

IN RE: PETITION FOR SPECIAL HEARING
NE/S Bernoudy Road, 1750' SE
of the c/l of Weisberg Road
(1012 Bernoudy Road)
7th Election District
3rd Councilmanic District

Jeffrey L. Kircher, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-405-SPH
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 1012 Bernoudy Road, located in the vicinity of Weisburg Road in White Hall. The Petition was filed by the owners of the property, Jeffrey L. and Cheryl L. Kircher. The Petitioners seek approval of the use of an existing undersized lot of record for the construction of a single family dwelling, and that said undersized lot is exempt from the compatibility requirements of Section 304.2 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Jeffrey and Cheryl Kircher, legal owners of the property, James Grammer, a representative of McKee and Associates, Inc., who prepared the side plan for this property, and John B. Gontrum, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 1.75 acres, more or less, zoned R.C.4 and is presently unimproved. The Petitioners own the subject property along with an adjoining parcel which fronts on Bernoudy Road. The subject property is located to

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the rear of that parcel and is proposed to be accessed via a 12-foot wide panhandle right-of-way easement which runs along the south side of the parcel which fronts on Bernoudy Road. The Petitioners are desirous of developing the subject property with a single family dwelling; however, the relief requested is necessary in order to proceed as proposed. Testimony revealed that the Petitioners' holdings were recorded as two separate lots of record in the 1950s and have remained as separate parcels since that time. At the time the lots were recorded, a 1.75 acre parcel would have been an acceptable building lot size. However, in 1976, the zoning of the property changed to R.C.4 which requires a lot size of no less than three acres. Thus, the relief requested is necessary in order to develop the property.

Further testimony revealed that the subject property is located in a remote area where there are few, if any, houses surrounding this site. Inasmuch as there are no "real" houses upon which to base a compatibility study, the Petitioners request that they be exempt from the compatibility requirements set forth in Section 304.2 of the B.C.Z.R.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare. However, pursuant to the comments submitted by the Development Plans Review Division of the Department of Permits and Development Management, the Petitioners will be required to set aside an additional 8-foot

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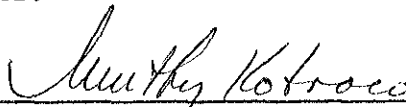
wide easement along the existing 12-foot wide easement located on the south side property line at 1010 Bernoudy Road to provide the minimum required 20-foot wide panhandle access to the subject lot.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3^d day of June, 1996 that the Petition for Special Hearing to approve the use of an existing undersized lot of record for the construction of a single family dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that said undersized lot of record is exempt from the compatibility requirements of Section 304.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), and as such, the Petition for Special Hearing is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building 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.
- 2) Prior to the issuance of any permits, the Petitioners will be required to set aside an additional 8-foot wide easement along the existing 12-foot wide easement located on the south side property line of 1010 Bernoudy Road to provide the minimum required 20-foot wide panhandle access to the subject lot.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 6/3/96
By [Signature]

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
<u>JEFFREY L. KIRCHER, ET UX</u>	*	
FOR A SPECIAL HEARING ON		OF
PROPERTY LOCATED ON THE NORTH-	*	
EAST SIDE BERNOUDY ROAD, 1750'		BALTIMORE COUNTY
SOUTHEAST OF C/L OF WEISBERG	*	
ROAD (1012 BERNOUDY ROAD)		CASE NO. 96-405-SPH
7TH ELECTION DISTRICT	*	
3RD COUNCILMANIC DISTRICT	*	
* * * *	*	* * * *

O P I N I O N

This case comes before the Board on appeals filed by David Boyd, Marion Runkles, Ted Merchant, and the Weisburg Community Association, Protestants, and the Office of People's Counsel from the June 3, 1996 Order of the Deputy Zoning Commissioner in which the subject Petition for Special Hearing was granted. This case involves a special hearing in which the Board is being requested to approve the use of an existing undersized lot of record on which the Petitioner desires to construct a single-family dwelling, and an exemption of the compatibility review requirement on undersized lots.

Mr. James McKee testified on behalf of the Petitioners. He has been performing engineering and surveying services for approximately 23 years; and is a registered land surveyor. He indicated that he was familiar with the Baltimore County Zoning Regulations; however, after an extensive voire dire, the Chairman agreed that this witness could only testify as an expert on civil engineering matters and site planning, and, further, provide an opinion on the particular site plan which had been prepared. Petitioner's Exhibit No. 1 was admitted into evidence and described as the site plan prepared by Mr. McKee. He stated that there were

two lots involved, one of which was improved on approximately one acre, and the other lot was unimproved containing approximately 1.7 acres. Mr. McKee testified that the two lots have not been subdivided since 1955; and appeared to have been taxed separately, and were separate and independent of each other. The unimproved lot was heavily wooded and was about 200 feet away from any nearby dwelling. The subject property was serviced by private well and sewerage. Mr. McKee indicated that one of the properties fronts on Bernoudy Road with a dwelling; and the second lot parcel has a right-of-way to Bernoudy Road. He related to other homes generally in the area and of their varying lot sizes.

Additionally, he reviewed the zoning history of the property; and stated that none of the adjoining property owners were protesting the petition. He again reiterated his position that the two lots were clearly two separate and distinct parcels of land with no supportive systems between them. He opined that the parcels had always been owned by the same person, and that there had been no lot line adjustments; and that the tax records, Petitioner's Exhibit No. 3, reflected the properties as separate entities. A series of photographs (Petitioner's Exhibits No. 4A through 4G) were admitted into evidence and briefly described by Mr. McKee. The Petitioner did not testify, and that basically concluded the Petitioner's case-in-chief.

Mr. David Boyd, 1120 Bernoudy Road, testified in opposition to the Petition for Special Hearing. He submitted the customary Rule 8 papers required by this Board. Mr. Boyd opined that he lived

within 1,000 feet of the Kircher property. He has been president of the Weisburg Community Association for approximately 3 years. He testified that the community association had considered the request for the special hearing; and was opposed on the basis that if the exception were granted it would create a precedent in that others in the area would also request exceptions where smaller lots or undersized lots were concerned.

People's Counsel's Exhibit No. 2 was admitted into evidence which represented the 1,000 scale Baltimore County Zoning Map, 1996. Mr. Boyd stated that the area is essentially zoned R.C. 4; and is semi-rural in nature with a number of older homes in the area existing on less than 3 acres. The newer homes being constructed he believed to be on at least a minimum of 3 acres. He stated that there are heavily wooded areas in the community and that these are common in the area, and that the community association firmly believed that the development of the subject lot would be out of character and harmony with the rest of the area.

Marion Runkles, residing at 18200 York Road, also testified in opposition to the special hearing. The witness is secretary of the Weisburg Community Association and was authorized to speak against the proposal on the basis that approval of the exception would be detrimental to the general area of the membership, and the establishment of a precedent for smaller lot owners to build on undeveloped lots. The witness had owned a residence in the area since 1962 and, while admitting the presence of some older residences on smaller lots, stated that primarily most of the homes

were situated on larger parcels of land containing 3 or more acres. This concluded People's Counsel's case, and in lieu of oral arguments, the Chairman requested both attorneys to submit briefs by January 30, 1997 for the Board's review.

At issue in this case is whether or not the Petitioners can construct a single-family dwelling on an undersized lot, and that said lot is exempt from Section 304.2 of the Baltimore County Zoning Regulations which relate to compatibility requirements. The unimproved property itself consists of 1.7 acres (more or less), is zoned R.C. 4, is heavily wooded, and is approximately 200 feet from any nearby dwelling. In addition to the property in question, the Petitioners also own an adjacent lot fronting on Bernoudy Road. The parcel to be developed is located to the rear of the 1-acre developed property. If the unimproved lot is developed, access is to be provided along a 12-foot wide panhandle right-of-way easement, running along the south side of the lot fronting on Bernoudy Road.

While there is currently only one address (1010 Bernoudy Road) for both lots, testimony reflected that the Petitioners' lots were recorded as two lots of record in the 1950s; and have been taxed as separate entities. Based on testimony, the lots do appear to be separate and distinct entities, with no supported assistance between the two. The property is served by private well and sewerage. When the lots were recorded, a 1.75-acre parcel was an lot size area on which to erect an acceptable residential dwelling. In 1976, however, the zoning was changed to R.C. 4, which mandated

a lot size of no less than 3 acres. At issue, therefore, is the general applicability of a lot size in a current R.C. 4 zone. Protestants and People's Counsel have argued that any development currently proposed must follow 1A03.1 requirements as to the size of lot and density relating to the R.C. 4 development zones.

Baltimore County Zoning Regulations Section 1A03.4B.1 recites:

"A tract to be developed in an R.C. 4 zone with a gross area of less than 6 acres may not be subdivided, and a tract to be developed with a gross area of at least 6 acres but not more than 10 acres may not be subdivided into more than 2 lots (total), each of which must be at least 3 acres, except as otherwise provided in Subsection 103.3 or in paragraph 4 below."

People's Counsel argues that the County Council specifically limits development in such zones to provide an adequate septic area and wells on lots near the Baltimore County vital water resources. Therefore, a tract of less than 6 acres cannot be subdivided; and a tract between 6 and 10 acres can be subdivided into no more than two lots, each of which must be a minimum of at least 3 acres. Tracts of over 10 acres have .2 density per acre, with 3-acre minimum (unless clustering is elected). Therefore, with no evidence that the undeveloped parcels are legal lots, the 2.75 acres is a tract less than 6 acres and cannot be subdivided, and all development must follow the standards provided for in the Baltimore County Zoning Regulations. Sections 103.3 and 1A03.4B.4 also provide for two exceptions from area requirements for development in an R.C. 4 zone. People's Counsel and the Protestants argue that the subdivision does not meet the requirements for either exception and that the 1.75-acre and 1-acre

lots were created illegally because the site was not part of a recorded subdivision plat, and such deeds must contain language recognizing Planning Office approval, and to grant an illegal subdivision an exemption from current regulations is a violation of both the spirit and intent of the zoning regulations. Essentially, because the Petitioner does own less than 6 acres, they must be guided by the current regulations.

This Board in reaching its conclusions is drawn primarily to the legal issues present in this matter, since the factual aspects do not appear to be in controversy. Clearly the Rural Conservation zones initially came about in 1975 and were a definitive attempt on the part of the Baltimore County Council to protect the rural areas of the County, along with agricultural and watershed concerns. Factually, the R.C. 4 zones do contain the largest minimum acreage requirements when compared to all the other R.C. zones, and state quite clearly under BCZR Section 1A03.1 that a tract less than 6 acres cannot be subdivided.

The question before the Board is whether or not the lots in question fall under the R.C. 4 zone requirement or do R.C. 4 zones only have minimum lot sizes based on subdivision approval after the R.C. 4 zones took effect. As Counsel for the Petitioner has argued, the R.C. 4 zones do not have a minimum lot size requirement in the same manner as do the D.R. zones. D.R. regulations specifically state the square footage that may be contained within various zones for single lots (BCZR Section 1B02.3C.1). The R.C. zones only have minimum lot sizes based on subdivision approval

It is the conclusion of the Board based on the testimony and evidence produced at the hearing that the Petitioners do own two (2) lots of record. Baltimore County Zoning Regulations state that a lot having an area or width less than that required by the area regulations may have a dwelling erected if the lot is duly recorded by deed prior to March 30, 1955, that all other height and area regulations are complied with, and that the owner of the lot does not own sufficient adjoining land to conform to the width and area requirements. This Board concurs with the Petitioner that nowhere in Section 1A03.4, which pertains to height and area regulations within the R.C. 4 zone, is there a minimum lot size specified for a lot of record such as the minimum lot size which exists in the D.R. zones. Clearly the intent of Section 103.3 of the Baltimore County Zoning Regulations, which apply only to R.C. zones, was to grandfather existing subdivisions against the density, open area and yard requirements of the various R.C. zones. There is no mention of a "lot area" minimum. Therefore, an existing lot of record would presumptively be buildable in the absence of the need for some variance from either setback or height requirements. The Board concludes that the adoption of the R.C. 4 legislation was not designed to penalize those lot owners who retained their properties open. Additionally, Section 1A03.4B.4 required that any lot or parcel with boundaries recorded with the approval of the Baltimore County Office of Planning & Zoning on or before December 22, 1975, and not part of an approved subdivision, may be approved for

subdivision in accordance with the regulations in force at the time of the recordation of the boundaries. The Board agrees that the subject parcel qualified under Section 1A03.4B.4 except that there was no explicit approval of the boundaries by the Office of Planning & Zoning. This section clearly does not pertain to record lots from subdivisions, but rather parcels and lots of record similar to the lot in question. Clearly, therefore, if a parcel was established without the legal approval of the County, given only by the Office of Planning & Zoning after the office was established, then such parcel would be without the benefit of the legal protection offered by this section. If, however, the parcel was established prior to the operation of the office or to review by the office of such parcels, it was by its very nature legal and should not be deprived of the protection of this section's provision because the County had not gotten around to establishing this particular office.

The Board also concludes that Section 304 of the Baltimore County Zoning Regulations is also applicable to this case as it relates to an undersized lot. There is no doubt but that the lot was recorded by deed prior to March 30, 1955, and that the suggested development of the undersized lot complies with all the other height and area requirements, and that the property owner by only owning 2.7 acres in total area cannot comply with enough adjacent property to conform to the present area requirements. In this case, the property owner does own adjacent property, but the size of the parcel would not meet, if combined, a 3-acre minimum

lot size. We do not agree with People's Counsel that the Petition should be denied. The wording of Section 304.2 clearly restricts only one kind of adjoining property that would otherwise legitimize the parcel and not make the undersized parcel properly sized. The Board concludes that a minimum lot size of three (3) acres is applicable to the parcel, and, therefore, the parcel does meet the conditions imposed by Section 304, and must be considered an undersized lot. Additionally, the Board believes that the compatibility requirements of Section 304 have been satisfied since any dwelling constructed on the lot would be difficult to see from neighboring properties, coupled with the fact that the adjoining smaller parcels are buffeted by a substantial number of trees located on the parcel. It is evident to the Board that compatibility provisions of Section 304 were designed primarily to address smaller lots in residential subdivisions where new dwellings would be substantially abutting right against adjacent properties. The Board will, however, impose certain restrictions in its Order.

O R D E R

IT IS THEREFORE this 12th day of May, 1997 by the
County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing to approve the use of an existing undersized lot of record for the construction of a single family dwelling be and is hereby GRANTED; and it is further

ORDERED that said undersized lot of record is exempt from the

compatibility requirements of Section 304.2 of the Baltimore County Zoning Regulations, and as such, the Petition for Special Hearing is hereby GRANTED, subject to the following restrictions:

1. Prior to the issuance of any permits, the Petitioners will be required to set aside an additional 8-foot wide easement along the existing 12-foot wide easement located on the south side property line of 1010 Bernoudy Road to provide the minimum required 20-foot wide panhandle access to the subject lot; and
2. When applying for a building permit, the site plan filed must reference the restrictions of this Order.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Lawrence M. Stahl, Acting Chairman



Margaret Worrall



Charles L. Marks



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 12, 1997

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

David Boyd, et al
Weisburg Community Assn.
P.O. Box II
White Hall, MD 21161

RE: Case No. 96-405-SPH
Jeffrey L. Kircher, et ux

Dear Gentlemen:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Legal Administrator

encl.

cc: Mr. & Mrs. Jeffrey L. Kircher
John B. Gontrum, Esquire
James Grammer /McKee & Associates
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



<p>In Re: Jeffrey Kircher <u>et ux.</u>, Petitioners</p> <p>Special Hearing to approve use of lot of record for dwelling 1750' SE of c/l of Weisberg Rd. (1012 Bernoudy Road)</p>	<p>* BEFORE THE COUNTY</p> <p>* BOARD OF APPEALS OF</p> <p>* BALTIMORE COUNTY</p> <p>* CASE NO. 96-405-SPH</p>
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MEMORANDUM OF PETITIONERS JEFFREY AND CHERYL KIRCHER

STATEMENT OF THE CASE

This case arose from a Petition by Jeffrey and Cheryl Kircher for a Special Hearing to approve the use of an existing undersized lot of record for the construction of a single family dwelling and for an exemption of the compatibility review for construction on undersized lots. A hearing was held on the Petition on May 23, 1996. There were no Protestants present. Findings of Fact and Conclusions of Law were issued on June 3, 1996, granting the relief of the Petitions and requiring that an additional 8-foot wide easement be added along the existing 12 foot wide easement for access to the rear property. An appeal of this decision was taken by Baltimore County People's Counsel, David Boyd, Marion Runkles, and Ted Merchant on behalf of the Weisburg Community Association to the Baltimore County Board of Appeals. An evidentiary hearing occurred on December 5, 1996.

STATEMENT OF FACTS

Jeffrey and Cheryl Kircher are the owners of two parcels of land zoned R.C. 4 located at 1010 Bernoudy Road. These two (2)

properties have been treated as separate parcels since prior to 1955. In June, 1955, the properties were deeded to Mr. Kircher's parents as separate lots. One parcel contains 1.7 acres of ground and is not improved. It has a deeded right of access to Bernoudy Road. The second parcel contains 1 acre of ground, more or less and fronts on Bernoudy Road. This parcel is improved by a dwelling known as 1010 Bernoudy Road. The tax records indicate that both lots are taxed separately. The two parcels have not been subdivided since 1955.

At the request of Baltimore County a Special Hearing was requested in order to obtain a building permit for the lot. A plan for development of the 1.7 acre parcel was filed by McKee & Associates. This plan shows that the improvements supporting each parcel are independent of one another. The plan, furthermore, indicates that no zoning or development variances or waivers are necessary to support the proposed development on either parcel. Finally, there is nothing requested by the Special Hearing which would change the dimensions or character or relationship of the lots to other properties.

Testimony from James McKee, a civil engineer and land planner, indicated that the two parcels were of a size similar to neighboring properties. In addition, he placed into evidence numerous photographs taken of the 1.7 acre site showing the wooded nature of the lot and its buffering from adjoining properties. The proposed dwelling would be over two hundred (200) feet from any adjacent dwelling and surrounded by trees.

The Protestants did not live adjoining either of the parcels. None of the adjoining property owners protested the Petition. The Protestants primarily were concerned with the precedent creation of two (2) undersized lots would cause. They admitted that there were similarly sized lots in the immediate vicinity but pointed out that none of these was of recent creation.

DISCUSSION

I. THE R.C. 4 ZONE DOES NOT SPECIFY A MINIMUM LOT SIZE; THEREFORE, THE KIRCHER PARCELS CAN NOT BE CONSIDERED TO BE UNDERSIZED.

It is not in dispute that the Kirchers own two (2) lots of record. The Baltimore County Zoning Regulations (hereinafter cited as the "BCZR"), Section 101, define a lot of record as: "A parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof." Section 101 also defines a "Residential Zone" as including R.C. zones.

Section 304 of the BCZR states that a lot having an area or width less than that required by the area regulations may have a dwelling erected if the lot is duly recorded by deed prior to March 30, 1955, that regulations are complied with and the lot is not owned by the applicant and sufficient adjoining lots are not owned by the applicant and area

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requirements.

The R.C. 4 zones do not have a minimum lot size requirement in the same way as the D.R. zones. Regulations covering the D.R. zones specifically state the square footage that may be contained within various zones for single lots (BCZR, Sec. 1B02.3C.1). The R.C. zones only have minimum lot sizes based on subdivisions approved after the R.C. zones took effect. These subdivided lots may be not less than three (3) acres in size on subdivisions containing six (6) to ten (10) acres, and not less than one (1) acre on subdivisions over ten (10) acres in size (BCZR Sec. 1A03.4B.1.a, 1A03.4B.1.b.(2)). Nowhere, however, in Section 1A03.4, which pertains to height and area regulations within the R.C. 4 zone, is there a minimum lot size specified for a lot of record such as the minimum lot size which exists in the D.R. zones. This conclusion is further bolstered by the wording of Section 103.3 of the BCZR, which applies only to R.C. zones. The clear intent of that section was to grandfather existing subdivisions against the density, open area and yard criteria of the various R.C. zones. Not mentioned is a "lot area" minimum.

It can not be argued that the older recorded lots within the R.C. zones should be excused from complying with the density, open area and yard requirements, yet be required to comply with a lot area minimum. Lot areas are not mentioned in Section 103.3 simply because R.C. zones never specified a minimum lot area for non-subdivided tracts of land. An existing lot of record would presumptively be buildable absent the need for some variance from

setbacks or height regulation.

It has been generally acknowledged that the minimum lot widths mentioned in Section 304 are not an issue. Just as Section 1A03.4 does not specify a minimum area, it does not specify a minimum lot width. People's Counsel did not disagree with the concept that an absence of minimum width language in the R.C. 4 zone indicated that this issue of Section 304 had been addressed. The same reasoning should apply to minimum lot size. People's Counsel failed to recognize, however, that the determination of minimum lot size upon subdivision was not a declaration of minimum lot size for lots of record. One has only to read the same language in the D.R. sections to appreciate that for residential zones there are minimum lot sizes upon subdivision and minimum lot sizes for small parcels. The R.C. 4 zone only discusses lots created under it by subdivision. The definition of subdivision in Section 101 of the BCZR clearly indicates that it is intended to cover the present, not the past, division of land into two (2) or more lots.

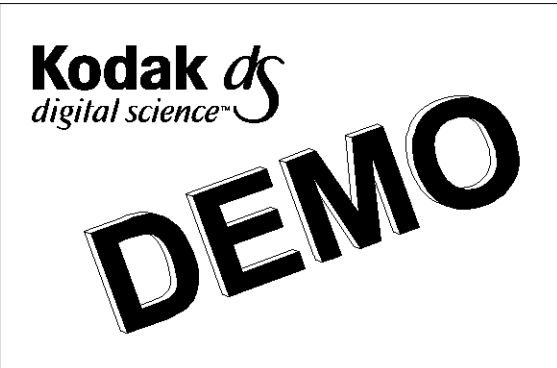
II. UNDER THE WORDING OF THE R.C. 4 REGULATIONS THE PREVIOUSLY RECORDED LOTS OF RECORD ARE EXEMPT FROM THE PROVISIONS OF AREA OF THE R.C. 4 ZONE AND ARE ACCEPTABLE UNDER THE REGULATIONS AS BUILDING LOTS.

The deed to the Kircher parcels introduced into the record indicates that the parcels have been separate and independent since prior to 1955. Prior to 1955 the applicable density to

properties within the entire rural area was a residential zone that allowed a 5,000 square foot minimum lot (Public Local Laws, Session of 1945, Chapter 502, Section II). Indeed, in the Baltimore County Zoning Regulations adopted March 30, 1955, in accordance with Title 30, Section 532 of the Code of Public Local Laws of Baltimore County, the most restrictive zoning that could have been put on the property (R.40) had a minimum lot size of 40,000 square feet (1955 BCZR, Section 202.1) In fact, the evidence would lead one to conclude that the similarly sized lots in the area occurred at the same time. The law was never intended to penalize property owners who for one reason or another kept their properties open. Indeed, there would be a clear taking of property if a vacant piece of property, otherwise capable of supporting a residence, was denied not only rights similar to other properties due to zoning but also any development rights whatsoever.¹

Section 1A03.4b.4 would also appear to exempt the parcel from the applicability of the R.C. 4 regulations. That section states that any lot or parcel with boundaries recorded with the approval of the Baltimore County Office of Planning and Zoning on

1975, and not part of an approved
coved for development in accordance with
se at the time of the recordation of the
pects it is obvious that the subject
gnizes this concept in Sections 103 and in
SECTION 104, for these sections purposefully grandfather lots
that need no support from adjacent properties.



parcel qualifies under this section but for the fact that there was no explicit approval of the boundaries by the Office of Planning and Zoning. The section clearly does not pertain to record lots from subdivisions but rather parcels and lots of record like the parcel in question.² For this section to affect only parcels created after there was an Office of Planning and Zoning and to prohibit parcels created with recorded boundaries prior to the creation of the Office makes no sense whatsoever. A more sensible reading of the Section pertains to the legality of the creation of the parcel. Clearly, if a parcel was established without the legal approval of the County, given only by the Office of Planning and Zoning after the Office was established, then such parcel would be without the benefit of the legal protection offered by the Section. If the parcel was established prior to the operation of the Office or to review by the Office of such parcels, it was by its very nature legal and should not be deprived of the section's provision because the county had not gotten around to establishing this particular bureaucracy. The two (2) parcels were held as separate tracts well prior to 1955, for they were deeded to the Kirchers from different individuals even then. It would make no sense for the Kirchers to be denied rights simply because of the age of the parcels, especially since the parcels have been separately taxed throughout all of the

² Section 103.3 of the BCZR pertains to subdivisions created prior to the creation of the RC zones. If the two sections are read together then the intent of the provisions to grandfather older record lots and lots of record is readily apparent.

years, and the county has done nothing to declare the two parcels either illegal or unbuildable.

It is important to recognize that the Kirchers could have sold their parcels at any time and even now could sell either parcel to anyone, and that the person would have a right to develop that parcel.³ The laws of Baltimore County do not forbid the sale of lots of record. It has been conceded that the deeds and lots were created prior to 1955, and that all other height, area and setback requirements have been met with respect to the parcel.

It also is important to recognize that at the time Section 304 of the BCZR was adopted in 1955 there were no rural zones as such in Baltimore County. There were only residential zones as noted above with minimum lot sizes, of which 40,000 square feet was the most restrictive. This section was not amended until 1992, and the amendments had far more to do with compatibility issues than with rural zoning issues. Consequently, it can not be said that Section 304 contemplated undersized "rural" lots.

III. IF THE R.C. 4 ZONE CONTAINS A MINIMUM LOT SIZE FOR LOTS OF RECORD, THE MINIMUM LOT SIZE SPECIFIED IN THE R.C. 4 REGULATIONS IS ONE (1) ACRE.

If, however, it is found that the R.C. 4 zone does specify a "minimum lot size" then a one (1) acre minimum lot size should be

³The zoning policy manual does specify a waiting period for purchasers of lots held in joint ownership prior to development, but there is no prohibition of development.

adopted instead of the three (3) acre size urged by Protestants. Section 1A03.4 specifies both a three (3) acre and a one (1) acre minimum. Section 1A03.6 offers optional use of a ten (10) acre minimum for subdivision. It clearly is confusing to apply these subdivision minimums to minimum lot sizes when subdivision is not an issue. There can be no argument that the smallest lot size permitted in an R.C. 4 zone is one (1) acre.

The Protestants argue that a three (3) acre minimum lot size should be imposed because there is less than ten (10) acres owned in total by the property owners. This argument fails because the property owners not only do not own ten (10) acres in total but also they do not own even six (6) acres in total, which is the threshold for the three (3) acre minimum lot size in a subdivision. We concede that if this were a subdivision issue, then the property could not be subdivided. This, however, is not a subdivision issue, and if it is assumed that a minimum lot size is contained in the R.C. 4 zone regulations, then that lot size should be one (1) acre. Consequently, Section 304 would not apply, and the property would be buildable because it is not an undersized lot but rather a proper lot of record.

IV. IF SECTION 304 IS APPLICABLE TO THIS CASE, THE PARCELS MEET THE QUALIFICATION CRITERIA UNDER THE SECTION FOR RELIEF TO BE GRANTED.

If, however, Section 304 is found to apply to the parcel in question as an undersized lot, the requirements of the Section

have been met. The lot was recorded by deed prior to March 30, 1955. The proposed development of the lot does comply with all other area and height requirements, and finally either the lot complies with the minimum one (1) acre standard, or the property owner, by owning only 2.7 acres in total area, can not comply with sufficient adjacent property to conform to the area requirements. Therefore, in either respect the property owner should be allowed to develop his separately recorded, separately taxed parcels of land.

Section 304.1C does not say what People's Counsel is urging the Board to adopt. People's Counsel is urging the Board to adopt an interpretation of Section 304.1C that would change the wording of the subsection to read: "The property owner must not own any adjacent property." In this case the property owner has adjacent property, but the size of the parcels would not meet, if combined, a three (3) acre minimum lot size. According to People's Counsel the Petition should be denied. It is to be presumed that if Petitioners owned an adjoining parcel of seven (7) acres Protestants would argue that the Section is not applicable because the minimum lot requirements that they are urging of three (3) acres could be met with a resubdivision.

Section 304.2 could have said what People's Counsel is urging the Board to adopt if that wording had been intended. It certainly is simpler than the wording that appears in the Section. The wording, however, clearly restricts only one kind of adjoining property. It only restricts adjoining property that

would otherwise legitimize the parcel and not adjoining property that of itself does not make the undersized parcel properly sized. If the three (3) acre minimum lot size is deemed to exist in this case, there is not sufficient adjoining land owned by the owner of the parcel to conform to the area requirements. We believe that if the Board believes that a minimum lot size of three (3) acres is applicable to the parcel, then the parcel clearly meets the qualifying conditions of Section 304 and should be considered an undersized lot.

V. NO MODIFICATIONS TO THE PARCELS ARE SOUGHT BY THIS PETITION FROM THE ORIGINAL DELINEATION ESTABLISHED PRIOR TO 1955, AND THIS CASE IS DISTINGUISHABLE FROM OTHER CASES WHERE THE PROPERTY OWNER OWNS ADJACENT LAND.

This case is different from other cases heard by the Board pertaining to Section 304. Other cases included modifications of lots that had been previously separated prior to 1955, such that lot line adjustments were required or else the pertinent sections did not contain the confusing wording of the R.C. 4 zones.

In this case when Mr. Kircher's parents purchased the two parcels, they clearly kept them separate and distinct. They not only chose to pay two (2) separate tax bills on the parcels over the next several decades but also developed the one parcel in such a way as to separate it from the other parcel. As the plan submitted by Mr. McKee shows, there are no improvements in common on the parcels. The septic and well areas on the developed one

(1) acre parcel meet all setback criteria. The house meets all setback criteria. The undeveloped 1.7 acre parcel also is capable of standing on its own. Its access to Bernoudy Road is one that was established prior to 1955. It has not been altered. The Deputy Zoning Commissioner asked as a condition of his order that the access be widened, and because Petitioners were willing to do so, the propriety of the requirement was never addressed.

The depictions of the parcels contained in the photographs submitted by the Petitioners further support their statement that the two parcels are indeed separate. The improved parcel has a nice yard in addition to driveways and other amenities. The 1.7 acre tract is totally wooded. Not only are there not improvements supporting the residence, there is no open space or yard area supporting the developed parcel. The two parcels are indeed held separately, and there was no evidence contrary to this claim.

Addressing common sense to the zoning regulations is always a hazardous and sometimes futile task. In this case, however, common sense would indicate that there are and were numerous ways for the drafters of the regulations to accommodate the desires of the Protestants. They could have changed the wording of the R.C. 4 zone to specify that in no event should a dwelling be allowed on lots of less than a specified area as they did in the D.R. zones. They did not. They could have stated when a one (1) acre and when a three (3) acre minimum applied. They did not. They could have stated that a property owner may not own any adjacent

property to an undersized lot. They did not. They could have stated that a person who treats two (2) adjoining parcels as separate parcels since the inception of the zoning regulations and pays taxes on them as separate parcels is subject to subdivision regulations. They did not. They could have prohibited the sale of one of the lots as a building lot. They did not. Protestants are asking the Board to do what the drafters of the regulations did not do for whatever reason and to rewrite the regulations. We would suggest that if the drafters of the regulations did not write the regulations to the satisfaction of the Protestants, the Board should not.

VI. THE COMPATIBILITY PROVISIONS OF SECTION 304 SHOULD EITHER BE FOUND NOT TO APPLY TO THE LOT OF RECORD, OR ALTERNATIVELY, THE REQUIREMENT SHOULD BE WAIVED.

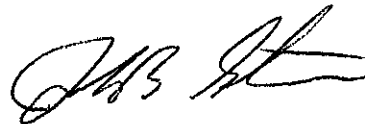
If Section 304 is not applicable to this parcel then the compatibility provisions of Section 304.2 are not applicable. If Section 304 is a controlling section, the compatibility guidelines should still be waived. No Protestant urged the following of the compatibility guidelines. No Protestant was even in a position to see a house that would be built on the parcel, and indeed the photographs and site plan indicate that any dwelling built on the parcel would be difficult to see even from neighboring properties. The distance from the dwelling on the adjoining large parcel is very large, and the adjoining smaller parcels are buffered by the many trees located on the

parcel. As Mr. McKee indicated, the compatibility provisions of Section 304 like the rest of the Section were really meant to address small lots in residential subdivisions where new dwellings would be right up against adjacent properties. Rural areas by their nature have a rich diversity in housing type and style. In addition, the other provisions of the R.C. 4 zone pertaining to lot coverage and removal of vegetation would apply to the site, and such provisions really do not exist in the D.R. zones (BCZR, Section 1A03.4B.3).

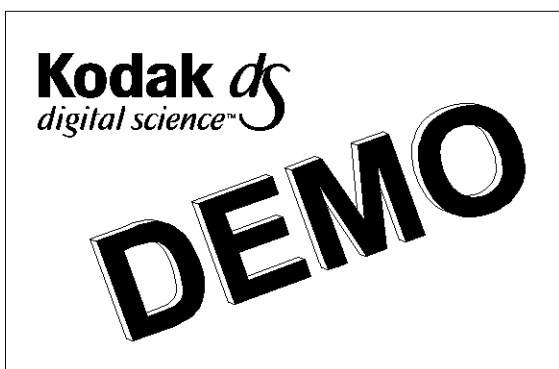
CONCLUSION

In conclusion, whether one looks to the history of the two parcels or the legal issues contained in the Zoning Regulations, the Petition of Jeffrey and Cheryl Kircher should be granted such that a dwelling as described on the site plan be permitted and the compatibility standards of Section 304 be found to be not applicable or waived.

Respectfully submitted,

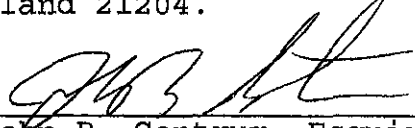


John B. Gontrum,
Attorney for Petitioners



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of January, 1997, a copy of the foregoing Petitioners Memorandum was mailed, postage prepaid, to People's Counsel for Baltimore County at 400 Washington Avenue, Towson, Maryland 21204.



John B. Gontrum, Esquire
ROMADKA GONTRUM & McLAUGHLIN, P.A.
814 Eastern Blvd.
Essex, Maryland 21221
(410) 686-8274
Attorneys for the Petitioner

RE: PETITION FOR SPECIAL HEARING
1012 Bernoudy Road, NE/S Bernoudy Road,
1750' SE of c/l Weisburg Road, 7th Election
District, 3rd Councilmanic

JEFFREY AND CHERYL KIRCHER
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
FOR
BALTIMORE COUNTY
CASE NO. 96-405-SPH

* * * * *

PEOPLE'S COUNSEL'S MEMORANDUM

STATEMENT OF THE CASE

Petitioners, JEFFREY AND CHERYL KIRCHER, reside at 1010 Bernoudy Road in White Hall, in northern Baltimore County. Their homesite is a 1-acre parcel, developed with a single family home, and used for residential purposes for many years. It is zoned Rural Conservation (R.C.-4) and fronts on Bernoudy Road, facing west. Bernoudy Road runs in a southeast/northwest direction off Weisburg Road.

The subject site consists of 1.75 acres, heavily wooded. It is located to the rear (east) of the Petitioners' home and has no frontage on Bernoudy Road, or any other road, except through the Petitioners' 1-acre parcel. The Petitioners filed for Special Hearing relief to develop the undersized 1.75 acres with a residence.

The Deputy Zoning Commissioner granted the Special Hearing. An appeal was filed by the OFFICE OF PEOPLE'S COUNSEL and by the WEISBURG COMMUNITY ASSOCIATION. David Boyd, President, and Marion Runkles, Vice-President, appeared and testified before the Board of Appeals.

The Petitioners did not testify before the Board of Appeals. Jim McKee, an engineer who prepared the site plan was the Petitioners' only witness.

STATEMENT OF FACTS

The Petitioners offered several deeds chronicling the creation and transfers of the parcels. The attached outline is a synopsis of the dates, grantors, and grantees. Clearly, the subject site was created by deed in 1954 from a larger tract. The Petitioners offered no evidence that the 1.75-acre site, or the adjacent 1-acre parcel, were part of an approved subdivision or received subdivision approval by the appropriate agency in Baltimore County.

The civil engineer, Mr. McKee, stated generally that the Rural Deferred Planning (RDP) zoning designation, which was a predecessor to the R.C. zones, required a one-acre minimum. However, he was not familiar with the zoning history of this site. More importantly, Mr. McKee was unable to provide any evidence that the subject site was lawfully subdivided with the approval of the Planning Office. Mr. McKee admitted he was not familiar with the Planning Office requirements prior to 1954.

The Petitioners did not testify, nor offer any evidence of their use of the parcels, the need to further develop, or the history of the site.

The engineer stated that surrounding properties developed with single family dwellings appeared to be similar in size to the subject site. However, he admitted that he did not review the deeds, had no personal knowledge of the exact dimensions, and did not know their zoning history.

He acknowledged that the subject property and the Petitioners' homesite appeared as a single site and was used as such.

MR. BOYD testified that the WEISBURG COMMUNITY ASSOCIATION opposed the Special Hearing relief as out of character and disruptive for the area. He resides within 1000 feet of the proposed development, and described the majority of homes on Bernoudy as farm houses or single family homes on at least 3 acres. Many of these homes have wooded acreage to the rear similar to the Petitioners'. Most dwellings front onto Bernoudy Road. MR. BOYD knew the Petitioner's parents who owned the parcels prior to Petitioners. There was

never an attempt to develop the 1.75 acres or use the parcels separately.

MR. RUNKLES, the Association vice-president, resides on York Road, near its intersection with Weisburg Road, approximately 1 1/2 miles from the site. He seconded MR. BOYD'S testimony. MR. RUNKLES noted that newer developments as well as older homes were constructed on larger lots than the subject site. A residential development on York Road near Weisburg, zoned R.C.-5, consisted primarily of 3-acre lots, although the zone requires a 1-acre minimum.

LEGAL ARGUMENT

The attached Zoning History chronicles the applicable Baltimore County Zoning Regulations.

A. The Rural Conservation zones were first enacted in 1975 (Bill 98-75) and mapped in 1976 to protect the rural, agricultural, and watershed areas of Baltimore County. Public water and sewerage were never planned for these areas. The R.C.-4 zone applied to areas requiring protection and has maintained the largest minimum acreage requirement of all the R.C. zones. It was determined that 3 acres was the absolute minimum needed to provide an adequate septic area and a well on lots near Baltimore County's water resources. Contamination, percolation, and types of soil were considerations for establishing density and area regulations in the R.C.-4 zone.

Baltimore County Zoning Regulations (BCZR) Section 1A03.1 sets forth these requirements in the R.C.-4 zone.

A tract less than 6 acres cannot be subdivided. A tract between 6 and 10 acres can be subdivided into no more than 2 lots, each of which must be a minimum of 3 acres. Tracts over 10 acres have .2 density per acre, with a 3-acre minimum lot size unless clustering is elected. With no evidence that the undersized parcels are legal lots, the 2.75 acres is a tract less than 6 acres that cannot be subdivided.

Developments currently proposed must follow these density and lot size standards.

The Regulations provide for two exceptions from current regulations for development in R.C.-4 zones:

(1) Section 103.3 provides for development in accordance with a subdivision plat that was approved by the Baltimore County Planning Board or Planning Commissioner. (Emphasis added)

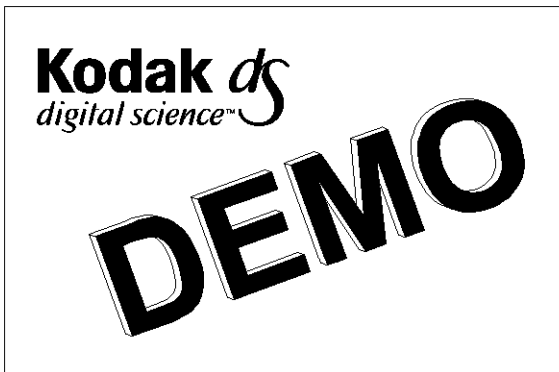
(2) Section 1A03.4.B.4 provides for development on a lot recorded prior to December 22, 1975 in accordance with the Regulations in effect at the time the lot was approved by the Baltimore County Planning Office. (Emphasis added)

A parcel created by any other means must follow current regulations. In the instant case, the Petitioners' witness acknowledged the site was not a part of a recorded subdivision plat. Likewise, he admitted that none of the deeds creating the subject parcels contained language indicating approval of the Planning Office.

Clearly, the subject site does not meet the requirements for either exception to the current regulations for the R.C.-4 zone. Therefore, the 1.75-acre parcel and the 1-acre parcel were created illegally. The Zoning Regulations never intended to sanction illegal

subdivisions. The 1945, and is defined

"the division of building divisions of streets or resulting testamentar



d in the Zoning Regulations since

more lots, sites or other or future, of sale or ions shall not be tle, provided, that no new icultural purposes where , divisions of property by operty upon court order.

Subdivision also includes resubdivision, and where appropriate to the context, relates to the process of sub-dividing or to the lands or territory divided."

The current definition of "subdivision" in BCZR Section 101 contains the same elements. To grant an illegal subdivision an exemption from current regulations is a further distortion of the intent of the Regulations. The Petitioners own an R.C.-4 tract of less than 6 acres and must abide by the current Regulations applicable to such a tract.

B. Nor are the Petitioners entitled to relief under Section 304 if it is applicable to development in the R.C.-4 zone. Petitioners cannot satisfy Section 304.1C, which states:

"Section 304 -- USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955; Bill No. 47, 1992.]

- 304.1 A one-family detached or semi-detached dwelling may be erected on a lot having having an area or width at the building line less than that required by the area regulations contained in these regulations if:
- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955; {B.C.Z.R., 1955; Bill No. 47, 1992.}
 - B. All other requirements of the height and area regulations are complied with; **and** {B.C.Z.R., 1955.}
 - C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations. [B.C.Z.R., 1955; Bill No. 47, 1992.]" (Emphasis added.)

Petitioners own the entire contiguous 2.75 acres consisting of the two lots; it is improved with a dwelling and has a residential use which has been maintained as such for many years. They offered no testimony that the site cannot be continued as such.

It can only be assumed that the Petitioners intend to further develop for profit. This Board has denied relief under Section 304 for Petitioners who attempt to create a new undersized lot for personal gain (see In re Johnson, In re Grill, In re Blasy). These decisions have been affirmed on appeal.

Section 304 does not grant relief for every lot or parcel created under a pre-1955 deed. Development is limited to those single lots, not in common ownership with a contiguous parcel, requiring no variances and compatible with the neighborhood. Development in the R.C.-4 zone must be subject to the same standards. Moreover, the testimony of MR. BOYD who resides within 1000 feet of the site evidences that the

proposed development violates the compatibility requirement of BCZR Section 304.2.

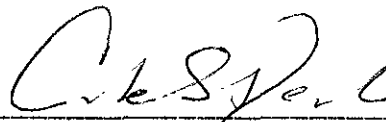
SUMMARY

The Petitioners' 2.75-acre site is undersized under current R.C.-4 regulations. It has a use as a residential homesite. A further subdivision, however, compounds noncompliance and compromises the neighborhood. Special Hearing relief cannot be granted for an undersized lot created without Office of Planning approval and in violation of Section 304.1C.

The Office of People's Counsel's argument is summarized in outline form attached hereto.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January, 1997, a copy of the foregoing People's Counsel's Memorandum was mailed to John B. Gontrum, Esq., Romadka, Gontrum & McLaughlin, 814 Eastern Boulevard, Baltimore, MD 21221, attorney for Petitioners, and to Weisburg Community Association & PTU, P.O. Box 11, White Hall, MD 21161, Protestants.



CAROLE S. DEMILIO

HISTORY OF SITE

- 7-17-47 Jones conveys part of entire tract to VanDykes
- 1-26-48 Jones conveys remainder of entire tract to VanDykes
- 5-28-52 VanDykes deed entire tract to Hacklers
- 8-9-52 Hacklers deed part of tract to their own trust
- 6-17-53 Hacklers deed part of tract to Carriers
- 7-10-54 Of remainder, Hacklers create 1 acre parcel by deed to
Openshaws and reserve 12ft. right-of-way
- 2-11-55 Hacklers deed balance of tract, 1.7 acres, to Openshaws
- 9-16-61 Openshaws deed 1 acre to Everts
- 9-16-61 Openshaws deed 1.7 acres to Everts
- 10-12-63 Everts deed 1 acre and 1.7 acres to Globe Homes, Inc.
- 3-23-64 Globe Homes deeds 1 acre & 1.7 acres back to Everts,
as joint tenants
- 6-29-66 Surviving Everts (Carl died 9-2-65) deed 1 acre and 1.75
acres to Kirchers
- 6-18-92 Deed of 1 acre and 1.7 acres from Kirchners (parents) to
Kirchners (children) with reference to one
address for both lots as 1010 Bernoudy Rd.

Note: The existing dwelling fronts on Bernoudy Road - 1 acre

The only access for the proposed dwelling on 1.75 acres is by right-of-way over the 1 acre parcel.

ZONING HISTORY

- 1945 - Planning Commission for Baltimore County is created and zoning implemented.
- 1955 - Baltimore County enacts comprehensive zoning regulations
- 1955 - Section 304 provides relief for undersized lots provided certain conditions exist
- 1955-1970 - Rural areas zoned R 6 with 6000 sq. ft minimum lot size or R-40 with 40,000 sq ft minimum lot size
- 1970 - Two rural classifications: Rural: Deferred-Planning (10 acre Minimum) and Rural Suburban: Conservation (3 acre Minimum lot size for areas north of Loch Raven)
- 1971-Dec., 1976 - Density for RDP and RSC is 1 acre minimum
- 1976 - Changes to rural zoning established R C zones;
BCZR 1A03.1 - **RC 4** has .2 density per acre and 3 acre minimum lot size for tracts over 10 acres.
- a lot between 6 and 10 acres can be subdivided into only two lots of no less than three acres each
- the Regulation states a tract **less than 6 acres may not be subdivided**
- 1992 - BCZR enacts amendments to RC 4 zone to permit clustering of minimum 1 acre lots on tracts of 10 acres or more

UNDERSIZED LOTS IN RC 4 ZONE

1. RC 4 zoned property is not serviced by public sewer and water and health concerns require sufficient area to provide these services.
2. RC zones maintain minimum acreage requirements regardless of density.
3. RC 4 required minimum lot size of 3 acres since 1979, until clustering legislation permitted smaller lots on tracts over ten acres, provided certain conservancy areas were established; the subject site is well under 10 acres, thus clustering development on 1 acre lots is not permitted.
4. BCZR 1A03.4 B.1.a. states that a tract to be developed in an RC 4 zone which is less than 6 acres may not be subdivided; there is no density attributed to a tract less than 6 acres - only one house can be built on it since no subdivision is permitted; in the case at hand, the tract is 2.75 acre with one house on the site; thus it cannot be further subdivided.
5. An exemption from current regulations is permitted in the RC 4 zone under BCZR 1A03.4.B.4 provided the lot was recorded prior to December 22, 1975 with the approval of the Baltimore County Planning Office;
6. In this case, the division of the entire tract into separate parcels was done by the owners by deed; there is no evidence that any lot was created with the approval of the Planning Office.
7. BCZR 103.3 grandfathers certain subdivision plats in the RC zones from current regulations, and permits development in accordance with the plats, provided the subdivision was approved by the Baltimore County Planning Board or Commission.
8. There is no evidence in the instant case that the subdivision into various lots, and particularly the 1.75 and 1 acre parcels, was approved by the Planning Board or Commission - it is in effect an illegal subdivision, even under the Regulations at the time.
9. **In summary**, the Special Hearing must be denied under the RC 4 regulations for the following reasons:
 - a. The tract consisting of a total of 2.75 acres never received subdivision approval under BCZR 103.3, or lot approval under BCZR 1A03.4.B.4.
 - b. The tract is less than 6 acres and cannot be subdivided.
 - c. One house exists on site - a second house would be subdividing a tract less than 6 acres in an RC 4 zone, which is

prohibited.

d. The proposed development would be on a lot less than 3 acres.

10. In applying BCZR 304.1 (Undersized Lot), the special hearing must be denied for the following reasons:

a. Even if Petitioner claimed a lot duly recorded prior to March 30, 1955, the RC 4 regulations require a lot created prior to December 22, 1975 to have approval of the Planning Office.

b. Petitioners own adjoining property (1 acre parcel), which, along with the subject site of 1.75 acres, was used together over the years; the Petitioners do not satisfy the requirement of 304.1 (c).

c. In similar recent cases in D.R. zones, this Board has consistently held that relief must be denied. (See Johnson, Grill, Blasey, which have been upheld by the Circuit Court and Court of Special Appeals on appeal).

d. Proposals to develop on undersized lots in the RC zones should not be treated more favorably than other residential sites in the DR zones, particularly when the RC 4 regulations require Plannign Office or Planning Board approval.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

June 3, 1996

John B. Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: PETITION FOR SPECIAL HEARING
NE/S Bernoudy Road, 1750' SE of the c/l of Weisberg Road
(1012 Bernoudy Road)
7th Election District - 3rd Councilmanic District
Jeffrey L. Kircher, et ux - Petitioners
Case No. 96-405-SPH

Dear Mr. & Mrs. Kircher:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

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

Very truly yours,

A handwritten signature in cursive script that reads "Timothy M. Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. & Mrs. Jeffrey L. Kircher
1010 Bernoudy Road, White Hall, Maryland 21161

Mr. James Grammer, McKee & Associates, Inc.
5 Shawan Road, Hunt Valley, Md. 21030

People's Counsel

File



RE: PETITION FOR SPECIAL HEARING
1012 Bernoudy Road, NE/S Bernoudy Road,
1750' SE of c/l Weisberg Road
7th Election District, 3rd Councilmanic

Jeffrey and Cheryl Kircher
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 96-405-SPH

* * * * *

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

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 1996, a copy of the foregoing Entry of Appearance was mailed to McKee & Associates, Inc., 5 Shawan Road, Hunt Valley, MD 21030, representative for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1012 Bernoudy Road

96-405-SPH

which is presently zoned RC-4

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 Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

The use of an existing undersized lot of record for the construction of a single family dwelling, and that the undersized lot of record should be exempt from the compatibility review as required by Section 304.2 of the BCZR.

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

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

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

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

Legal Owner(s):

Jeffrey L. Kircher

(Type or Print Name)

Signature

Cheryl L. Kircher

(Type or Print Name)

Signature

1010 Bernoudy Road 343-2322
Address Phone No

White Hall, Maryland 21161
City State Zipcode
Name, Address and phone number of representative to be contacted.

McKee & Associates, Inc. 527-1555
Name
5 Shawan Road, Hunt Valley, MD 21030
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 hr
unavailable for Hearing

the following dates Next Two Months
ALL OTHER

REVIEWED BY: [Signature] DATE 4/16/96



MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

SHAWAN PLACE, 5 SHAWAN ROAD

HUNT VALLEY, MARYLAND 21030

Telephone: (410) 527-1555

Facsimile: (410) 527-1563

April 10, 1996

96-405-SPH

ZONING DESCRIPTION
1012 BERNOUDY ROAD
EIGHTH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Beginning at a point in the center of Bernoudy Road at the distance of 1,750 feet more or less measured southeasterly from Weisburg Road; then running along the center of Bernoudy Road southeasterly 12 feet more or less to a point; then North 57° East 193 feet more or less to a point; then North 57° East 213.15 feet to a point; then North 08° 25' West 371.7 feet to a point; then South 42° 30' West 349 feet more or less to a point; then South 33° East 237 feet more or less to a point; then South 57° West 195 feet more or less to the point of beginning.

Containing 76,380 square feet or 1.75 acres of land, more or less, lying in the Eighth Election District of Baltimore County, Maryland. Being known as 1012 Bernoudy Road.

Being Parcel Two and the 12 foot right-of-way described in a deed dated June 8, 1992 and recorded among the Land Records of Baltimore County in Liber 9237, folio 34.

400

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

96-405-SP-1

District: 7th Date of Posting: 4/21/96

Posted for: Special Hearing

Petitioner: Jeffrey & Cheryl Miceha

Location of property: 1012 Bermuda Rd

Location of Signs: Being placed on property being zoned

Remarks: _____

Posted by: [Signature] Date of return: 4/24/96

Number of Signs: 1



NOTICE OF HEARINGS

The Zoning Commission of Baltimore County is hereby holding a public hearing on the proposed use of the property identified herein in the Building, 117 W. Gesspeake Avenue in Towson, Maryland 21284 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21286.

1002 Broadway Road
Towson, Maryland 21286
SE of Westing Road
7th/Deaton/Usurt
3rd Courthouse
Legal Owners:
Jeffrey E. Kucher and Cheryl L. Kucher

Special Hearing: to approve the use of existing, undisturbed lot record for the construction of a single family dwelling and that the undisturbed lot record should be exempt from the comparability review.
Hearing: Thursday, May 23, 1996 at 9:00 a.m. in Rm. 106, County Office Building.

LAWRENCE E. SCHNAUPT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible, for special accommodations Please Call 887-3353.
(2) For information concerning the File and/or Hearing, Please Call 887-3391.

5/23/96 May 23, 1996

CERTIFICATE OF PUBLICATION

TOWSON, MD., 5/2, 1996

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 5/2, 1996.

THE JEFFERSONIAN,
A. H. Emick
LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

(b)

DATE 4/16/96 ACCOUNT 01-615

Item: 400
By: TRFK

AMOUNT \$ 85.00

RECEIVED FROM: McKee Assoc (Kircher) 1012 Bernoulli Rd
030- Spec. Hearing = \$50.00
080 - 1 sign = \$35.00
FOR: \$85.00

010000001NICHRC \$85.00
BY 0003136FND, 16 96

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

96-405
✓

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE 7/1/96 ACCOUNT A-001-6150

AMOUNT \$ 210.00

RECEIVED FROM: Wiseburg Community Assoc, Inc.
Sign 35
FOR: Spec. Hear. 175.
210.

03A9TND068MICHRC \$210.00
BA 0002132FND7-01-96

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

TRYE

BALTIMORE COUNTY, MARYLAND
OFFICE OF REVENUE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

N

DATE 7/1/96 ACCOUNT R-001-6150

AMOUNT \$ 210.00

RECEIVED FROM: Wiseburg Community Assoc., Inc.

FOR: Spec. Hear. ³⁵ 175.

^{210.}
03A9I#0068MICRC \$210.00
BA 002#32PM07-01-96

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

TRUE

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

96-405-57A

District: 7E Date of Posting: 7/5/96

Posted for: Appeal

Petitioner: Jeffrey Littlejohn & Co

Location of property: NELs Bernoulli Rd #10R

Location of Sign: Facing 200' along on property being appealed

Remarks: _____

Posted by: [Signature] Date of return: 7/15/96

Number of Signs: 1





Baltimore County
 Department of Permits and
 Development Management

Development Processing
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring 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 accessed 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.: 400 Petitioner: Jeffrey L. Kircher

Location: ~~1010~~ 1012 BERNOUDY ROAD

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Jeffrey L. Kircher

ADDRESS: 1010 Bernoudy Road

White Hall, MD 21161

PHONE NUMBER: (410) 343-2322

TO: PUTUXENT PUBLISHING COMPANY
May 2, 1996 Issue - Jeffersonian

Please forward billing to:

Jeffrey L. Kircher
1010 Bernoudy Road
White Hall, MD 21161
343-2322

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: 96-405-SPH (Item 400)
1012 Bernoudy Road
NE/S Bernoudy Road, 1750' SE of c/l Weisberg Road
7th Election District - 3rd Councilmanic
Legal Owner(s): Jeffrey L. Kircher and Cheryl L. Kircher

Special Hearing to approve the use of existing undersized lot of record for the construction of a single family dwelling and that the undersized lot of record should be exempt from the compatibility review.

HEARING: THURSDAY, MAY 23, 1996 at 9:00 a.m. in Room 106, County Office Building.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

April 25, 1996

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: 96-405-SPH (Item 400)
1012 Bernoudy Road
NE/S Bernoudy Road, 1750' SE of c/l Weisberg Road
7th Election District - 3rd Councilmanic
Legal Owner(s): Jeffrey L. Kircher and Cheryl L. Kircher

Special Hearing to approve the use of existing undersized lot of record for the construction of a single family dwelling and that the undersized lot of record should be exempt from the compatibility review.

HEARING: THURSDAY, MAY 23, 1996 at 9:00 a.m. in Room 106, County Office Building.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Jeffrey and Cheryl Kircher
McKee & Associates, Inc.

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.





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

Hearing Room - Room 48 (410) 887-3180
Old Courthouse, 400 Washington Avenue

September 24, 1996

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 96-405-SPH

JEFFREY L. KIRCHER, ET UX -Petitioner
NE/s Bernoudy Road, 1750' SE of c/1 of
Weisberg Road (1012 Bernoudy Road)
7th Election District
3rd Councilmanic District

SPH -Approval of use of existing undersized lot of record for single-family dwelling; and that lot is exempt from compatibility requirement of BCZR.

6/03/96 -D.Z.C.'s Order in which Petition for Special Hearing was GRANTED.

ASSIGNED FOR: THURSDAY, DECEMBER 5, 1996 at 10:00 a.m.

cc: David Boyd, et al and the Appellants /Protestants
Weisburg Community Assn.

People's Counsel for Baltimore County Appellant

Mr. & Mrs. Jeffrey L. Kircher Petitioners
John B. Gontrum, Esquire

Mr. James Grammer /McKee & Associates

Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Legal Administrator



CASE NO. 96-405-SPH

Jeffrey L. Kircher, et ux - Petitioner

NE/S. Bernouy Road, 1750' SE of the c/v of
Weisberg Road (1012 Bernouy Road)

7th Election District

Appealed: 6/27/96
and 6/28/96



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

May 16, 1996

Jeffrey and Cheryl Kircher
1010 Bernoudy Road
White Hall, Maryland 21161

RE: Item No.: 400
Case No.: 96-405-SPH
Petitioner: Jeffrey Kircher, et ux

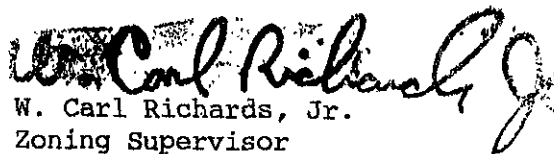
Dear Mr. and Mrs. Kircher:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on May 15, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,


W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)





**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary
Hal Kassoff
Administrator

4-30-96

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 400 (MJK)


Dear Ms. Watson:

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 affected by any State Highway Administration projects.

Please contact Bob Small at 410-545-5581 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for 
Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 5-15-96

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: 4-29-96

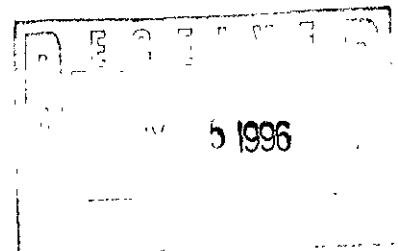
The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

399, 400, 406, 409

RBS:sp

BRUCE2/DEPRM/TXTSBP



Baltimore County Government
Fire Department



700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410) 887-4880

DATE: 04/30/96

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

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF APRIL 29, 1996.

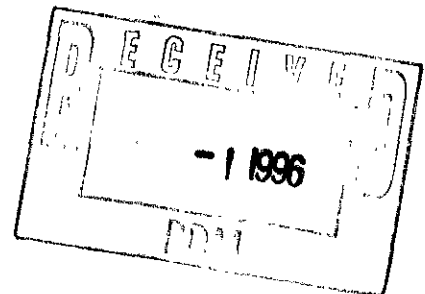
Item No.: SEE BELOW

Zoning Agenda:

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.

B. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 400, 401, 402, 403, 404, 405,
406, 407, 408 and 409.



REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
 Permits and Development
 Management

DATE: May 1, 1996

FROM: Pat Keller, Director
 Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 399, (400), 406, 407, 408 and 409. (S)

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 887-3495.

Prepared by:

Jeffrey W Long

Division Chief:

Gary L. Kern

PK/JL:lw

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: May 6, 1996

FROM: *RWB* Robert W. Bowling, Chief
Development Plans Review Division
Department of Permits & Development
Management

SUBJECT: Zoning Advisory Committee Meeting
for May 6, 1996
Item No. 400

The Development Plans Review Division has reviewed the subject zoning item. If approval is granted for the use of the undersized lot (parcel 2), a 20-foot in-fee access strip to the local street will be required per the panhandle regulation adopted in December 1989.

RWB:HJO:jrb

cc: File

ZONE9A

PETITION PROBLEMS

#400 --- MJK

1. No undersized lot information.

#401 --- MJK

1. No undersized lot information.

#402 --- MJK

1. No undersized lot information.

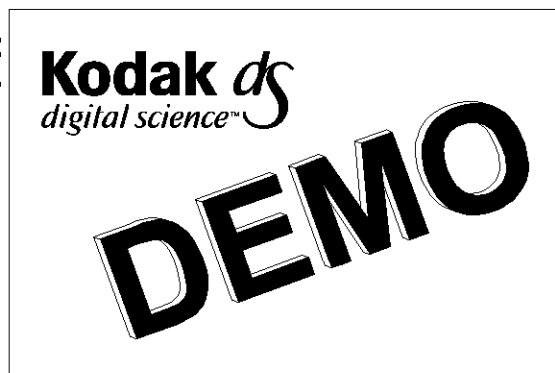
#403 --- MJK

1. Need name of the "Heirs of Herman I. Altenburg & Augusta Altenburg".
2. Need authorizatic
3. Need telephone r

gal owner.

#406 --- MJK

1. Notary section is



#407 --- JJS

1. Notary section is incomplete/incorrect.

#409 --- JCM

1. No section number or wording on petition form.
2. No telephone number for legal owner.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

July 2, 1996

Mr. and Mrs. Jeffrey L. Kircher
1010 Bernoudy Road
White Hall, Maryland 21161

RE: Petition for Special
Hearing
NE/S Bernoudy Road,
1750' SE of the c/l of
Weisberg Road
(1012 Bernoudy Road)
7th Election District
3rd Councilmanic District
Jeffrey L. Kircher, et ux
- Petitioner
Case No. 96-405-SPH

Dear Mr. and Mrs. Kircher:

Please be advised that an appeal of the above-referenced case was filed in this office on June 27, 1996 by David Boyd, Marion Runkles, and Ted Merchant on behalf of the Weisburg Community Association and on June 28, 1996 by Peter Zimmerman and Carole S. Demilio, People's Counsel of Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals, (Board).

If you have any questions concerning this matter, please do not hesitate to call 887-3180.

Sincerely,

A handwritten signature in cursive script that reads "Arnold Jablon".

ARNOLD JABLON Rye
Director

AJ:rye

cc: John B. Gontrum, Esquire
Mr. James Grammer
Mr. David Boyd
People's Counsel

96 JUL - 2 11 27



APPEAL

Petition for Special Hearing
NE/S Bernoudy Road, 1750' SE of the c/l of Weisberg Road
(1012 Bernoudy Road)
7th Election District - 3rd Councilmanic District
Case No. 96-405-SPH
Jeffrey L. Kircher, et ux - Petitioner(s)

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Petitioner's Exhibits: 1 - Plan to Accompany Special Hearing
2 - Deed for 1010 Bernoudy Road
3 - Tax Assessor Address Verification
4 - Eleven Photographs

Deputy Zoning Commissioner's Order dated June 3, 1996 (Granted)

Notice of Appeal received on June 27, 1996 from David Boyd, Marion Runkles, and Ted Merchant on behalf of Weisburg Community Association and on June 28, 1996 from Peter Zimmerman and Carole Demilio People's Counsel of Baltimore County

cc: Mr. and Mrs. Jeffrey L. Kircher, 1010 Bernoudy Road, White Hall, Maryland 21161
Mr. James Grammer, McKee & Associates, Inc., 5 Shawan Road, Hunt Valley, Maryland 21030
Mr. David Boyd, President, Weisburg Community Association & PTU, Post Office Box II, White Hall, Maryland 21161
John B. Gontrum, Esquire, 814 Eastern Blvd., Balto., MD 21221-3518
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

9/24/96 -Notice of Assignment for hearing scheduled for Thursday,
December 5, 1996 at 10:00 a.m. sent to following:

David Boyd, et al and the
Weisburg Community Assn.
People's Counsel for Baltimore County
Mr. & Mrs. Jeffrey L. Kircher
John B. Gontrum, Esquire
Mr. James Grammer /McKee & Associates
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

12/05/96 -Hearing before the Board; memos due from parties 1/30/97; to
be deliberated after receipt of same and distribution to panel
members.

-Received from People's Counsel

1/29/97

Received from John Gontrum

1/30/97

Copies to Panel Members

L

W

C

1/31/97

12/05/96- Notice of Deliberation sent to parties; deliberation scheduled
for Tuesday, February 11, 1997 at 9:30 a.m.

12/31/96 -T/C from Jessica for John Gontrum; will be unable to attend
deliberation on 2/11/97; will be teaching seminar that date; may
send representative to sit in on delib and requests copy of minutes
when prepared.

1/03/97 -Letter from J. Gontrum requesting postponement /rescheduling of deliberation
on 2/11/97.

- Response to Mr. Gontrum's request; deliberation will go forward on 2/11/97 as
scheduled; request must be denied.



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

June 28, 1996

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Re: PETITION FOR SPECIAL HEARING
1012 Bernoudy Road, NE/S Bernoudy Rd.
1750' SE of the c/l Weisberg Road
7th Election Dist., 3rd Councilmanic
JEFFREY KIRCHER, ET UX., Petitioners
Case No. 96-405-SPH

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Order dated June 3, 1996 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: John B. Gontrum, Esquire
Attorney for Petitioners

David Boyd, President
Weisburg Community Association & PTU

3:46
28 June
[Handwritten initials]

Weisburg Community Association & PTU
Post Office Box II
White Hall, MD 21161
June 25, 1996

96-3634
6/27/96
cf
s J

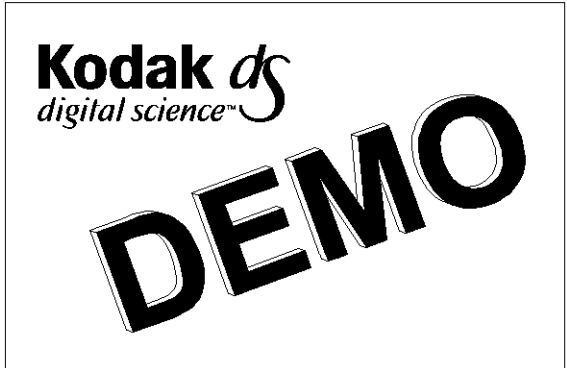
Arnold Jablon
Director of Permits & Development Management
111 W. Chesapeake Ave., room 106
Towson, MD 21204

Dear Mr. Jablon:

Please enter this a
case # 96-405-SPH
of the c/l of Weisbu
Jeffrey L. Kircher, e

Enclosed is a chec

Please forward the



on order of commissioner,
E/S Bernoudy Rd., 1750' SE
it., 3rd Councilmanic Dist.,

Yours truly,

Handwritten signature of David Boyd in cursive.

David Boyd, President

Handwritten signature of Marion Runkles in cursive.

Marion Runkles, Vice-President

Handwritten signature of Ted Merchant in cursive.

Ted Merchant, Secretary/Treasurer

Weisburg Community Association

JUN 27 1996

Weisburg Community Association & PTU
Post Office Box II
White Hall, MD 21161
June 25, 1996

Arnold Jablon
Director of Permits & Development Management
III W. Chesapeake Ave., room 106
Towson, MD 21204

Dear Mr. Jablon:

Please enter this appeal to the County Board of Appeals from order of commissioner, case # 96-405-SPH, June 3, 1996. Concerning property: NE/S Bernoudy Rd., 1750' SE of the c/l of Weisburg Rd. (1012 Bernoudy Rd.), 7th Elect. Dist., 3rd Councilmanic Dist., Jeffrey L. Kircher, et ux-Petitioners.

Enclosed is a check for \$210 for filing fee and posting.

Please forward the records to the county board of appeals.

Yours truly,

David Boyd, President

Marion Runkles, Vice-President

Ted Merchant, Secretary/Treasurer

Weisburg Community Association

June 28, 1996

Dear Mr. Jablon:

The attached was sent in & signed by myself, Mr. Runkles & Mr. Merchant.

I would like to make it clear that all three of us, as residents of White Hall, MD, are appealing this case, as well as our association, Weisburg Community Association.

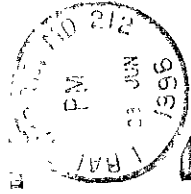
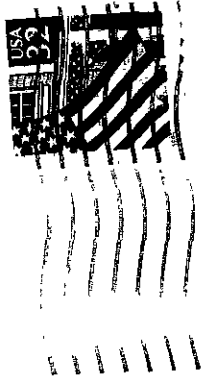
Yours truly,

David Boyd

David Boyd, Pres.
Weisburg Comm. Assoc.

1996

Weisburg Comm. Assoc. & PTU
POBox 11
White Hall, MD 21161



Mr. Arnold Jablon, Dir. of Permits & Dev. Management
111 W. Chesapeake Ave., Room 106
Towson, MD 21204



21204/ae02

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221

(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

TOWSON OFFICE:
307 W. ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 825-0711

ELIZABETH A. VANNI
JILL D. LOPER

* Also Admitted In the District of Columbia

December 31, 1996

Robert O. Schuetz, Chairman
Board of Appeals
400 Washington Avenue, Room 49
Towson, Md 21204

Dear Mr. Chairman:

I note that a deliberation has been set for the Kircher matter on February 11, 1997. Memos are due in the case for the end of January. I realize that it is unusual to request a postponement of a deliberation, but I do believe that it is important to attend these sessions. Even though attorneys are not often invited to speak, the deliberations which I have attended usually have some sort of discussion, and I believe it discourteous to the Board, who takes the time to deliberate not to be present for their decision.

Unfortunately, on February 11, I have been scheduled to present a seminar on property law. This was scheduled last summer, and since it was so unusual for me to be asked to teach anything, I hated to pass on the opportunity. More important, it really gives me a chance to brush up on areas of the law, and as you may have noted, I should not pass on opportunities for education.

Please let me know if this matter can be rescheduled. Thank you for your consideration.

Very truly yours,



John B. Gontrum

cc. Jeffrey and Cheryl Kircher



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

January 3, 1997

John B. Gontrum, Esquire
ROMADKA, GONTRUM & McLAUGHLIN
814 Eastern Boulevard
Baltimore, MD 21221

RE: Case No. 96-405-SPH
Jeffrey Kircher, et ux -Petitioners

Dear Mr. Gontrum:

The Board is in receipt of your letter dated December 31, 1996 requesting that the deliberation in the subject matter, scheduled for February 11, 1997, be rescheduled.

As I'm sure you know, the only business to be transacted at this meeting will be Board deliberation. There will be no hearing, nor will any evidence or testimony be taken. In addition, the three panel members who heard this case on December 5, 1996 are once again assembled for the deliberation, and they have already cleared this date on their calendars.

Therefore, upon consideration of the above, as well as the fact that the Board attempts to schedule the deliberation in an expeditious manner, and at this time the Board's docket is scheduled into April, your request to reschedule must be denied.

While the Board appreciates your interest in attending this session, the deliberation set for February 11th will be held as scheduled.

Very truly yours,

A handwritten signature in cursive script that reads "Robert O. Schuetz".

Robert O. Schuetz, Chairman
County Board of Appeals

cc: Jeffrey and Cheryl Kircher
People's Counsel for Baltimore County



file copy



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

December 5, 1996

NOTICE OF DELIBERATION

Having concluded the hearing in this matter on December 5, 1996, the Board has scheduled the following date and time for deliberation in the matter of:

JEFFREY L. KIRCHER, ET UX /CASE NO. 96-405-SPH

DATE AND TIME : Tuesday, February 11, 1997 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

Please note: Memorandums are due (Original and three copies) on Thursday, January 30, 1997.

cc: David Boyd, et al and the Appellants /Protestants
Weisburg Community Assn.

People's Counsel for Baltimore County Appellant

Mr. & Mrs. Jeffrey L. Kircher Petitioners
John B. Gontrum, Esquire

Mr. James Grammer /McKee & Associates

Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Copied: L.W.C.

Kathleen C. Bianco
Legal Administrator



COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Jeffrey L. Kircher, et ux -Petitioner
Case No. 96-405-SPH

DATE : February 11, 1997 @ 9:30 a.m.

BOARD /PANEL : Lawrence M. Stahl, Acting Chairman (LMS)
Margaret Worrall (MW)
Charles L. Marks (CLM)

SECRETARY : Kathleen C. Bianco
Legal Administrator

Among those present at the deliberation were Jill D. Loper, Esquire, ROMADKA, GONTRUM & MCLAUGHLIN, counsel for Petitioners; Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel, Appellant; and representatives of Weisburg Community Association, Appellants /Protestants.

PURPOSE --for public deliberation of matter on appeal in Case No. 96-405-SPH; testimony and evidence received at hearing on December 5, 1996.

LMS: Good morning, everyone. We are here for the deliberation session of the Baltimore County Board of Appeals, and this is matter No. 96-405-SPH regarding the petition of Jeffrey L. Kircher, and it was a matter that was heard back in December, memorandums having been provided by Counsel for the Petitioners, as well as the People's Counsel for Baltimore County.

There has been no memorandum filed on behalf of the community association that was here, but I would assume they would generally agree with the position taken by People's Counsel. For those never here before, this is a deliberation session. There is no record. Notes are being taken by the Administrative Assistant of the Board to assist us later on in writing a written Opinion as we are required to do.

We are here to comply with the open meetings law, and just a word about that for the moment. I have been rather clear in my opinion as to the appropriateness and efficacy of this procedure. I understand the motivation in having all zoning matters and others called for in the open meetings law done in a public arena. As an attorney, I do find that it is difficult to have the kind of interplay as we have as members of the Board in matters without the open meetings law. We are here as a result of a decision by the Circuit Court as to what

Deliberation /Jeffrey L. Kircher, et ux /Case No. 96-405-SPH

that law means. My only comment is that I wonder if our brethren across the street or on Rowe Boulevard would want to determine all their cases under the same procedures they have required us to do. Somehow, I doubt it, but having said that, we will, nevertheless, comply.

The procedure is simple. We will each have something to say, after which, if a decision is reached, the deliberation will end. If back-and-forth discussion is needed, we will have it. There will be no comments from anyone else. We welcome you and hope you derive something positive from the experience.

CLM: I will preface my remarks by saying I am personally appreciative of the briefs submitted to the Board. They were very well written, very well documented, very succinct, and state the divergent viewpoints that make this necessary. The use of an existing undersized lot of record on which the Petitioner desires to construct a single-family dwelling -- exemption from compatibility review. One is improved on one acre of ground; other is 1.7 acres.

The two lots have not been subdivided since 1955; were taxed separately and are independent of one another. The Board heard from Mr. McGee in support of request; knowledgeable in areas of land development, site plan, zoning regulations. Testimony was accompanied by a wide range of photos.

Officials of the local community association also appeared in opposition to the request. There is no doubt but that the unimproved 1.7-acre lot is heavily wooded property served by a private well and sewerage. The two lots were separate and distinct parcels. People's Counsel has also supplied change of deed with their Brief, with the last taking place in 1992, when the parents of the Kirchers deeded the one acre, address of 1010 Bernoudy Road, by deed, which shows transfer of separate acreage as far back as 1961 to 1992. At issue, I think, is the applicability of lot size in R.C. 4 zone. People's Counsel and Protestants argue that any development proposed must satisfy the zoning regulations regarding R.C. 4 development zone: (1) approved by Planning Board; (2) plat recorded after 12/2/75, in accordance with regulations in effect at the time of approval.

The numbers of the sections of the zoning regulations have been cited in both Briefs, which I read on three separate occasions: Section 101 defining lots of record; section 304 relative to undersized lots; and section 1A03.4B.4 -local conservation zone -designated by the County Council to protect rural areas of the County. R.C. 4 zone does have the largest minimum acreage requirement when compared to other RC zones.

Deliberation /Jeffrey L. Kircher, et ux /Case No. 96-405-SPH

Less than 6 acres cannot be subdivided; whether or not lots in question fall within the RC 4 zone requirements or only minimum lot size; Counsel for Petitioner argues that existing lots of record would be buildable absent need for height/area variances.

Section 1A03.4B - 1992 /tract to be developed in RC zone less than 6 acres may not be subdivided; gross area of 6 acres but less than 10 /no more than two lots, if at least 3 acres unless otherwise provided. Review of 103.3 also tends to bolster Mr. Gontrum's argument that the thrust was to grandfather subdivisions. The record clearly shows that the properties in question have been considered separated since prior to 1955 and remain.... Section 1A03.4B.4 is relevant, dealing with exceptions for certain record lots:

"Any existing lot or parcel of land with boundaries duly recorded among the land records of Baltimore County with the approval of the Baltimore County Office of Planning and Zoning on or before December 22, 1975 and not part of an approved subdivision that cannot meet the minimum standards as provided within the zone, may be approved for residential development in accordance with the standards prescribed and in force at the time of the lot recordation."

It is my belief that this is not a subdivision issue but solely one of lot size and that the building is permitted to the extent provided in force at the time of recordation of boundaries.

There is no question relative to height and area; the subject property does contain over one acre; should be granted relief subject to the requirement that at least a 12' wide easement be made part of the Order. To the extent that I do not believe this is a subdivision issue, the proposed building lot size (Section 304 is not applicable) --the lot is buildable.

MW: Mr. Marks has certainly given the background of the case very well, and I will not repeat that. As he mentioned, the memorandums were extensive and many issues were raised. I have approached this case differently, I suppose, than Mr. Marks did -- in that in my mind the decision is interpretation of regulations and intent of the County Council with regard to those regulations -- I see this case as an issue regarding undersized lot and so I will approach from that standpoint.

There is no question, as Mr. Marks pointed out, that the

Deliberation /Jeffrey L. Kircher, et ux /Case No. 96-405-SPH

subject lot is undersized in terms of current RC 4 zoning. Therefore, the way I looked at it, the lot must meet 304 which, I believe, was intended by the Council to address lots in existence before the regulations. In 304 there are 3 requirements. (A) deals with recordation of the deed; evidence shows that the subject lot was recorded by deed prior to March 30, 1955. (B) deals with height and area regulations; no variances have been requested by the Petitioner and his witness, Mr. McGee, testified that all height and area requirements have been complied with. (C) presents a more difficult question -- interpretation and intent -- to quote "The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations."

As the evidence shows, these two lots have been deeded and taxed separately. Neither one meets the current standards and would not be permitted as part of subdivision request today. However, separate and apart from each other, each meets the requirements of undersized lot if, for example, the 1.75 acre subject site were owned by someone other than the Kirchers. Questions about adjoining property would not be relevant. I do not believe that undersized lot relief was to be construed in this fashion.

Only for those parcels deeded -- was meant to permit small lots already in existence to be built upon. Therefore, although he may run into other problems, environmental, water, etc., I believe the special hearing should be granted; it meets 304.

LMS: Rather than belabor some of the evaluation going on, suffice it to say that we will be ruling unanimously. I would like, however, to make comments regarding issues involved. I believe that although it does not often come out that way, zoning and land development should in some manner represent fair treatment of those involved in the process, not only procedurally but substantively. Here we have a situation where people did something when it was legal to do so, in a manner which was entirely in accordance with the applicable rules and regulations at the time, and could be done at that time with expectation of utilizing as individual properties. The rules of the game have altered over the years. As in most things that the County does, their intent was good. The County Council cannot come up with solutions to each problem; for several reasons, I think the Council could specifically have made the regulations different if they felt they should be currently different.

I was particularly impressed by one section of Petitioner's

memorandum in which Mr. Gontrum prognosticated what they could have done but did not. Could have been changes in zoning rules and language, but Council chose not to. Point well taken that you really need to balance not only the rights and fairness to those involved but balance with it that those who wrote the regulations should be bound by what they wrote themselves, and what they did not write. In the practice of law, when doing an agreement, if something is not in there, it's construed most strictly against he/she who write the agreeme
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at the time they built,
roperty. I believe 304

does control, not supervision question.

For the reasons set out in detail by the two of you, I agree that in this particular situation, and again zoning is a situation by situation exercise, that given the legalities, given the fact of surrounding area, given the fact of physical layout and buffering and setback that will not be to the detriment of those around this particular piece of property, that it is appropriate.

I recognize and am empathetic to the community, and the word "precedent" was mentioned many times in my notes -- it was quoted constantly -- I understand the concerns of communities for precedent, but this situation does not occur each and every day. It's a piece of property handled in a particular way that it requires no other adjustments. I think it's sufficiently singular that I am not concerned about precedent argument as it relates to this. I'm a believer in being concerned about precedent, but not this particular situation. Although I recognize it, I am not motivated to change my decision because of it.

We will rule that the special hearing is granted and that the project be allowed to continue. There will be a written Opinion issued by the Board. That will come out hopefully sooner than later. Rights to appeal will derive from the date of that Opinion. Only because Margaret did not mention it, I agree that the easement comment that was made below is well taken, and although we have not specifically addressed it other than Mr. Marks, I would agree that that easement

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requirement is approved.

MW: I have no problem with that.

LMS: Would have it included in issuance.

CLM: One other point -- if the other members indicate that 304 is applicable, than we also have to decide if compatibility provisions will apply.

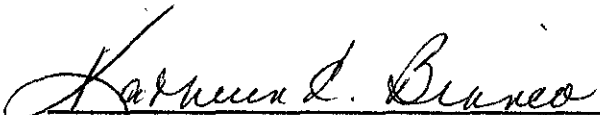
LMS: I thought that was addressed.

CLM: I agree.

LMS: This deliberation is concluded. As I said, we will issue a written Opinion. It is now 10:15 a.m.

* * * * *

Respectfully submitted,


Kathleen C. Bianco
Legal Administrator

R. C. 4

RD

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1003

1029

1005

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1024

919

1007

932

#400

POB 96-405-5PH

R. C. 4

BERNOUDY

Portion of 200
Scale Zoning Map
NW 30-B

1000

1033

1021

Land	Date	Grantor	Grantee	Deed Ref.
1 A	7/10/54	Hackler	Openshaw	2513/269
1.7 A	2/11/55	Hackler	Openshaw	2646/69
Both Parcels	9/16/61	Openshaw	Evert	3895/368
Both Parcels	10/12/63	Evert	Globe Homes, Inc.	4230/139
Both Parcels	3/23/64	Globe Homes, Inc	Evert	4282/539
Both Parcels	6/27/66	Evert	D. L. Kircher	4637/027
Both Parcels	6/18/92	D. L. Kircher	J. L. Kircher	9237/34

Ref Ex 2

RC-4

DEED

Delbert L. Kircher
and
Margaret L. Kircher
Grantors

to

Jeffrey L. Kircher
and
Cheryl L. Kircher
Grantees

1010 BERNOUDY RD.
WHITE HALL, MD. 21161
410-343-2322

Return to:
Emil B. Pielke, Esq.
7937 Belair Road
Fullerton, MD
21236-5718
ph: 410-661-6629

NO TITLE SEARCH
NO SURVEY

Tax I.D. # 07-11-035170
07-11-035171

THIS DEED, made this 18th day of June in the year one thousand nine hundred and ninety two, by and between DELBERT L. KIRCHER and MARGARET L. KIRCHER, his wife, Grantors, parties of the first part and JEFFREY L. KIRCHER and CHERYL L. KIRCHER, his wife, grantees, parties of the second part.

WITNESSETH, that in consideration of the sum of Five Dollars and other good and valuable consideration, the actual consideration paid or to be paid being \$60,000.00, the receipt whereof is hereby acknowledged, the said parties of the first part do grant and convey unto the said parties of the second part, as tenants by entireties, their assigns, the survivor of them and the survivor's personal representatives and assigns, in fee simple, all those lots of ground situate, lying and being in Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING FOR THE FIRST at a point in the center line of Bernoudy Road, the said point being the end of the third or South 53 degrees 5 minutes West 263 foot lint of tract No. 1 of the Deed from Robert L. Vandyke and with to Clifton S. Hackler and wife, dated May 28, 1952 and recorded in Liber G.L.B. No. 2118, folio 34 and running thence along the center line of Bernoudy Road and bearing on the fourth line of the said Deed North 36 degrees 55 minutes West 146.7 feet to a point; thence along the fifth line of the said Deed and bearing thereon North 29 degrees 41 minutes West 49 feet to ap point; thence along a line of division established by survey of May 29, 1953, for transfer to land to E.E. Carrier and running reversely along said line North 42 degrees 30 minutes East 212 feet to a point; thence by a new line of division South 33 degrees East 251.3 feet to a point in the above-mentioned third line of the Deed from Robert L. Vandyke to C.S. Hackler; thence running along this line and bearing thereon South 57 degrees West 194 feet to the place of beginning; containing an area of one (1) acre, more or less. Saving and excepting therefrom a 12 foot right of way extending from the land of Clifton S. Hackler and Virgie Mae Hackler, his wife, along the South 57 degrees West 194 feet line of the above described lot of ground to Bernoudy Road, as set forth in a Deed from Clifton S. Hackler and wife unto the said Mervin E. Openshaw and Mary E. Openshaw, his wife, dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, folio 269, etc.

→ BEGINNING FOR THE SECOND at the end of the fourth or South 33 degrees East 251.3 feet line of that lot of ground which by Deed dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, folio 269, was conveyed by Clifton Stuart Hackler and wife to Mervin E. Openshaw and wife, thence reversing said fourth line and running North 33 degrees West 251.3 feet to a point in the first line of that lot of ground which by Deed dated June 17, 1953, and recorded among said Land Records in Liber G.L.B. No. 2327, folio 415 was conveyed by Clifton

Stuart Hackler and wife to Ernest E. Carrier and wife, thence binding on part of the first line of said last mentioned Deed and running North 42 degrees 30 minutes East 349 feet more or less to an iron pin, thence running South 8 degrees 25 minutes East 371.7 feet to an iron pin, and thence running South 57 degrees West 213.15 feet more or less to the place of beginning, containing 1.7 acres of land, more or less.

The improvements thereon being now known as No. 1010 Bernoudy Road, White Hall, Maryland 21161.

BEING the same two lots of ground which by Deed dated June 27, 1966, and recorded among the Land Records of Baltimore County in Liber OTG No. 4637, Folio 027, was granted and conveyed by Thomasine Evert and Hilda Evert, to Delbert L. Kircher and Margaret L. Kircher, his wife, the herein grantors.

TOGETHER with the improvements thereon, and the rights, alleys, ways, waters, easements, privileges, appurtenances and advantages thereto belonging, or in any wise appertaining.

TO HAVE AND TO HOLD the property hereby conveyed, unto the Grantees, their personal representatives, heirs and assigns, forever, in fee simple, as tenants by entireties

AND the said parties of the first part do hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property conveyed; that they will warrant specially the property hereby conveyed and to execute such further assurances as may be requisite.

WITNESS the hand and seal of the said Grantors:

TEST:

By: _____ (SEAL)
Delbert L. Kircher

By: _____ (SEAL)
Margaret L. Kircher

STATE OF MARYLAND: COUNTY OF BALTIMORE: to wit:

I HEREBY CERTIFY, that on this 18th day of June, 1992, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Delbert L. Kircher and Margaret L. Kircher, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires: May 1, 1994



This Deed, Made this 27th day of June

in the year one thousand nine hundred and sixty-six, by and between THOMASINE EVERT and HILDA EVERT



of Baltimore County, State of Maryland, of the first part, and DELBERT L. KIRCHER and MARGARET L. KIRCHER, his wife of the second part.

Witnesseth, that in consideration of the sum of Five Dollars (\$5.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged the said THOMASINE EVERT and HILDA EVERT

do hereby grant and convey unto the said DELBERT L. KIRCHER and MARGARET L. KIRCHER, his wife, their

heirs and assigns,



in fee simple, all those lot(s) of ground, situate, lying and being in

Baltimore County, State of Maryland, and described as follows, that is to say:—

Beginning for the first at a point in the center line of Bernoudy Road, the said point being the end of the third or South 53 degrees 5 minutes West 263 foot line of tract No. 1 of the Deed from Robert L. Vandyke and wife to Clifton S. Hackler and wife, dated May 28, 1952 and recorded in Liber G.L.B. No. 2118, folio 34 and running thence along the center line of Bernoudy Road and bearing on the fourth line of the said Deed North 36 degrees 55 minutes West 146.7 feet to a point; thence along the fifth line of the said Deed and bearing thereon North 29 degrees 41 minutes West 49 feet to a point; thence along a line of division established by survey of May 29, 1953, for transfer of land to E. E. Carrier and running reversely along said line North 42 degrees 30 minutes East 212 feet to a point; thence by a new line of division South 33 degrees East 251.3 feet to a point in the above-mentioned third line of the Deed from Robert L. Vandyke to C. S. Hackler; thence running along this line and bearing thereon South 57 degrees West 194 feet to the place of beginning; containing an area of one (1) acre, more or less. Saving and excepting therefrom a 12 foot right of way extending from the land of Clifton S. Hackler and Virgie Mae Hackler, his wife, along the South 57 degrees West 194 feet line of the above-described lot of ground to Bernoudy Road, as set forth in a Deed from Clifton S. Hackler and wife unto the said Mervin E. Openshaw and Mary E. Openshaw, his wife, dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, folio 269, etc.

M.L.N.

BEGINNING for the second at the end of the fourth or South 33 degrees East 251.3 feet line of that lot of ground which by Deed dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber

LIBER 4637 PAGE 028

G. L. B. No. 2513, folio 269, was conveyed by Clifton Stuart Hackler and wife to Mervin E. Openshaw and wife, thence reversing said fourth line and running North 33 degrees West 251.3 feet to a point in the first line of that lot of ground which by Deed dated June 17, 1953, and recorded among said Land Records in Liber G.L.B. No. 2327, folio 415 was conveyed by Clifton Stuart Hackler and wife to Ernest E. Carrier and wife, thence binding on part of the first line of said last mentioned Deed and running North 42 degrees 30 minutes East 349 feet more or less to an iron pin, thence running South 8 degrees 25 minutes East 371.7 feet to an iron pin, and thence running South 57 degrees West 213.15 feet more or less to the place of beginning, containing 1.7 acres of land, more or less.

BEING the same two lots of ground which by Deed dated March 23, 1964 and recorded among the Land Records of Baltimore County in Liber RRG 4282, folio 540, was conveyed by Globe Homes, Inc. to Carl A. Evert, Thomasine Evert and Hilda Evert, as joint tenants. The said Carl A. Evert having died on September 2, 1965. *Inheritance Tax paid to City of Balto. Nov. 18-1965 Rec # 78657*

Together with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said

DELBERT L. KIRCHER and MARGARET L. KIRCHER, his wife, their heirs and assigns,

in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

TEST:

[Handwritten signature]

Thomasine L. Evert [SEAL]
THOMASINE EVERT

Hilda A. Evert [SEAL]
HILDA EVERT

State of Maryland, CITY OF BALTIMORE

, to wit:

I HEREBY CERTIFY, That on this 27th day of June, 1966, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, personally appeared Thomasine Evert and Hilda Evert

known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires:

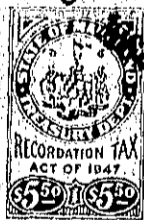
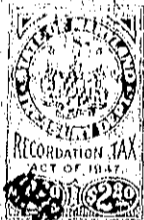
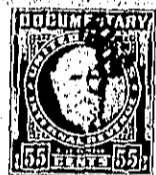
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Notary Public
Record JUN 28 1966
T. Gosnell, Clerk
C. Husley, Cot
Receipt No. 598370 \$ 8

THIS DEED, made this 28 day of March, 1964, by and between GLOBE HOMES INC., a body corporate of the State of Oregon, of the first part, and CARL A. EVERT and THOMASINE EVERT, his wife, and MILDA EVERT, of Baltimore County, in the State of Maryland, of the second part.

Witnesseth, That in consideration of the sum of Five (\$5.00) Dollars and other good and valuable consideration, the receipt whereof is hereby acknowledged, the said party of the first part does grant and convey unto the said parties of the second part, as joint tenants and not as tenants in common, the survivor of them, their heirs and assigns, in fee simple, all that lot of ground, situate, lying and being in Baltimore County, aforesaid, and described as follows, that is to say:

Beginning for the first at a point in the center line of Bernoudy Road, the said point being the end of the third or South 53 degrees 5 minutes West 263 foot line of tract No. 1 of the Deed from Robert L. Vandyke and wife to Clifton S. Hackler and wife, dated May 28, 1952 and recorded in Liber G.L.B. No. 2118, folio 34 and running thence along the center line of Bernoudy Road and bearing on the fourth line of the said Deed North 36 degrees 55 minutes West 146.7 feet to a point, thence along the fifth line of the said Deed and bearing thereon North 29 degrees 41 minutes West 49 feet to a point, thence along a line of division established by survey of May 29, 1953, for transfer of land to E. E. Carrier and running reversely along said line North 42 degrees 30 minutes East 212 feet to a point, thence by a new line of division South 53 degrees East 251.3 feet to a point in the above-mentioned third line of the Deed from Robert L. Vandyke to C. S. Hackler, thence running along this line and bearing thereon South 57 degrees West 194 feet to the place of beginning; containing an area of one (1) acre, more or less. Saving and excepting therefrom a 12 foot right of way extending from the land of Clifton S. Hackler and Virgie Mae Hackler, his wife, along the South 57 degrees West 194 feet line of the above-described lot of ground to Bernoudy Road, as set forth in a Deed from Clifton S. Hackler and wife unto the said Mervin L. Openshaw and Mary E. Openshaw, his wife, dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, folio 269, etc.

Beginning for the second at the end of the fourth or South 33 degrees East 251.3 feet line of that lot of ground which by Deed dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, folio 269, was conveyed by Clifton Stuart Hackler and wife to Mervin L. Openshaw and wife, thence reversing said fourth line and running North 33 degrees West 251.3 feet to a point in the first line of that lot of ground which by Deed dated June 17, 1953, and recorded among said Land Records in Liber G.L.B. No. 2327, folio 415 was conveyed by Clifton Stuart Hackler and wife to Ernest E. Carrier and wife, thence binding on part of the first line of said last mentioned Deed and running North 42 degrees 30 minutes East 349 feet more or less to an iron pin, thence running South 8 degrees 25 minutes East 371.7 feet to an iron pin, and thence running South 57 degrees West 213.15 feet more or less to the place of beginning, containing 1.7 acres of land, more or less.



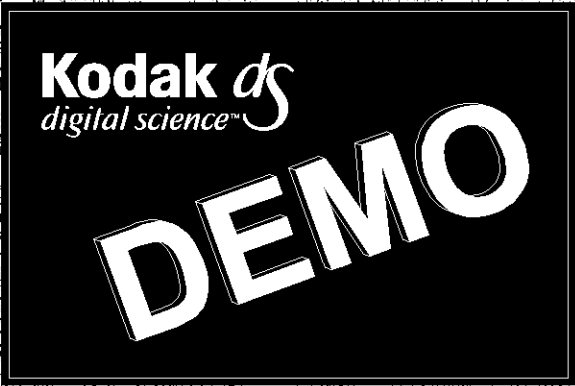
HURLEY COX
ATTORNEY AT LAW
424 EQUITABLE BUILDING
BALTIMORE 2, MD
PLAZA 2-1151

Being and intending to be all those two parcels of ground granted and conveyed by Randolph C. Jones to Robert L. Van Dyke and Catherine B. Van Dyke by a Deed dated July 17, 1947, and recorded in Liber J.W.B. No. 1579, folio 235, etc., and by a Deed dated January 26, 1948, and recorded in Liber J.W.B. No. 1633, folio 518, etc. Saving and excepting the following two parcels:

1. Deed dated August 9, 1952, and recorded in Liber GLB No. 2158, folio 294 from Clifton Stuart Hackler and Virgie Mae Hackler, his wife to Clifton S. Hackler, et al., Trustees.
2. Deed dated June 17, 1953, and recorded in Liber G.L.B. No. 2327, folio 415, etc., from Clifton Stuart Hackler and Virgie Mae Hackler, his wife, to Ernest E. Carrier and Lilla A. Carrier, his wife.

BEING the same lots of ground which by Deed dated October 12, 1963, were conveyed by Carl A. Evert and Thomasine Evert, his wife and Hilda Evert, to Globe Homes, Inc., said Deed being recorded among the Land Records of Baltimore County in Liber No. 4230, folio 1

To the improvements thereupon erected thereon, together with every the rights, alleys, ways, waters, and advantages, to the same belonging to the same.



To the parcels of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties, as joint tenants and not as tenants in common, the survivor of them, their heirs and assigns, in fee simple, subject to the legal operation and effect of the following:

1. Utility agreement dated April 15, 1954 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2545, Folio 254, between Clifton S. Hackler and Virgie Mae Hackler, his wife and Consolidated Gas, Electric Light and Power Company of Baltimore, for a pole line along Bernoudy Road.
2. Reservation of a 12 foot right of way leading to Bernoudy Road in a deed dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, Folio 269, from Clifton S. Hackler and Virgie Mae Hackler to Mervin E. Openshaw and Mary B. Openshaw.

RILEY COX
ATTORNEY AT LAW
COURT AND CHAMBER BUILDING
BALTIMORE 2, MD
PHONE 2-1151

3. Utility Agreement on South side of a 12 foot right of way on a road North of Bernoudy Road, dated May 21, 1951, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2720, Folio 304, between Mervin E. Openshaw and Mary E. Openshaw and Baltimore Gas and Electric Company.

And the said party of the first part hereby covenants that it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that it will warrant specially the property granted and that it will execute such further assurances of the same as may be requisite.

Witness the hand and seal of said grantor.

TEST:

GLOBE HOMES, INC.

Harold W. Rebel
Secretary

BY: Melvin Goldman
President

STATE OF ILLINOIS, COUNTY OF Kane, to wit:

I HEREBY CERTIFY that on this 23 day of March 1964, before me, a Notary Public of the State of Illinois, in and for the County of Kane aforesaid, personally appeared Melvin Goldman, the President of Globe Homes, Inc., a body corporate, and he acknowledged the foregoing Deed to be the act of the body corporate.

AS WITNESS my hand and Notarial Seal.

Emilyn Duck
Notary Public

PAID - Baltimore County Clerk's Office

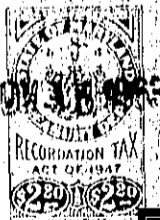
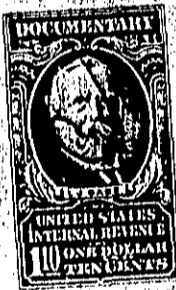
4-26-64 2247 0 45896 1034 15.73
4-26-64 2247 0 45896 1034 15.73

Rec'd for record APR 6 1964 at 10:45 AM
Per Robert R. Gill, Clerk
Mo. Hurley & Cox
Receipt No. 75208 7.50

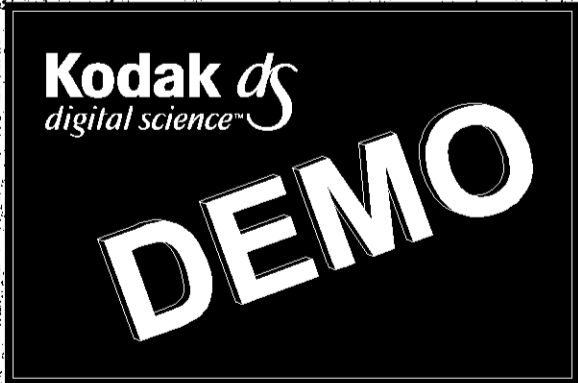
HURLEY COX
ATTORNEY AT LAW
424 EQUITABLE BUILDING
BALTIMORE 2, MD
PLAZA 2-1151

THIS DEED, Made this *12th* day of October in the year one thousand nine hundred and sixty-three, by and between CARL A. EVERT and THOMASINE EVERT, his wife, and HILDA EVERT of Baltimore County in the State of Maryland, of the first part and GLOBE HOMES, INC., a body corporate of the State of Oregon of the second part.

Witnesseth, That in consideration of the sum of Five (\$5.00) Dollars and other good and valuable consideration, the receipt whereof is hereby acknowledged, the said parties of the first part do grant and convey unto the said party of the second part, its successors and assigns in fee simple, all that lot of ground, situate, lying and being in Baltimore County, aforesaid, and described as follows, that is to say: -



Beginning for the first at a point in the center line of Bernoudy Road, the said point being the end of the third or South 53 degrees 5 minutes West 263 foot line of tract No. 1 of the Deed from Robert L. Vandyke and wife to Clifton S. Hackler and wife, dated May 28, 1952 and recorded in Liber G.L.B. No. 2118, folio 34 and running thence along the center line of Bernoudy Road and bearing on the fourth line of the said Deed North 36 degrees 55 minutes West 146.7 feet to a point; thence along the fifth line of the said Deed and bearing thereon North 29 degrees 41 minutes West 49 feet to a point; thence along a line of division established by survey of May 29, 1953, for transfer of land to E. E. Carrier and running reversely along said line North 42 degrees 30 minutes East 212 feet to a point; thence by a new line of division South 33 degrees East 251.3 five-mentioned third line of Vandyke to C. S. Hackler; thence bearing thereon South 57 the place of beginning; containing one acre, more or less. Saving a 12 foot right of way extending on S. Hackler and Virgie along the South 57 degrees above-described lot of ground north in a Deed from Clifton S. Hackler and wife unto the said Mervin E. Openshaw and Mary E. Openshaw, his wife, dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, folio 269, etc.



Being the same lot of ground which by Deed dated September 16, 1961, and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3895, folio 368, etc., was granted and conveyed by Mervin P. Openshaw and Mary E. Openshaw, his wife, to the Grantors herein.

Beginning for the second at the end of the fourth or South 33 degrees East 251.3 feet line of that lot of ground which by Deed dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, folio 269, was conveyed by Clifton Stuart Hackler and wife to Mervin E. Openshaw and wife, thence reversing said fourth line and running North 33 degrees West 251.3 feet to a point in the first line of that lot of ground which by Deed dated June 17, 1953, and recorded among said Land Records in Liber G.L.B. No. 2327, folio 415 was conveyed by Clifton Stuart Hackler and wife to Ernest E. Carrier and wife, thence binding on part of the first line of said last mentioned Deed and running North 42 degrees 30 minutes East 349 feet more or less to an iron pin, thence running South 8 degrees 25 minutes East 371.7 feet to an iron pin, and thence running South 57 degrees West 213.15 feet more or less to the place of beginning, containing 1.7 acres of land, more or less.

Being the same lot of ground which by Deed dated September 16, 1961, and recorded among the Land Records aforesaid in Liber W.J.R. No. 3895, folio 368, etc., was granted and conveyed by Mervin P. Openshaw and Mary E. Openshaw, his wife, to the Grantors herein.

Being and intending to be all those two parcels of ground granted and conveyed by Randolph C. Jones to Robert L. Van Dyke and Catherine B. Van Dyke by a Deed dated July 17, 1947, and recorded in Liber J.W.B. No. 1579, folio 235, etc., and by a Deed dated January 26, 1948, and recorded in Liber J.W.B. No. 1633, folio 518, etc. Saving and excepting the following two parcels:

1. Deed dated August 9, 1952, and recorded in Liber G.L.B. No. 2158, folio 294 from Clifton Stuart Hackler and Virgie Mae Hackler, his wife to Clifton S. Hackler, et al., Trustees.
2. Deed dated June 17, 1953, and recorded in Liber G.L.B. No. 2327, folio 415, etc., from Clifton Stuart Hackler and Virgie Mae Hackler, his wife, to Ernest E. Carrier and Lilla A. Carrier, his wife.

Together with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said party of the second part, its successors and assigns in fee simple, subject to the legal operation and effect of the following:

1. Utility agreement dated April 15, 1954 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2545, Folio 254, between Clifton S. Hackler and Virgie Mae Hackler, his wife and Consolidated Gas, Electric Light and Power Company of Baltimore, for a pole line along Bernoudy Road.
2. Reservation of a 12 foot right of way leading to Bernoudy Road in a deed dated July 10, 1954, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2513, Folio 269, from Clifton S. Hackler and Virgie Mae Hackler to Mervin E. Openshaw and Mary E. Openshaw.
3. Utility Agreement on South side of a 12 foot right of way on a road North of Bernoudy Road, dated May 21, 1951, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2720, Folio 304, between Mervin E. Openshaw and Mary E. Openshaw and Baltimore Gas and Electric Company.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantor

TEST:

T. T. Crick

Arvid A. Ewert (SEAL)

Thomasina Ewert (SEAL)

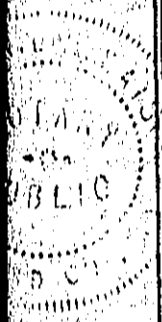
Walter Ewert (SEAL)

STATE OF MARYLAND, *Harford County*, to wit:

I HEREBY CERTIFY, that on this *12th* day of October, 1963, before me, the subscriber, a Notary Public of the State of Maryland, in and for *Harford County* aforesaid, personally appeared CARL A. EVERT and THOMASINE EVERT, and HILDA EVERT, the above named grantors, and they acknowledged the foregoing Deed to be their act.

As Witness my hand and Notarial Seal.

Margaret R. Watson
Notary Public



11-15-63 0003 0 42115 PPF+ 1158
11-15-63 0003 0 42115 PPF+ 1158

Rec'd for record NOV 15 1963 at *11:26* A.M.
Shelby R. Hill, Clerk
to *Shelby R. Hill*
No. *73007* \$ *10.00*

THIS DEED, Made this 11th day of February, 1955, by CLIFTON STUART HACKLER and VIRGIE MAE HACKLER, his wife, parties of the first part, Grantors, to MERVIN E. OPENSHAW and MARY E. OPENSHAW, his wife, parties of the second part, Grantees, of Baltimore County, State of Maryland.

WITNESSETH, that in consideration of Five Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said first parties do hereby grant and convey unto the said second parties, as tenants by the entireties, their assigns, the survivor of them and the heirs and assigns of such survivor, in fee simple, all that parcel of land situate in the Seventh Election District of Baltimore County, State of Maryland, described as follows:

BEGINNING for the same at the end of the fourth or South 33 degrees East 251.3 feet line of that lot of ground which by deed dated July 10, 1954 and recorded among the Land Records of Baltimore County in Liber GLB No. 2513 folio 269 was conveyed by Clifton Stuart Hackler and wife to Mervin E. Openshaw and wife, thence reversing said fourth line and running North 33 degrees West 251.3 feet to a point in the first line of that lot of ground which by deed dated June 17, 1953 and recorded among said Land Records in Liber GLB No. 2327 folio 415 was conveyed by Clifton Stuart Hackler and wife to Ernest E. Carrier and wife, thence binding on part of the first line of said last mentioned deed and running North 42 degrees 30 minutes East 349 feet more or less to an iron pin, thence running South 8 degrees 25 minutes East 371.7 feet to an iron pin, and thence running South 57 degrees West 213.15 feet more or less to the place of beginning, containing 1.7 acres of land, more or less.

BEING and intended to be hereby conveyed all the land, not heretofore disposed of by them, which was conveyed to the said Clifton Stuart Hackler and wife by Robert L. Van Dyke and wife by deed dated May 28, 1952 and recorded among the Land Records of Baltimore County in Liber GLB No. 2118 folio 34.

TOGETHER with the buildings and improvements thereon and all the rights and appurtenances thereunto belonging or in any wise appertaining.

TO HAVE AND TO HOLD the above described land and premises unto and to the proper use and benefit of the second parties, as tenants by the entireties, their assigns, the survivor of them

and the heirs and assigns of such survivor, forever in fee simple.

AND said first parties covenant that they have done no act to encumber said land, that they will warrant specially the property hereby conveyed, and that they will execute such further assurances of said land as may be requisite.

AS WITNESS the hands and seals of the first parties:

WITNESS:

Clifton Stuart Hackler (SEAL)
Clifton Stuart Hackler

Lillian A. Kelly
Lillian A. Kelly

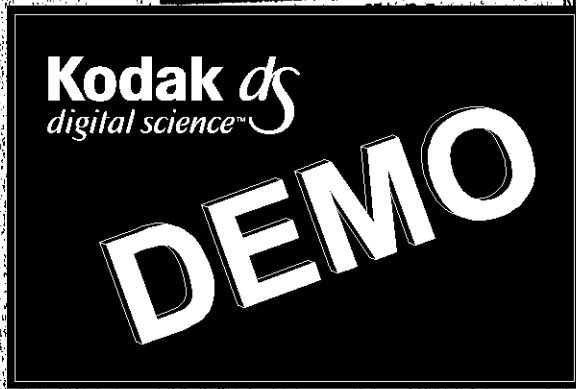
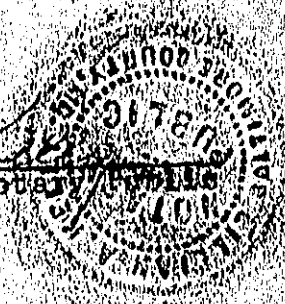
Virgie Mae Hackler (SEAL)
Virgie Mae Hackler

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 11th day of February, 1955, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Clifton Stuart Hackler and Virgie Mae Hackler, his wife, and severally acknowledged the foregoing mortgage.

AS WITNESS my hand and Notarial Seal:

Lillian A. Kelly
Notary Public



Rec'd for record Feb. 14, 1955, 2:38 P.M.
Per George L. Byerly, Clerk.



THIS DEED, Made this 10th day of July, 1954, by CLIFTON STUART HACKLER and VIRGIE MAE HACKLER, his wife, parties of the first part, Grantors, to MERVIN E. OPENSHAW and MARY E. OPENSHAW, his wife, parties of the second part, Grantees, of Baltimore County, State of Maryland.

WITNESSETH, that in consideration of Five Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said first parties do hereby grant and convey unto the said second parties, as tenants by the entireties, their assigns, the survivor of them and the heirs and assigns of such survivor, in fee simple, all that lot of ground situate in the Seventh Election District of Baltimore County, State of Maryland, which per survey made June 3, 1954 by A. P. Dise, Registered Engineer, is particularly described as follows:

BEGINNING at a point in the center line of Bernoudy Road, the said point being the end of the third or South 53 degrees 5 minutes West 263 foot line of tract #1 of the deed from Robert L. Vandyke and wife to Clifton S. Hackler and wife, dated May 28, 1952 and recorded in Liber G.L.B. No. 2118 folio 34, and running thence along the center line of Bernoudy Road and bearing on the fourth line of the said deed North 36 degrees 55 minutes West 146.7 feet to a point; thence along the fifth line of the said deed and bearing thereon North 29 degrees 41 minutes West 49 feet to a point; thence along a line of division established by survey of May 29, 1953 for transfer of land to E. E. Carrier and running reversely along said line North 42 degrees 30 minutes East 212 feet to a point; thence by a new line of division South 33 degrees East 251.3 feet to a point in the above mentioned third line of the deed from Robert L. VanDyke to C. S. Hackler; thence running along this line and bearing thereon South 57 degrees West 194 feet to the place of beginning; containing an area of one acre, more or less. Reserving to the grantors, their heirs and assigns, a 12 foot right of way extending from other land now owned by them along the South 57 degrees West 194 foot line of the above described lot to Bernoudy Road.

BEING part of the parcel of land therein firstly described which by deed dated May 28, 1952 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2118 folio 34 was conveyed by Robert L. VanDyke and wife to the within named Grantors.

TOGETHER with the buildings and improvements thereon and all the rights and appurtenances thereunto belonging or in any wise appertaining.

TO HAVE AND TO HOLD the above described land and premises unto and to the proper use and benefit of the second parties, as tenants by the entireties, their assigns, the survivor of them and the heirs and assigns of such survivor, forever in fee simple.

AND said first parties covenant that they have done no act to encumber said land, that they will warrant specially the property hereby conveyed, and that they will execute such further assurances of said land as may be requisite.

AS WITNESS the hands and seals of the Grantors:

WITNESS:

Clifton Stuart Hackler (SEAL)
Clifton Stuart Hackler

Lillian A. Kelly
Lillian A. Kelly

Virgie Mae Hackler (SEAL)
Virgie Mae Hackler

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 10th day of July, 1954, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Clifton Stuart Hackler and Virgie Mae Hackler, his wife, and severally acknowledged the foregoing Deed to be their act.

AS WITNESS my hand and Notarial Seal:

Lillian A. Kelly
Lillian A. Kelly



Rec'd for record July 10 1954, at 11^a M.
Per George L. Byerly, Clerk.

Ret. Ex. #3A

MAKE CHECKS
PAYABLE TO:
BALTIMORE COUNTY, MD.

BALTIMORE COUNTY, MARYLAND
STATE AND COUNTY REAL PROPERTY TAXES

TAXPAYER'S COPY
DETACH AND RETAIN
TELEPHONE: 887-2403

LEVY PERIOD
JULY 1, 1996-JUNE 30, 1997

ELECTION DISTRICT: 07
BILL CODE: 1-1

ASSESSMENT
3,400

PROPERTY NUMBER YEAR
07-11-035171 97 6

BILL DATE
07/01/96

METROPOLITAN CHARGES

SEWER BENEFIT
SEWER SERVICE
WATER BENEFIT
WATER DISTRIBUTION
TOTAL METROPOLITAN

PROPERTY STATUS:
NOT A
PRINCIPAL
RESIDENCE

COUNTY TAX
STATE TAX

RATE
PER \$100
2.855
.21

CHARGES
97.07
7.14

OWNER'S NAME AND ADDRESS
KIRCHER JEFFREY L
KIRCHER CHERYL L
1010 BERMOUDY RD
WHITE HALL MD 21161

5-017137

GROSS BILL 104.21

PROPERTY DESCRIPTION
1400 SE WISEBURG RD
1.70AC REAR NES
BERNOUDY

LOT BLOCK SEC PLAT BOOK FOLIO
00 000
CONSTANT YIELD 2.820 DIFFERENCE 0.035

INTEREST/
DISCOUNT
NET
TOTAL

MAKE CHECKS
PAYABLE TO:
BALTIMORE COUNTY, MD.

BALTIMORE COUNTY, MARYLAND
STATE AND COUNTY REAL PROPERTY TAXES

TAXPAYER'S COPY
DETACH AND RETAIN
TELEPHONE: 887-2403

LEVY PERIOD
JULY 1, 1996-JUNE 30, 1997

ELECTION DISTRICT: 07
BILL CODE: 1-1

ASSESSMENT
28,200

PROPERTY NUMBER YEAR
07-11-035170 97 8

BILL DATE
07/01/96

METROPOLITAN CHARGES

SEWER BENEFIT
SEWER SERVICE
WATER BENEFIT
WATER DISTRIBUTION
TOTAL METROPOLITAN

PROPERTY STATUS:
PRINCIPAL
RESIDENCE

COUNTY TAX
STATE TAX
LESS: HOMESTEAD CREDIT

RATE
PER \$100
2.855
.21

CHARGES
805.11
59.22
148.53-

OWNER'S NAME AND ADDRESS
KIRCHER JEFFREY L
KIRCHER CHERYL L
1010 BERMOUDY RD
WHITE HALL MD 21161

5-017136

GROSS BILL 715.80

PROPERTY DESCRIPTION
1400 SE WISEBURG RD
1.00AC NES
1010 BERNOUDY

LOT BLOCK SEC PLAT BOOK FOLIO
00 000
CONSTANT YIELD 2.820 DIFFERENCE 0.035

INTEREST/
DISCOUNT
NET
TOTAL

PHOTOGRAPH LEGEND

PICTURES TAKEN 5/22/96

- ① ZONING SIGN
- ② EXISTING DRIVE IN 12' R/W
- ③ OPPOSITE DRIVE - LOOKING NW ALONG BERNOUDY ROAD
- ④ OPPOSITE DRIVE - LOOKING SE ALONG BERNOUDY ROAD
- ⑤ PROPERTY TO SE OF SITE
- ⑥ " " " " "
- ⑦ ROADBED IN 12' R/W NEAR PROPERTY LINE
- ⑧ AT 'APPROX. DWLG LOCATION LOOKING WEST
- ⑨ " " " " " LOOKING NORTH
- ⑩ " " " " " LOOKING EAST
- ⑪ " " " " " LOOKING SE

Pet Ex #4 a-k

P.C. Exhibits - #1

Weisburg Comm. ASSOCIATION

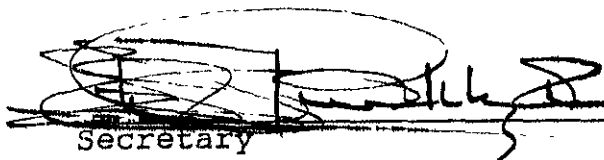
RESOLVED: That at the November meeting of the Weisburg comm- Association held on 21 Nov., 1996, it was decided by the Association that responsibility for review and action on all zoning matters for the period 1996 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members:

- David Boyd
- marion Bunkles
- Ted Merchant
- corinne sommer
- cathy Boyd
- Ed shanexbrook

AS WITNESS OUR HANDS AND SEAL THIS 5 day of Dec., 1996.

ATTEST:

Weisburg comm Association


Secretary

David Boyd
President

Weisburg comm

ASSOCIATION

RESOLVED: That the position of the Weisburg
comm Association as adopted by the (Board
of Directors) (Zoning Committee) on the zoning matter known as:


is that:

Re-4 requires a minimum lot
size of 3 acres & it's
out of character with the neighborhood

AS WITNESS OUR HANDS AND SEAL THIS 5 day of
Dec., 19 96.

ATTEST:

Weisburg comm Association


Secretary

David Boyd
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a
duly elected member of the (Board of Directors) (Zoning Committee)
of the Weisburg comm Association.

ATTEST:

David Boyd
~~David Boyd~~
Weisburg Comm Association

[Signature]
Secretary

David Boyd
President

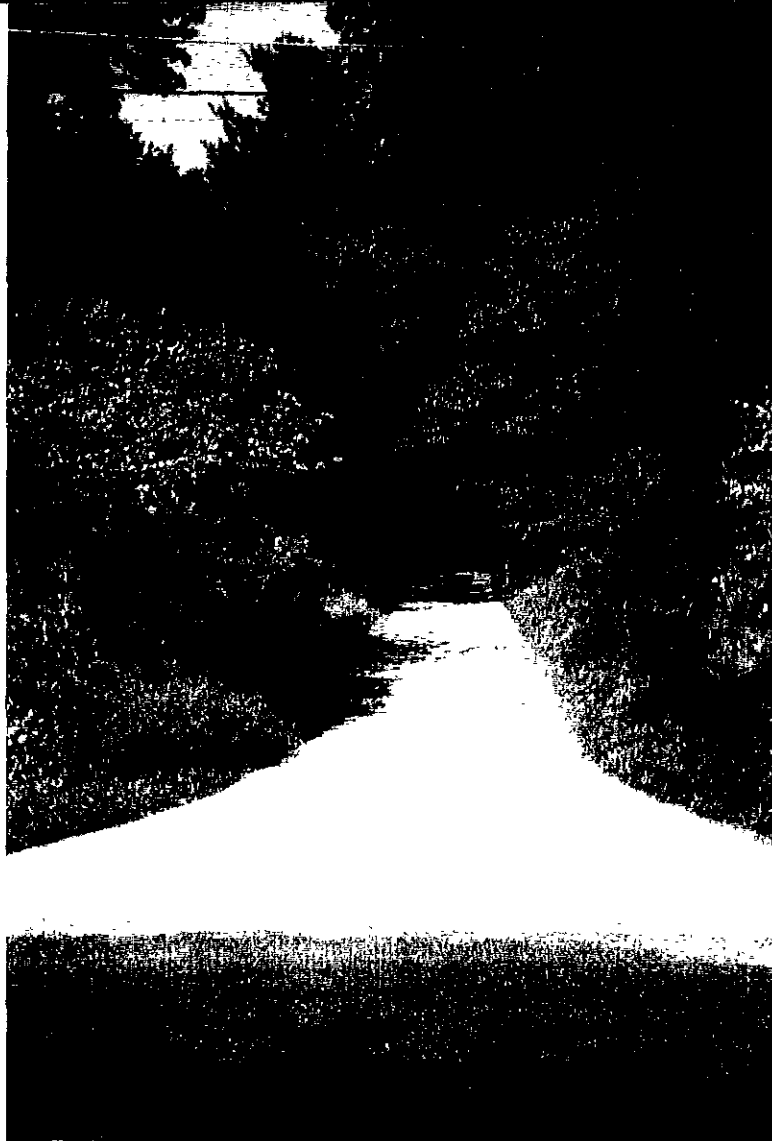
DATE: 12/5/96

PETTYNER'S EXH.

#s 1 - 11

(1) PHOTOGRAPHS

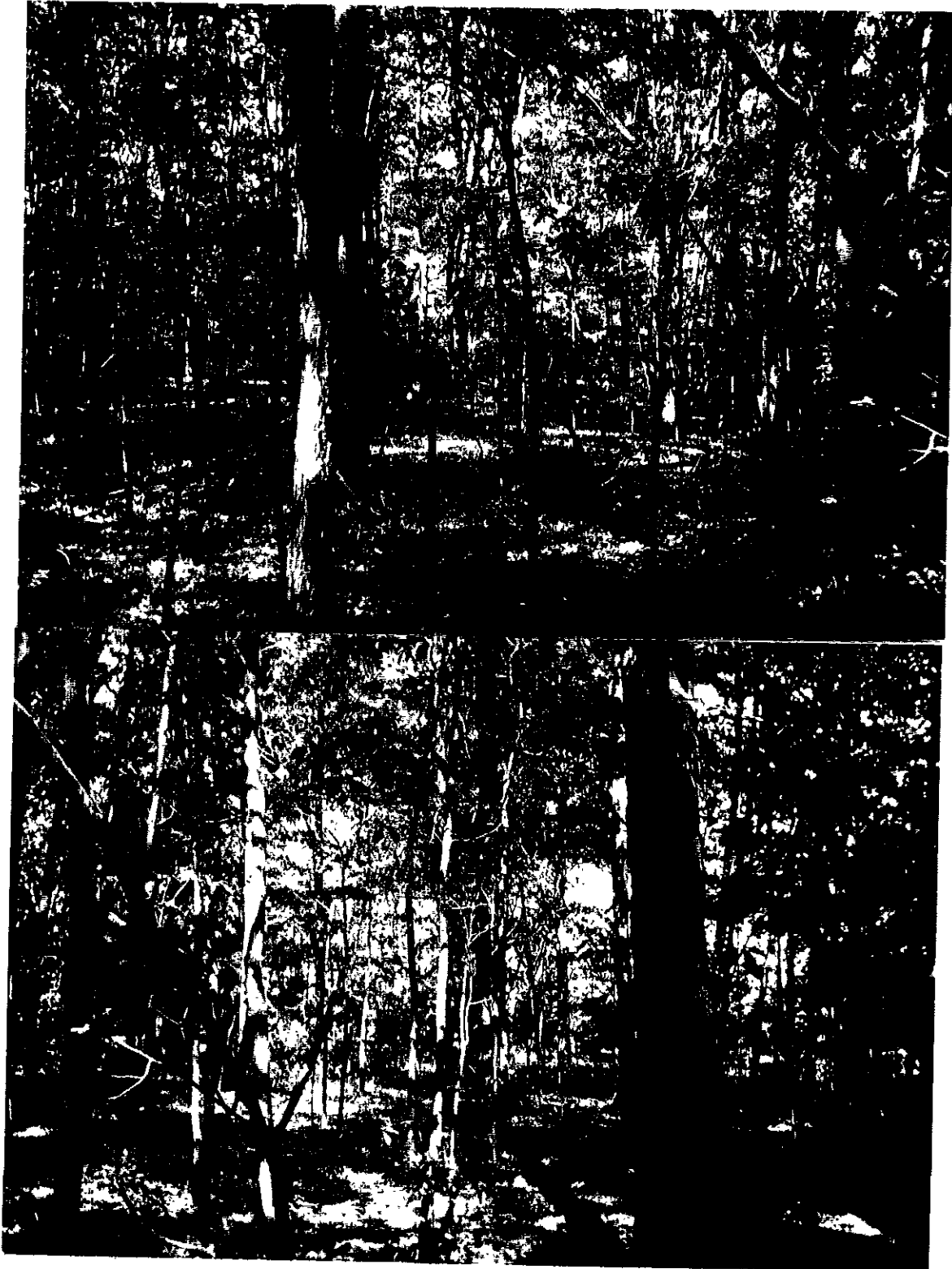
96-405-SPH

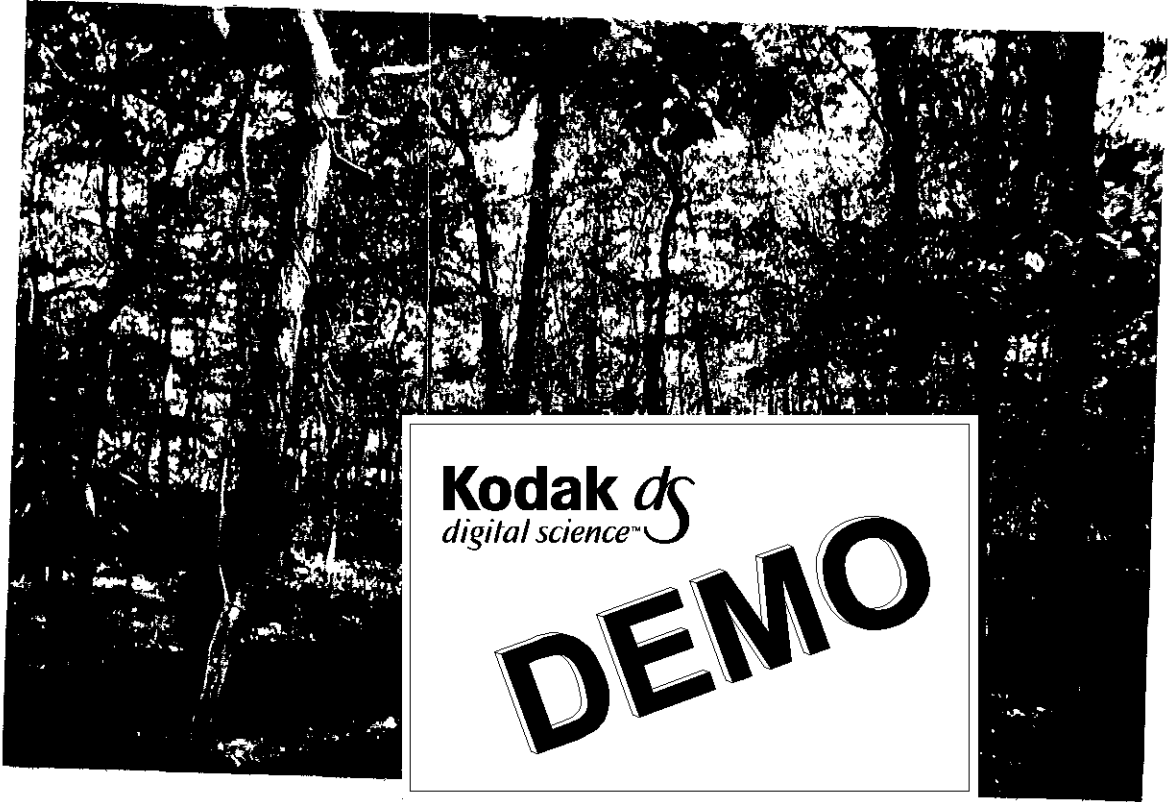












Kodak ds
digital science™

DEMO