C. Ruter
Signature
604 E. Joppa Road
Address
Baltimore, MD 21236
City and State

Legal Owner(s):
Charles W. Becker
(Type or Print Name)
Charles W. Becker
Signature
Ruth Becker
(Type or Print Name)
Ruth Becker
Signature

Attorney for Petitioner:
Gerald C. Ruter, Esq.
(Type or Print Name)
Gerald C. Ruter
Signature
604 E. Joppa Road
Address
Baltimore, MD 21236
City and State

15117 Old Hanover Road, #21-1076
Upperco, MD 21155
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted:
Fidelity Architectural Co., Inc.
720 S. Montford Ave. #21-102
Baltimore, MD, USA
Phone No. 312-7128

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RECEIVED BY
DATE

ZONING DESCRIPTION

Beginning at a point on the south side of Joppa Road on which the property fronts, which is 70 feet of right-of-way wide and to the east corner of intersecting Fuller Avenue, an improved intersecting street, which is 40 feet of right-of-way wide. Thence the following courses and distances:

Typical metes and bounds: N77°48'11"W 42.97 FT., S4°40'E 114.02 FT., S65°30'W 78.5 FT., N01°45'E 96.0 FT., to the place of beginning as recorded in Deed Liber 3490, Folio 140, and modified by Baltimore County Land Acquisition in Job Order No. 5-77-9.



ORDER RECEIVED FOR FILING
Date *4/29/94*
By *[Signature]*

ORDER RECEIVED FOR FILING
Date *4/29/94*
By *[Signature]*

330

330

330

74-344-XA

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Date of Posting: 3/21/94
Posted for: Charles W. Becker
Petitioner: Charles W. Becker
Location of property: 3001 Joppa Road, Towson, Maryland 21204
Location of Sign: 3001 Joppa Road, Towson, Maryland 21204
Remarks: Notice
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. March 17, 1994
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 March 17, 1994.

THE JEFFERSONIAN,

A. Henikson
LEGAL AD. - TOWSON



Date: 3/2/94

CODE 020 1 IND. RES. VAR. FILING # 250.00
CODE 050 1 SPECIAL EX. FILING # 300.00
CODE 080 (2) SIGN POSTINGS \$ 70.00
TOTAL = \$ 620.00

OWNER: CHARLES W. BECKER (CHECK FROM GERALD C. RUTER)
LOC: 3001 JOPPA RD.

Please Make Check Payable To: Baltimore County

Customer Validation

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 867-3353

DUE DATE: CLOSING DATE OF HEAR NG DATE

INVOICE

Gerald C. Ruter Esq.
604 E. Joppa Road
Baltimore, Maryland 21206

CASE NUMBER/PROJECT NAME: 94-344-XA

(2) Zoning Notice Sign and Post Set(s) @ \$60.00/set = \$120.00 Due*

(In lieu of payment, we ask that you make use of the following waiver):

INVOICE WAIVER

CASE NUMBER/PROJECT NAME: 94-344-XA

Returned _____ Zoning Notice Sign and Post Set(s).

DATE _____ FOR SIGN

*Amount Due waived upon return of the COMPLETE sign and post set(s).
When you return same, bring this form with you.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 867-3353

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 requires 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 fee 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 ORDERS.

ARNOLD JARLOW, DIRECTOR

For newspaper advertising:

Class Ex.: 330

Petitioner: CHARLES W. BECKER

Location: 1517 OLD HANOVER RD. 21155

PLEASE FORWARD ADVERTISING BILL TO:

NAME: GERALD C. RUTER, ESQ.

ADDRESS: 604 E. JOPPA RD.

BALTIMORE, MD. 21206

* PHONE NUMBER: 321-0900

*MUST BE SUPPLIED

NOTICE OF HEARING

The Zoning Commission 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 118 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 on March 17, 1994 at 11:00 a.m.

CASE NUMBER: 94-344-XA (Item 330)
3001 Joppa Road
604 E. Joppa Road and Joppa Avenue
11th Election District - 6th Councilmatic
Legal Owner(s): Charles W. Becker and Beth Becker
Contract Purchase(s): Gerald C. Ruter, Esq.
HEARING: MONDAY, APRIL 11, 1994 at 11:00 a.m., Rm. 118 Old Courthouse.

Special Exception for a professional in a home (see provision for a sole practitioner).
Variances to permit an office of a professional (in the professional person's primary residence) with a total floor area of the home.

LAWRENCE E. SCHMIDT
DURING CONSTRUCTION FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE UNRECORDED ACCORDING; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 867-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 867-3353

NOTICE OF HEARING

The Zoning Commission 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 118 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 on March 29, 1994 at 11:00 a.m.

CASE NUMBER: 94-344-XA (Item 330)

3001 Joppa Road

604 E. Joppa Road and Joppa Avenue

11th Election District - 6th Councilmatic

Legal Owner(s): Charles W. Becker and Beth Becker

Contract Purchase(s): Gerald C. Ruter, Esq.

HEARING: MONDAY, APRIL 11, 1994 at 11:00 a.m., Rm. 118 Old Courthouse.

Special Exception for a professional in a home (see provision for a sole practitioner).

Variances to permit an office of a professional (in the professional person's primary residence) with a total floor area of the home.

Arnold Jarlow

Director

NOTES: (1) HEARINGS ARE UNRECORDED ACCORDING; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 867-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 867-3353

March 29, 1994

Gerald C. Ruter, Esquire
604 E. Joppa Road
Baltimore, MD 21206

RE: Case No. 94-344-XA, Item No. 330
Petition for Variance
Petitioner: Charles W. Becker, et al

Dear Mr. Ruter:

The above-referenced petition and accompanying plans were accepted for filing on March 2, 1994 and a hearing was scheduled accordingly. Respectively, the Zoning Plans Advisory Committee (SPAC) has reviewed those plans. Enclosed are copies of the comments from the reviewing agency/agencies offering or requesting information on the petition. These comments are not intended to indicate the appropriateness of the zoning action requested, but rather to ensure that all parties; i.e., zoning commission, attorney, and/or petitioner, are aware of any issues that may have a bearing on this case. Should we receive any additional informative comments, they will be forwarded to you immediately. (Comments that are not informative are placed in the case file; you will not receive a copy.)

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 the Office of Zoning Administration and Development Management has instituted a system whereby those zoning attorneys who comply with all aspects of the zoning regulations and petition(s) filing requirements can file their petition(s) with this office without the necessity of a preliminary review by zoning personnel.

Gerald C. Ruter
March 29, 1994
Page 2

2. Any attorney choosing to file without preliminary review should be fully aware of their responsibility for accuracy and completeness. Any petition(s) filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. In the event that the petition(s) has/have been filed incorrectly, there is the possibility that another hearing will be required or that the zoning commission will deny the petition.

3. Attorneys, engineers, and applicants who make appointments to file petitions on a regular basis and who fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time any further appointments are made. Failure to keep those appointments without 72 hours advance notice will result in the forfeiture of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Hinton at 867-3393 or the commenting agency.

Sincerely,

W. Carl Ralston, Jr.
Zoning Supervisor

ENCLOSURE
cc: Mr. & Mrs. Charles W. Becker
Mr. Gerald C. Ruter

DATE: 03/11/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: CHARLES W. BECKER & RUTH BECKER

LOCATION: SEC JOPPA RD. & FULLER AVE. (3201 JOPPA RD.)

Item No.: 330

Zoning Agenda: SPECIAL EXCEPTION

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

RECEIVED
MAR 15 1994
ZADM

REVIEWER: LT. ROBERT P. SAUERHARDT
Fire Prevention, PHONE 887-6881, MS-11027

cc: File



Maryland Department of Transportation
State Highway Administration

O. James Lightner
Secretary
Hal Kassoff
Administrator

Re: Baltimore County
Item No.: 4330 (JLL)

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

Dear Ms. Minton:

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 project.

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,

David N. Rafter
for DAVID N. RAFTER, ACTING CHIEF
John Combs, Chief
Engineering Access Permit
Division

BS/

My telephone number is _____

Maryland Heavy Service for Impaired Hearing or Speech
1-800-758-0266 (Toll Free)

Mailing Address: P.O. Box 717 - Baltimore, MD 21205-0717
Street Address: 707 North Calvert Street - Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

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

DATE: March 14, 1994

SUBJECT: 3201 Joppa Road

ITEM NUMBER: 330

Petitioner: Becker, Ruth

Property Size: _____

Zoning: D.B. 5.5

Requested Action: _____

Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:

Based upon a review of the information provided, staff offers the following comments:

The area of the applicant's request is comprised of mixed use institutional, commercial, and residential land uses. The proposed use would not negatively impact the neighborhood if parking and landscaping issues are addressed.

The plan accompanying the Special Exception and Variance Petition should be amended prior to the hearing to accurately reflect the total floor area to be devoted to professional office purposes. Should a recalculation indicate that more than 25% of the total floor area would be utilized, staff recommends the applicant's request be denied, because the 25% allowance is a use requirement, not a weight or area requirement.

However, if the Commissioner decides to rule on the Variance request, staff is curious how the applicant will prove that strict compliance with the zoning regulations would constitute a "practical difficulty or unreasonable hardship." It seems that justification in this case would not be based on an urgent need, but merely for the convenience of the applicant.

Prior to any final consideration of this matter, reasonable attempts should be made to insure that this property will in fact be the primary residence of Mr. Ruter. Past experience has shown that proving where one maintains his or her primary residence is virtually impossible to establish. In this case, the applicant should provide the address of his current residence, and, if this request is

ZAC 330/PZ008/ZAC1

Pg. 1

granted, a condition should be placed in an order which would enable an official of the Zoning Enforcement office to inspect the residence at 3201 Joppa Road upon reasonable notification.

In addition, as a condition of any approval, the applicant should meet with the Office of Planning to: (1) discuss landscape treatment of the property (2) examine issues regarding off-street parking.

Prepared by: *Jeffrey H. Long*

Division Chief: *Carol L. Ruter*

PK/JLL:lw

1935-94
PETITION FOR VARIANCE
3201 Joppa Road
Baltimore, MD
OF BALTIMORE COUNTY
PETITIONER:
CHARLES W. BECKER, et al
CASE NO: 94-344-XA

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above captioned matter. Notice 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

Carol L. Ruter
Carol L. Ruter
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY THAT on this 12 day of April, 1994, a copy of the foregoing Entry of Appearance was mailed to Gerald C. Ruter, Esq., 604 E. Joppa Road, Baltimore, MD 21236.

Peter Max Zimmerman
Peter Max Zimmerman

RECEIVED
APR 14 1994
ZADM

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

David Ruter
604 E Joppa Rd



