1/4/02

02 JAN -7 11:49

The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

CHAMBERS OF
JOHN GRASON TURNBULL, II
CIRCUIT ADMINISTRATIVE JUDGE AND
COUNTY ADMINISTRATIVE JUDGE

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
410-887-2647

IN THE	*	IN THE
MATTER OF	*	CIRCUIT COURT
PETER A. KAHL	*	FOR
	*	BALTIMORE COUNTY
	*	CASE NO. C 98 12834

* * * * * * * * * * * * * * * * * * *

ORDER

Pursuant to the Mandate of the Court of Appeals of Maryland entered on the 13th day of November, 2001, and pursuant to the Order of the Court of Special Appeals dated December 12, 2001, it is hereby

ORDERED, by the Circuit Court for Baltimore County, that the Judgment and Decision of the Board of Appeals for Baltimore County be, and the same is hereby

AFFIRMED. Costs to be paid by the Appellee.

Dated: January 4, 02

JOHN GRASON TURNBULL, II
Judge

Copies sent to: J. Carroll Holzer, Esquire
John B. Gontrum, Esquire
Michael J. Moran, Esquire
Baltimore County Board of Appeals
Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire

FILED JAN 0 4 2002

Case No. 97-494-SPH
Mary Pat Marzullo/Kahl Proj
CSA reversed; remanded to
CSA to REVERSE CCt
CBA AFFIRMED (Cathell, J.)

Circuit Court for Baltimore County
Case # C98-12834

IN THE COURT OF APPEALS OF MARYLAND

No. 10

September Term, 2001

MARY PAT MARZULLO *et al.*

v.

PETER A. KAHL

Bell, C. J.
Eldridge
Raker
Wilner
Cathell
Harrell
Battaglia,

JJ.

Opinion by Cathell, J.

Filed: October 12, 2001

Peter A. Kahl, respondent, used a parcel of land that was zoned R.C.4 for his residence and to operate Peter Kahl Reptiles, Inc. Mary Pat Marzullo and the People's Counsel for Baltimore County, petitioners, filed a Petition for a Special Hearing before the Zoning Commissioner of Baltimore County for the determination of whether an R.C.4 zone permits respondent to conduct his business – the breeding, raising, and selling of reptiles. The Zoning Commissioner determined that respondent's use was permitted in an R.C.4 zone.

Petitioners appealed to the Baltimore County Board of Appeals (hereinafter Board of Appeals). The Board of Appeals determined that respondent was not permitted to operate Peter Kahl Reptiles, Inc. in an R.C.4 zone. Respondent filed a Petition for Judicial Review in the Circuit Court for Baltimore County. The Circuit Court reversed the decision of the Board of Appeals, finding that respondent's business was a farming activity that was permitted by right in an R.C.4 zone.

Petitioners appealed to the Court of Special Appeals. The Court of Special Appeals affirmed the decision of the Circuit Court for Baltimore County (*Marzullo v. Kahl*, 135 Md. App. 663, 763 A.2d 1217 (2000)). Petitioners filed a Petition for Writ of Certiorari and respondent filed an Answer and Conditional Cross Petition for Writ of Certiorari. We granted both petitions. Petitioners presented two questions for our review:

1. Whether the Court of Special Appeals erred in construing the BCZR [Baltimore County Zoning Regulations] to permit breeding of snakes under an expanded definition of "farm" as opposed to the specific definition of "animal boarding place[?]"

2. Whether the Court of Special Appeals erred in failing to give deference to the expertise of the County Board of Appeals in applying the BCZR pursuant to *Board of Physicians v. Banks*, 354 Md. 59 (1999) as

suggested by Judge Karwacki in his Dissenting Opinion[?]

Respondent presented two questions in his Conditional Cross Petition for our review:

> 1. Has the landowner acquired a vested right, pursuant to either the common law or local ordinance, to use the property to raise, breed and keep reptiles or snakes?
>
> 2. Is the County estopped from preventing the use of the property to raise, breed and keep snakes or reptiles?

We hold that the Circuit Court and the Court of Special Appeals failed to afford the findings of the Board of Appeals the proper deference when those courts held that the raising, breeding, and keeping of snakes and reptiles was a "farm" under the Baltimore County Zoning Regulations. Respondent's business was a use which is prohibited in an R.C.4 zone. We also hold that respondent has not acquired a vested right to conduct his business on the property and that the County is not estopped from preventing the use of the property to raise, breed, and keep snakes and reptiles.

I. Facts

In 1991 respondent purchased a parcel of land to use as his residence. When respondent moved into the residence he used part of the residence to engage in his hobby of herpetology.[1] Specifically, respondent was engaged in the raising and breeding of pythons

[1] Herpetology is defined as "the branch of zoology dealing with reptiles and amphibians." *The Random House Dictionary of the English Language* 666 (Jess Stein ed., The Unabridged Edition, Random House 1983).

and boas.[2] Respondent's hobby eventually grew into a business and to accommodate its growth and to provide a proper facility for the care of the snakes, respondent started to examine the feasability of constructing a separate building on the same parcel of land for the purpose of breeding, raising, and selling snakes.

In July of 1994, respondent applied to the Baltimore County Department of Permits and Licenses for a "Holding Facility/Kennel/Wild Life" animal license for the purpose of breeding and research of boas and pythons in his residence. The Department of Permits and Licenses issued this license to respondent.

In 1994 respondent presented to the Department of Zoning and Development Management (hereinafter Department of Zoning)[3] a building plan and a site plan which included the proposed use and site for the new building. The parcel of land upon which respondent's residence was located and upon which respondent wanted to construct the building to use as a facility for the breeding and raising of the snakes was zoned R.C.4. An R.C.4 zone limits development to protect critical watersheds[4] and permits as of right, among

---

[2] Both boas and pythons are members of the family *Boidae* and are large non-venomous snakes that kill their prey by constriction.

[3] In 1995, the Department of Zoning and Development Management became the Department of Permits and Development Management.

[4] Section 1A03.1 of the Baltimore County Zoning Regulations (hereinafter BCZR) provides that:

> "The County Council finds that major, high-quality sources of water supply for the entire Baltimore Metropolitan Area and for other neighboring jurisdictions

(continued...)

other uses, a one-family detached dwelling and farms.[5] The Department of Zoning requested that the Baltimore County Agricultural Land Preservation Advisory Board (hereinafter Advisory Board) review respondent's intended use and advise the Department of Zoning as to whether respondent's intended use qualified as a farm which was allowed by right in an R.C.4 zone.[6] At an April 12, 1995 meeting, the Advisory Board found that the building used

---

[4](...continued)
lie within Baltimore County and that continuing development in the critical watersheds of those water supply sources is causing increased pollution and sedimentation in the impoundments, resulting in increasing water treatment costs and decreasing water storage capacity. The R.C.4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds."

[5] Section 1A03.3 of the BCZR provides that:

> "A. Uses permitted as of right. The following uses, only are permitted as of right in R.C.4 Zones:
>
> 1. Dwellings, one-family detached.
>
> 2. Farms and limited-acreage wholesale flower farms . . . ."

[6] In the inter-office correspondence from the Department of Zoning to the Advisory Board, the Director of the Department of Zoning stated that:

> "This office is officially requesting verification of the legitimacy of a farm use on the referenced property. In the judgement of the Director and/or the Zoning Commissioner, in consideration of your findings, a special hearing may be required before the Zoning Commissioner prior to any zoning approvals."

for the breeding, raising, and sale of snakes qualified as a farm.[7]

The Department of Zoning then submitted respondent's request to construct a building to the Development Review Committee. The Development Review Committee granted respondent a limited exception under section 26-171(a)(7) of the Baltimore County Code, which provides for a limited exception to the public hearing process for "[t]he construction of residential accessory structures or minor commercial structures." In a November 25, 1996 letter from the Department of Zoning, respondent was told of the limited exception and that he could proceed with his building permit application.

---

[7] The Baltimore County Agricultural Land Preservation Advisory Board's opinion was advisory; the opinion did not have any authority. Section 14-451 of the Baltimore County Code states that:

> "**Sec. 14-451. Agricultural land preservation advisory board; created; duties and responsibilities; membership; terms of office.**
>
> . . .
>
> (c) *Duties and responsibilities.* The agricultural preservation advisory board shall be vested with and shall possess all the powers and duties in this article specified and also all powers necessary to properly carry out fully and factually, the provisions of this article. In addition to those duties prescribed by state law, the board shall:
>
> . . .
>
> (5) Review and make recommendations to the office of zoning administration and development management on zoning regulation proposals that relate to agricultural uses such as tenant buildings, farmer's roadside stands and other agricultural issues as the need arises."

In January of 1997, respondent requested a building permit from the Department of Zoning for a 5,000 square foot reptile barn. This permit was approved on February 14, 1997. A second permit was issued on March 27, 1997 which allowed respondent to double the square footage of the barn by adding a basement level instead of a crawl space.[8] Respondent contracted in January of 1997 with Advanced Building Structures for the construction of the outer shell[9] of the reptile barn. Advanced Building Structures started construction on the outer shell on February 26, 1997 and finished the construction on April 29, 1997. At this point, the barn did not have a roof, windows, or siding. The barn was just a shell, with only a concrete floor and no interior walls. William Yost, a project manager for Advanced Building Structures, stated at the hearing before the Board of Appeals that the barn was 45% completed when the outer shell was finished at the end of April, 1997.

At the beginning of April of 1997, petitioner, Mrs. Marzullo, an adjoining property owner to respondent's property, and other neighbors contacted Mr. Carl Richards, a Supervisor in Zoning Review for the Department of Zoning, regarding the construction activities they observed on respondent's property. On April 16, 1997, Mr. Richards sent a letter to respondent that advised respondent as to the complaints from the neighbors about the permit that was issued for his reptile barn. The letter also stated that a petition for a special hearing for an interpretation as to whether a particular parcel is being used

[8] In this particular case, the basement, it can be argued, was nevertheless a crawl space.

[9] The outer shell of the reptile barn was from the footings up to the roofline.

appropriately can be filed by any citizen. While such a petition had not actually been filed, Mr. Richards was advising respondent of the possibility.

On April 25, 1997, petitioners filed an appeal from the issuance of the second permit, which allowed for the construction of the basement in the reptile barn. This appeal was dismissed by the Board of Appeals because, at the time, the Baltimore County Code only provided for an appeal by the applicant after a denial of a building permit.

On April 29, 1997, petitioners filed a Petition for Special Hearing under section 500.7 of the BCZR. Section 500.7 states that:

> "The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. *The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises* or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations." [Emphasis added.]

The petition stated that it was filed to determine "whether or not the Zoning Commissioner should approve in an RC 4 Zone, the use of the site for the breeding, raising and selling of reptiles."

On September 22, 1997, a hearing was held before the Zoning Commissioner of Baltimore County (hereinafter Zoning Commissioner) on the Petition for Special Hearing. In his Findings of Fact and Conclusions of Law, the Zoning Commissioner stated that the issue was whether respondent's use of the property qualified as a farm under the BCZR. If

the use qualified as a farm, then it is a use by right and if the use was not as a farm, then it was not permitted, even by special exception. Section 101 of the BCZR defines a "Farm" as:

> "**FARM** – Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture,[10] as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses."

Respondent's property was more than three acres, so the Zoning Commissioner stated that the issue as to whether this was a farm was whether the property was being used for commercial agriculture. Section 101 of the BCZR defines "Commercial Agriculture" as:

> "**AGRICULTURE, COMMERCIAL** – The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations."

The Zoning Commissioner determined that respondent was engaging in commercial agriculture by raising and keeping snakes for income. Therefore, he also determined that

---

[10] *The Random House Dictionary of the English Language* 29 (Jess Stein ed., The Unabridged Edition, Random House 1983) provides that agriculture is: "1. the science or art of cultivating land in the raising of crops; tillage; husbandry; farming. 2. the production of crops, livestock, or poultry. 3. agronomy."

respondent's property was being used as a farm and he could continue with the use as it was a use permitted by right. Petitioners filed an appeal of the Zoning Commissioner's findings to the Board of Appeals.

Over the course of two days, a hearing was held before the Board of Appeals. The Board of Appeals issued an Opinion on November 30, 1998, which stated that "the use of the subject site for the breeding, raising, and selling of reptiles is not permissible in the R.C. 4 zone." The Board of Appeals found that respondent had not satisfied the definition of "Commercial Agriculture." The Board of Appeals stated that:

> "Terms such as 'animal,' 'animal husbandry,' and 'domestic animal' need to rest interpretively on an *ordinarily accepted* definition as stated above. The Board does not disagree with the Zoning Commissioner or the Petitioner's analysis that a snake is an 'animal.' Testimony is uncontradicted that Kahl 'raises, breeds, keeps and markets' these animals (snakes). Is this practice, however, 'commercial agriculture'; and, further, is it the practice of 'animal husbandry'? 'Commercial agriculture' is defined under Section 101 [of the BCZR]. *Webster's* defines 'animal husbandry' as: '. . . A branch of agriculture concerned with the production and care of domestic animals . . . the scientific study of the problems of animal production.' A 'domestic animal' may include '. . . any of the various animals . . . which have been domesticated by man so as to live and breed in a tame condition.' *Webster* defines 'domestic' as '. . . relating to the household or family . . . connected with the supply, service, activities of the household and private residences . . . suited to the physical livability of a private dwelling.' And 'domestic' means to 'bring into a degree of conformity and comfortable accommodation . . . to subject to control and service of man.'
>
> Having heard the testimony and a review of the various exhibits and evidence, this Board has concluded that the Property Owner's use of the R.C. zoned land is an improper use, and hence illegal under present statutory law.
> . . .

. . .

> In reaching its decision, the Board has also given weight to the definitions assigned to significant terms which have been the subject of the various briefs submitted by Counsel. The first defect in the Property Owner's case is one involving 'the use of land' as it appears in the BCZR 'Farm' definition. . . . There was more than sufficient testimony and evidence produced at the hearing that Mr. Kahl's reptile activities are not land-based or oriented. He does not employ the use of land (fields, forest, streams), nor is there any other crop, growth, production or animal raised primarily for food or fiber that even stretching [the] interpretation is for the benefit or extension of agriculture. The facts of the case clearly demonstrate that the raising, breeding, and marketing of the Boas and Pythons do not require the use of the land in an agricultural sense. The subject snakes are only outside of the subject building when 'sunning.' They are not dependent on the land or otherwise use the land, agriculturally, on which the building is situated. They exist almost exclusively within the constructed building and are not land dependent." [Emphasis added.]

The Board of Appeals then found that respondent also had not satisfied the definition of "Commercial Agriculture" because the land must qualify for farm or agriculture assessment use and respondent's property was zoned residential by the Department of Assessment and Taxation.

The Board of Appeals also found that respondent's activities did not satisfy the requirement of "animal husbandry." The Board of Appeals stated that:

> "Exploring the matter further as to whether or not Mr. Kahl's activities include 'animal husbandry,' the Board also concludes that snakes are 'animals.' The Board also acknowledges that Mr. Kahl raises, breeds and sells animals (snakes). Animal husbandry, however, deals with the production and care of *domestic animals*. The question is one of whether or not Boas and Pythons are to be considered as 'domestic animals.' The term 'domestic' has previously been expounded in this opinion. Significantly, back in July 1994, Mr. Kahl applied for and received a permit for a 'holding facility/kennel/wild life animal license' naming the Peter Kahl Reptiles, Inc., as the facility (his residence) for the purpose of 'research and breeding' valid from July 1, 1994 through June 30, 1995. Article I, Section 6-1 'Definitions' defines 'Wild

Animal' as:

> 'Any animal of a species that in its natural life is wild, dangerous, or ferocious and, though it may be trained and domesticated by the owner, will remain dangerous to the public at large.'

A 'farm animal' is defined as:

> 'Any animal being maintained for the production of food, food products, and fiber.'

Clearly, the Property Owner back in 1994 did not believe his operation fit the definition of a 'farm animal' facility, but rather one of a 'holding facility . . . requiring the use of a wild animal license.' Mr. Kahl vividly described his attempts to demonstrate how Boas and Pythons could be domesticated. Yet, if left unattended and not fed on a regular and systematic basis, they are aggressive and will seek out food and prey by scent. What contemplates food or prey is anyone's guess, but one must conclude that they must [be] consider[ed] dangerous by nature of their size and capacity of constriction and causing death to prey. By definition, domestic animals cannot include any wild animal. While opinions may vary, the Board concludes that in ordinary parlance as well as by the dictionary the word 'domestic' means relating to the home or household and the word 'domesticated' means made domestic or converted to domestic use.

This Board, while recognizing Mr. Kahl's efforts to breed snakes as domesticated, does not agree that they fit the definition as viewed by the members of this Board *or the general public.* While the Board has concluded that Mr. Kahl's activities are an improper use in R.C.4 zone, it is the conclusion of the Board that present zoning classifications do permit such usage as a pet shop defined under Section 101 as 'a person or establishment that sells and/or offers to sell animals, whether as an owner, agent or on consignment, to the general public,' which permits the marketing of pets; and BCZR Section 270 provides appropriate zones where animal boarding places (Class A and Class B) are permitted. While not a use permitted by right or special exception in an R.C.4 zone, they are permitted by special exception in R.C.2 zone by way of Bill 178-79, and 'animal boarding place' (Class B) is allowed by special exception, additionally, in D.R.1, D.R.2, D.R.3.5 and B.M. zones, as well as by right in B.R., M.L. and M.H. zones – but specifically

> prohibited in R.C.4, R.C.5, R.C.20, R.C.50, R.A., R.A.E.1 and 2, B.L. and M.L.R. zones. There are, therefore, ample locations for this type of commercial activity which is engaged in by Mr. Kahl. The present location, however, is not one of them." [Emphasis added.]

The Board of Appeals then addressed the last issue raised by respondent which was equitable estoppel. The Board of Appeals found that it lacked jurisdiction to resolve the issue; nevertheless, the Board of Appeals opined that based on the facts of the case and the relevant case law, respondent would not be entitled to equitable estoppel. Respondent filed a petition for judicial review of the decision of the Board of Appeals in the Circuit Court for Baltimore County.

After a hearing was held on November 10, 1999, the Circuit Court issued an Opinion and Order on November 16, 1999. The Circuit Court reversed the decision of the Board of Appeals. The Board of Appeals had determined that respondent could conduct his business in a zone that allows animal boarding places or pet shops. The Circuit Court determined that these were not appropriate zones for respondent's business and that respondent was engaged in commercial agriculture on a farm, so he could conduct his business in an R.C.4 zone as a matter of right. The Circuit Court then determined that petitioners should be estopped from challenging respondent's use of the land. The Circuit Court stated that, "[s]omewhere in the three years between initially contacting the Department of Permits and Development Management and prior to receiving notice of the special hearing, Kahl was justified in relying upon the approvals he had received from Baltimore County."

Petitioners filed an appeal to the Court of Special Appeals. The Court of Special

Appeals held that respondent's facility is a farm as a matter of law. The Court of Special Appeals also held that respondent is not required to have his land assessed agricultural, respondent's property must merely qualify for the agricultural use assessment. In conclusion, the Court of Special Appeals, remanding the action to the Board of Appeals, stated that:

> "In conclusion, we hold that appellee's [respondent] snake facility is a place that uses the land to breed and raise animals for income, pursuant to the plain language of BCZR section 101. On remand, the Board must decide if appellee would qualify for the agricultural use assessment pursuant to section 8-209 of the Tax-Property Article, if appellee were to apply."

Petitioners then filed a Petition for Writ of Certiorari to this Court and respondent filed a Conditional Cross Petition for Writ of Certiorari. We granted both petitions.

II. Discussion

A. Standard of Review

In *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 729 A.2d 376 (1999), we examined an appellate court's role in reviewing an administrative agency. Judge Eldridge, writing for the Court, stated that:

> "A court's role in reviewing an administrative agency adjudicatory decision is narrow, *United Parcel v. People's Counsel*, 336 Md. 569, 576, 650 A.2d 226, 230 (1994); it 'is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.' *United Parcel*, 336 Md. at 577, 650 A.2d at 230. *See also* Code (1984, 1995 Repl. Vol.), § 10-222(h) of the State Government Article; *District Council v. Brandywine*, 350 Md. 339, 349, 711 A.2d 1346, 1350-1351 (1998); *Catonsville Nursing v. Loveman*, 349 Md. 560, 568-569, 709 A.2d 749, 753 (1998).
>
> In applying the substantial evidence test, a reviewing court decides

""'whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.'"" *Bulluck v. Pelham Wood Apts.*, 283 Md. 505, 512, 390 A.2d 1119, 1123 (1978). See *Anderson v. Dep't of Public Safety*, 330 Md. 187, 213, 623 A.2d 198, 210 (1993). A reviewing court should defer to the agency's fact-finding and drawing of inferences if they are supported by the record. *CBS v. Comptroller*, 319 Md. 687, 698, 575 A.2d 324, 329 (1990). A reviewing court '"must review the agency's decision in the light most favorable to it; . . . the agency's decision is prima facie correct and presumed valid, and . . . it is the agency's province to resolve conflicting evidence" and to draw inferences from that evidence.' *CBS v. Comptroller*, *supra*, 319 Md. at 698, 575 A.2d at 329, quoting *Ramsay, Scarlett & Co. v. Comptroller*, 302 Md. 825, 834-835, 490 A.2d 1296, 1301 (1985). *See Catonsville Nursing v. Loveman*, *supra*, 349 Md. at 569, 709 A.2d at 753 (final agency decisions 'are *prima facie* correct and carry with them the presumption of validity').

Despite some unfortunate language that has crept into a few of our opinions, a 'court's task on review is *not* to ""'substitute its judgment for the expertise of those persons who constitute the administrative agency,'"" *United Parcel v. People's Counsel*, *supra*, 336 Md. at 576-577, 650 A.2d at 230, quoting *Bulluck v. Pelham Woods Apts.*, *supra*, 283 Md. at 513, 390 A.2d at 1124. Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts. *Lussier v. Md. Racing Commission*, 343 Md. 681, 696-697, 684 A.2d 804, 811-812 (1996), and cases there cited; *McCullough v. Wittner*, 314 Md. 602, 612, 552 A.2d 881, 886 (1989) ('The interpretation of a statute by those officials charged with administering the statute is . . . entitled to weight'). Furthermore, the expertise of the agency in its own field should be respected. *Fogle v. H & G Restaurant*, 337 Md. 441, 455, 654 A.2d 449, 456 (1995); *Christ v. Department of Natural Resources*, 335 Md. 427, 445, 644 A.2d 34, 42 (1994) (legislative delegations of authority to administrative agencies will often include the authority to make 'significant discretionary policy determinations'); *Bd. of Ed. For Dorchester Co. v. Hubbard*, 305 Md. 774, 792, 506 A.2d 625, 634 (1986) ('application of the State Board of Education's expertise would clearly be desirable before a court attempts to resolve the' legal issues)."

Id. at 67-69, 729 A.2d at 380-81 (footnotes omitted). In the case *sub judice*, the facts of the

case are not in dispute; however, the Board of Appeals' interpretation and application of the BCZR is in dispute. As stated in *Banks*, even though the decision of the Board of Appeals was based on the law, its expertise should be taken into consideration and its decision should be afforded appropriate deference in our analysis of whether it was "premised upon an erroneous conclusion of law."[11] *Banks*, 354 Md. at 68, 729 A.2d at 380, quoting from *United Parcel Service, Inc. v. People's Counsel for Baltimore County*, 336 Md. 569, 577, 650 A.2d 226, 230 (1994).

Respondent contends that the appropriate standard of review is the substituted judgment standard. Respondent states that the decision of the Board of Appeals is not due any deference. Among other cases, respondent cites *Montgomery County v. Buckman*, 333 Md. 516, 636 A.2d 448 (1994) for the proposition that "[t]he agency's resolution of the legal question is not due deference . . . ." We do not find the language in *Buckman* to support the proposition that the decision of an administrative agency is not due any deference.

B. Commercial Agriculture

Petitioners contend that the Court of Special Appeals erred by failing to give the proper deference to the decision of the Board of Appeals and by substituting its judgment for that of the Board of Appeals in construing the BCZR. We agree with petitioners that the

---

[11] In Baltimore County, since at least 1978, the Board of Appeals has been charged with "all the functions and duties relating to zoning [appeals] described in Article 25A of the Annotated Code of Maryland." Baltimore County Charter, § 602 (a). As such, its presumed expertise in interpreting the BCZR, developed over the ensuing years, is what gives weight to appropriate deference in our analysis of its legal reasoning in this matter.

Court of Special Appeals did not properly defer to the presumed expertise of the Board of Appeals in interpreting the BCZR. Moreover, there was substantial evidence to support its findings and its conclusions.

The question before the Board of Appeals was whether respondent's business qualified as commercial agriculture under the definition of farm. If his business qualified as commercial agriculture then he would be able to conduct his business because a farm is a use permitted as of right in an R.C.4 zone. The Board of Appeals determined that respondent had not satisfied the definition of commercial agriculture,[12] because respondent was not using the land for the raising of animals. The Board of Appeals stated that "the raising, breeding, and marketing of the Boas and Pythons do not require the use of the land in an agricultural sense." The Board of Appeals also determined that respondent had not satisfied the definition of commercial agriculture because respondent's business was not animal husbandry as it was intended in the definition of commercial agriculture. The Board of

---

[12] As stated, *supra*, commercial agriculture is defined in section 101 of the BCZR as:

> "**AGRICULTURE, COMMERCIAL** – The *use of land*, including ancillary structures and buildings, to cultivate plants or *raise or keep animals* for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, *animal and poultry husbandry*, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations." [Emphasis added.]

Appeals found that respondent's snakes were wild animals as supported by respondent's application for the holding facility/kennel/wild life animal license in 1994 for his residence and as supported by the definitions of wild animal and domestic animal. The Board of Appeals determined that animal husbandry concerned domestic animals and that the snakes bred by respondent do not fit the definition of domestic animals.

We commence our analysis of the relevant aspects of the BCZR by attempting to ascertain the intent of the legislative body, in this case the County Council of Baltimore County. In *State v. Bell*, 351 Md. 709, 720 A.2d 311 (1998), we stated that:

> "We have said that '[t]he cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature.' *Oaks v. Connors*, 339 Md. 24, 35, 660 A.2d 423, 429 (1995). Legislative intent must be sought first in the actual language of the statute. *Marriott Employees Fed. Credit Union v. Motor Vehicle Admin.*, 346 Md. 437, 444-45, 697 A.2d 455, 458 (1997); *Stanford v. Maryland Police Training & Correctional Comm'n*, 346 Md. 374, 380, 697 A.2d 424, 427 (1997) (quoting *Tidewater v. Mayor of Havre de Grace*, 337 Md. 338, 344, 653 A.2d 468, 472 (1995)); *Coburn v. Coburn*, 342 Md. 244, 256, 674 A.2d 951, 957 (1996); *Romm v. Flax*, 340 Md. 690, 693, 668 A.2d 1, 2 (1995); *Oaks*, 339 Md. at 35, 660 A.2d at 429; *Mauzy v. Hornbeck*, 285 Md. 84, 92, 400 A.2d 1091, 1096 (1979); *Board of Supervisors v. Weiss*, 217 Md. 133, 136, 141 A.2d 734, 736 (1958). Where the statutory language is plain and free from ambiguity, and expresses a definite and simple meaning, courts normally do not look beyond the words of the statute to determine legislative intent. *Marriott Employees*, 346 Md. at 445, 697 A.2d at 458; *Kaczorowski v. Mayor of Baltimore*, 309 Md. 505, 515, 525 A.2d 628, 633 (1987); *Hunt v. Montgomery County*, 248 Md. 403, 414, 237 A.2d 35, 41 (1968).
>
> . . .
>
> This Court recently stated that 'statutory language is not read in isolation, but "in light of the full context in which [it] appear[s], and in light of external manifestations of intent or general purpose available through other

evidence.'" *Stanford v. Maryland Police Training & Correctional Comm'n*, 346 Md. 374, 380, 697 A.2d 424, 427 (1997) (alterations in original) (quoting *Cunningham v. State*, 318 Md. 182, 185, 567 A.2d 126, 127 (1989)). To this end,

> [w]hen we pursue the context of statutory language, we are not limited to the words of the statute as they are printed. . . . We may and often must consider other 'external manifestations' or 'persuasive evidence,' including a bill's title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of legislative purpose or goal, which becomes the context within which we read the particular language before us in a given case.
>
> . . . [I]n *State v. One 1983 Chevrolet Van*, 309 Md. 327, 524 A.2d 51 (1987), . . . [a]lthough we did not describe any of the statutes involved in that case as ambiguous or uncertain, we did search for legislative purpose or meaning – what Judge Orth, writing for the Court, described as 'the legislative scheme.' [*Id.* at] 344-45, 524 A.2d at 59. We identified that scheme or purpose after an extensive review of the context of Ch. 549, Acts of 1984, which had effected major changes in Art. 27, § 297. That context included, among other things, a bill request form, prior legislation, a legislative committee report, a bill title, related statutes and amendments to the bill. *See also Ogrinz v. James*, 309 Md. 381, 524 A.2d 77 (1987), in which we considered legislative history (a committee report) to assist in construing legislation that we did not identify as ambiguous or of uncertain meaning.

Kaczorowski, 309 Md. at 514-15, 525 A.2d at 632-33 (some citations omitted)."

Id. at 717-19, 720 A.2d at 315-16 (some alterations in original); *see Williams v. Mayor & City Council of Baltimore*, 359 Md. 101, 115-17, 753 A.2d 41, 48-49 (2000); *Riemer v. Columbia Medical Plan, Inc.*, 358 Md. 222, 235-36, 747 A.2d 677, 684-85 (2000); *Laznovsky v. Laznovsky*, 357 Md. 586, 606-07, 745 A.2d 1054, 1065 (2000).

The Baltimore County Planning Board (hereinafter Planning Board) was charged by the Baltimore County Council, in response to the number and the complexity of zoning regulations for farms and agriculture-related businesses, to study the situation. The County Council requested that the Planning Board propose amendments to the BCZR in order to clarify the various zoning regulations dealing with farming and agriculture related operations. A Final Report of the Planning Board was presented on October 17, 1991. The report was titled "Proposed Amendments to the Baltimore County Zoning Regulations Regarding Definition of Commercial Agriculture and Farm."

The Planning Board started the report by providing background as to why amendments were needed to the definition for a farm. The Planning Board stated that:

> "The agricultural industry is changing dramatically. Consumer preferences and economic necessity are transforming the manner in which agricultural businesses are operated. More and more farmers are engaged in retail distribution in addition to production activities. For example, *The Pennsylvania Farmer*, a magazine geared towards the farming community, reports innovative business practices which have greatly increased farm revenues. One farmer raised his income by selling some of his fruits in fruit baskets and delivering them to nearby offices and homes, as well as shipping them via mail order. Another farmer began to process his crops into cider after a hailstorm downgraded his apples. Today he is blending his ciders with cranberries, cherries, grapes and fruits purchased from other farms and is producing 10,000 gallons per day. Different products are being tried out. An apiarian, who initially restricted his production to honey only developed a carob/cranberry bar utilizing honey and by-products from honey processing. Ocean Spray, the cranberry operative, became one of his major buyers . . . .
>
> New types of crops are becoming commonplace. Farmers experiment with raising ornamental and edible fish, shellfish and aquatic plants for the wholesale and retail trade. Hardier varieties of plants allow the cultivating of grapes in local climates and more County farmers are trying their hand in wine

production. Today the uses are frequently included when agriculture is defined in zoning regulations.

All of the business practices listed above are far removed from traditional agricultural operations. Smaller parcels of land are used to produce higher yields with the aid of intensive application of pesticides. Agricultural crops are processed, packaged and stored on site and many producers adopt the same marketing and distribution principles as commercial and industrial operations. Other aspects indicative of the changes in the agricultural industry are reflected in the type of equipment used and the modes of chemical application. Often involved in processing and distribution, today[']s farmers are more likely to use heavy equipment. Some farmers own a fleet of trucks. Other farmers use airplanes to apply pesticides.

The industrialization of agriculture has enormous implications on land use and it is essential to acknowledge that reality in the proposed definition. Recognizing the transformation of agriculture, this report provides recommendations for updating the Zoning Regulations."

The Planning Board then went on to discuss the new definition of agriculture. The Planning Board stated that:

"Formulation of a separate definition for agriculture is essential to complete the proposed set of farm definitions. 'Agriculture' has a broader meaning than 'farm'. Comparable in concept to words like 'commercial', 'residential' and 'industrial', *'agriculture' represents a class of land uses* and thus accommodates operations which might be agricultural in nature but do not fit into the narrower, traditional farm definition. For example, riding stables, firewood operations, landscape operations do not qualify as farms yet they are related to agriculture.

. . .

The principal standard that sets agricultural uses apart is that land or structures and buildings are utilized to produce plants or raise animals for income. The proposed definition acknowledges that agriculture is an industrial use which involves such activities as storage, processing, marketing, distributing and financing, but qualifies that all of the above activities must be ancillary to the principal agricultural operation." [Emphasis added.]

The Planning Board then examined the old definitions of "farm" and discussed why a new definition for farm and commercial agriculture was needed. The Planning Board stated that:

> "The Baltimore County Zoning Regulations presently offer two definitions for farm and two additional definitions, which describe different types of farms:
>
> > **Farm:** Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, including but not limited to: crop, dairy, stock and poultry farming; greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm. {Bill No. 85, 1967.}
> >
> > **Farm:** A single tract of land more than three acres, primarily devoted to agriculture, including but not limited to raising of crops, dairy, forestry, livestock and poultry farming; horse breeding, training and stabling, grazing, commercial greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm and commercial or noncommercial riding stables. {Bill No. 98, 1975.}
> >
> > **Farm, Satellite:** A tract of land owned by the farmer or another individual or individuals which is more than 5 acres, and is primarily devoted to productive agriculture, including but not limited to the raising of crops, forestry, dairy, or livestock grazing: provided that the products from these areas are processed on the site or are brought to and processed on the principal farm, as defined, or are processed in other appropriate areas. {Bill No. 98, 1975.}
>
> The existing farm definitions are repetitive and obsolete and Planning Board recommends replacing them with a version which more accurately addresses the special needs of today's farming industry. Discussions with farm representatives revealed that Baltimore County has a continuum of different farm types, all of which can be grouped under the catchall of 'metrofarm'.

They range from large scale field crop producers to small, intensively farmed operations. Farmers may conduct their business on a full-time or on a part-time basis and in addition to production, they may be involved in an array of industrial type activities.

The 'Farm, Satellite' definition has limited application. Its primary purpose is to accommodate individual farmers or farm cooperatives who own or lease non-contiguous parcels of land and who use the principal farm building or other appropriate areas for processing purposes. Planning Board believes that that form of land use is accommodated in the proposed farm definition and recommends deleting the Farm, Satellite definition.

Section 100 of the Baltimore County Zoning Regulations includes a fourth definition for small farms between three and ten acres which are either commercial or noncommercial operations. The definition of 'farmette' includes a livestock ratio table which is intended to control animal waste pollution and overgrazing on small lots.

> **Farmette:** A parcel of land more than 3 acres and less than 10 acres, devoted primarily to a single-family residence with associated agricultural uses such as commercial or noncommercial raising of farm produce, flowers, nursery stock, greenhousing and limited livestock[13] . . . ."

The Planning Board then proposed a definition for "Commercial Agriculture" that was eventually enacted, without change, by the County Council by Bill No. 51-93 on April 19, 1993. This proposed and enacted definition is the same as the definition used by the Board of Appeals in the case at bar.

At the hearing before the Board of Appeals, petitioners presented testimony from two

---

[13] The livestock, fowl, and poultry listed in the livestock ratio table were horses, burros, cattle, sheep, goats, pigs, ponies, miniature horses, chickens, ducks, geese, pigeons, pheasant, and quail. Snakes were not listed as an animal that would be on a farmette and would need to be included in a ratio table to help control animal waste pollution.

experts in the area of land planning. The first to testify was Paul Solomon, who, among other credentials, had worked for the Baltimore County Office of Planning and Zoning and the Baltimore County Department of Environmental Protection and Resource Management. Specifically, Mr. Solomon was the planner in charge of the implementation of the resource conservation zoning classifications, which included the R.C.4 zone. In his testimony, Mr. Solomon stated that:

"Q. Do you remember the question? Do you agree with the Zoning Commissioner's approach to the issues?

A. Yes, I recall the question. No, I do not agree with the Zoning Commissioner's opinion, nor the basis for it in this case.

Q. Why not, Mr. Solomon?

. . . .

A. Well, there are several reasons that I base my answer on.

First, there's no apparent – it's not apparent he considered the evolution of the R.C. zones that took place and then the need for them, so forth, I think clearly sheds light on this issue of what is a farm.

Secondly, in the definition itself, the definition is now in the zoning regulations which was put in in '91.

Incidently, he didn't consider all the aspects of the definition which have to be taken together, and pulls out one word, basically, animals, and he does not consider the various types of agricultural described in that definition and how they relate to this exotic use.

He does not understand or consider the fact that land is the key component of the definition.

He does not consider the ancillary structures are just that. They are

ancillary to the total agricultural use of the land.

He apparently did not consider the assessment requirement of that definition, since it's my understanding that this property is zoned residential and not agricultural.

He did not consider the report that was done in 1991 by the planning board which updated the definition as described here and provides a lot of insight into the meaning of this definition and the types of agriculture which the planning board and the County Council were alluding to.

That's a quick review. That's why I find fault with the Zoning Commissioner's decision in this case.

. . .

Q. Now, during the time the R.C. zones were under study, under your direction heading the committee you have just discussed, did you or your colleagues have a concept as to what animals would be considered as part of an agricultural operation?

A. Yes.

. . .

Q. Mr. Solomon, what did you have in mind when that terminology 'raise or keep animals for income' was included in the commercial agriculture definition?

A. Well, I must say, in all honesty, this definition is totally consistent with and actually reinforces the earlier definition.

But this definition is somewhat different, but with that footnote, the basis which we utilized consistent throughout the process was this activity involving these animals, farm animals, basically, was that it was land-based.

In other words, did it need land as a raw resource to function, or was it production of food and fiber?

So, basically, if either one of those conditions had been met, then the

likelihood was that that particular use for that livestock would qualify, and I think we were pretty steadfast in that regard.

Q. Now, for example, would breeding of dogs be included in this concept you just described?

A. No, it would not.

Q. Why not?

A. In the first place, it is not land-based. It doesn't require land for feed or even towards disposal of waste materials, anything of that type.

It is more of a suburban-urban type use involving kennels, so forth. Dogs are not food or fiber, so it passed neither aspects of the tests.

It is not land based, and it was not production of food or fiber.

. . .

Q. Now, you mentioned earlier in your testimony when you were discussing the agricultural – commercial agriculture definition in the Baltimore County zoning regulations, that – strike that.

There was a prior definition before the one that's currently in the zoning regulations, is that correct?

A. That is correct.

Q. And, in your opinion, does the current definition differ materially from the original definition of commercial agriculture?

. . .

A. It differs only in one regard, a very specific regard, that is, the newer definition requires that in order . . . to accommodate commercial agriculture, the land must qualify for the agricultural use assessment.

With that one difference, the definition is precisely, or is the same. And, in fact, reinforces the intent and meaning of the earlier definition by

adding other agricultural uses such as aquaculture.

It's conspicuous here it does not add uses such as exotic pets, or other non-agricultural uses.

. . .

Q. In your opinion – I will rephrase the question. Does the planning board report [the October 17, 1991 report of the Planning Board discussed *supra*] suggest any change in the understanding of the term 'commercial agriculture' from a previous definition in the 1970s to the current definition in 1993, other than the change about the agricultural use assessment?

A. No, it does not.

. . .

Q. What are the changes that are contained in the planning board report of 1991?

A. Well, the impetus of this report was that agriculture was evolving in the sense that there was some – involving some farming enterprises which were not covered under traditional agricultural.

They wanted to clarify. They mentioned four agricultural uses of the land in particular which included the raising of grapes, called viticulture; the production of fish, which is aquaculture; forestry, which is simply reiterated from the earlier definition, and then the raising of bees.

And they felt that these should be added to the more traditional accepted uses because of the state of transition of agriculture. . . .

. . .

A. Well, there's no indication in the report that they considered – there's no indication in the report in considering all of the various types of agricultural uses that they were aware of, including the ones they added, of course, in that review, they did not apparently entertain any notion of kennel or animal boarding place or exotic snake farms as being within the definition of agricultural use.

. . .

Q. Are you familiar with the phrase 'animal and poultry husbandry'?

A. Yes, I am.

Q. Based on your experiences in developing the agricultural zones in Baltimore County, what is your understanding of the term 'animal husbandry'?

. . .

A. Animal husbandry consists of production of livestock or the raising of livestock primarily for food, although in the case of the horse industry, for other uses as well, but it's also land-based.

Q. And in your opinion, does the operat[ion] conducted by Mr. Kahl consist of animal husbandry, or is it consistent with that definition?

. . .

A. No, it is not land-based. It is not land-based in any sense of the word.

. . .

Q. In preparing for the zoning case, is it appropriate to sometimes consult the Baltimore County Code for reference?

A. Yes, it is.

Q. And did you consult the Code in this case?

A. Yes, I did.

Q. What, if anything, did you find that may be relevant to the issues that we are discussing today?

A. In looking or in reviewing the County Code, I reviewed the Title VI, Article 9.

Title VI is entitled animals, and Article 9 refers to wild animals.

But in the definition section, it breaks down animals into various groupings. It breaks them down into domestic animals, cats and dogs, basically, or as an example. It distinguishes very clearly farm animals.

And then it includes a third category called wild or exotic animals. . .

. . .

Q. Was the County Code helpful to you in forming your opinion in this case?

A. It was helpful, yes.

Q. In forming your opinion, did you make, and based on the testimony you heard, and in your review of the matters in this case, did you make a determination as to what category Mr. Kahl's raising and breeding and selling snakes would fit into?

A. Yes. It would fall under the wild or exotic animals. Not, obviously, farm animals.

. . .

Q. Why would it not fall into the definition of a farm animal under the Baltimore County code?

A. It states – the definition states farm animals means any animal being maintained for production of food, food product, and fiber, period.

That's the entire definition, and that's consistent with the definition or the expressed understanding we had when we developed the R.C. zones.

Q. Have you heard anything today concerning Mr. Kahl's operation though that would lead you to believe it is an agricultural operation?

A. No.

Q. Now, based on these experiences that you discussed with Baltimore County zoning laws, and based on your investigation in this case and the matters that you heard today, do you have an opinion whether the use requested by the petitioner qualifies as commercial agriculture?

. . .

A. I do have an opinion.

Q. What is that opinion?

A. It is that his operation does not qualify under the definition in the Baltimore County zoning regulations for commercial agriculture.

Q. What do you base that opinion on? If you could tell the Board.

A. I base it first on the definition itself, which in its entirety makes it very clear what animals are.

In the first instance, the definition starts out by saying 'the use of land,' so the livestock operation, the animal operation has to be land-based, which it is not in this case.

Then there's a comment after land. It goes on to say 'including ancillary structures and buildings,' which makes it very clear that any structures are ancillary or secondary to the actual use of the land.

Then it goes on to say 'to cultivate plants or raise or keep animals for income, providing that the land also qualifies for farm or agriculture or agricultural land use assessment.'

In this case, there is clear, clear evidence that it is presently not assessed for agricultural use . . . .

. . .

A. So I am now discussing the actual definition of commercial agriculture in trying to show where the use that's before this Board is not consistent with this definition.

Coming to the end of that definition, it lists, and it is updated, it lists based on the '90 changes to the definition which includes all types of agriculture, they list nine or ten forms of agriculture.

They take commercial agriculture. It includes production of field crops, dairying, pasturage, agriculture, horticulture, aquaculture, apiculture, viticulture, forestry and animal and poultry husbandry, horse breeding and horse training.

And then it includes ancillary activities such as processing packages, so forth.

But if the Zoning Commissioner would have taken a look at those uses, there is not a hint there it involves pets or exotic animals or anything of the kind.

. . .

Q. Mr. Solomon, my original question was, on what did you base your opinion? Is there anything else?

A. Yes.

Q. Other than what you have discussed?

A. In addition to the definition itself, the Zoning Commissioner, in my opinion, should have looked at the County Code as far as looking at the definitions of animal, which very clearly distinguishes farm animals and other animals.

He should have considered the evolution and the process involving the construction of the R.C. zones, determined what, if any, meaning could be gleaned from that research.

He could have looked, should have looked at the Maryland assessment law to see how that was consistent with the definition.

So in concluding my answer to you question, he should have looked both within the definition in its entirety for enlightenment and consistency, and should have looked at the external office I alluded to, and the whole process

of the R.C. zone.

Q. Finally, Mr. Solomon, based on your position in Baltimore County in doing the R.C. 4 zones and based upon your experience, was there ever any thought given to including raising, breeding reptiles, snakes, as a farming activity?

A. No, never."

Mr. Solomon also stated in his testimony that it was his opinion that respondent's business could be located in a zone that allowed an animal boarding place.

After the testimony of Mr. Solomon, petitioners presented Mr. Norman Gerber, who also was accepted as an expert in land planning. Mr. Gerber worked in the planning office in Baltimore County for thirty years and he was the Director of Planning for eight years. As the Director of Planning, Mr. Gerber had been involved with the R.C. zones legislation and the application of the legislation to the land. Mr. Gerber stated that in his opinion respondent's business could not be conducted in an R.C.4 zone, but Mr. Gerber stated that in his opinion respondent's business could be located in a zone that allowed an animal boarding place class B. Mr. Gerber stated that he disagreed with the Zoning Commissioner's decision and that he thought that the Zoning Commissioner overlooked the fact that there is a broad zone (animal boarding place class B) in which this use is permitted. Mr. Gerber stated that this use does not meet the definition of a farm and that this use is not related to the land.

Respondent alleges that he is using the land in the same manner as poultry husbandry

and aquaculture, two forms of commercial agriculture.[14] At the hearing, the distinction was drawn between the two recognized forms of commercial agriculture in that they both provide food. Respondent also alleges that he practices animal husbandry within the definition of commercial agriculture. The Board of Appeals distinguished respondent's business because it involves wild animals, not domestic animals, and the definition of animal husbandry is the production and care of domestic animals.

After an examination of the record, we determine that there is substantial evidence in the record to support the Board of Appeals' decision to find that the breeding, raising, and selling of snakes is not a permissible use in an R.C.4 zone. There is no dispute as to the facts. Moreover, the legislative intent, as evidenced by the County Council's adoption of the Planning Board's proposed amendments and the testimony as to the intent of the Planning Board, provided the Board of Appeals with substantial evidence to interpret and apply the statutes in the manner in which it did. Examining the Board of Appeals' decision and giving the appropriate deference to the expertise of the Board of Appeals in interpreting the BCZR, we hold that the Board of Appeals' decision was not premised on an erroneous conclusion of law.

Furthermore, we have held that a change in a statute as part of a recodification will not modify the law unless the intent of the legislative body to change the law is clear. In

---

[14] The definition of commercial agriculture, stated *supra*, explicitly states that aquaculture and poultry husbandry are included as commercial agriculture. The definition does not state that the raising, breeding, and selling of snakes – snake husbandry – is included as commercial agriculture.

Blevins & Wills v. Baltimore County, 352 Md. 620, 642, 724 A.2d 22, 32-33 (1999), we stated that:

> "We have long recognized and applied the principle that 'a change in a statute as part of a general recodification will ordinarily not be deemed to modify the law *unless the change is such that the intention of the Legislature to modify the law is unmistakable*.' *Duffy v. Conaway*, 295 Md. 242, 257, 455 A.2d 955 (1983) (emphasis added); *In re Special Investigation No. 236*, 295 Md. 573, 458 A.2d 75 (1983). That is because the principal function of code revision 'is to reorganize the statutes and state them in simpler form,' and thus 'changes are presumed to be for the purpose of clarity rather than for a change in meaning.' *Bureau of Mines v. George's Creek*, 272 Md. 143, 155, 321 A.2d 748, 754 (1974), quoting from *Welsh v. Kuntz*, 196 Md. 86, 97, 75 A.2d 343, 347 (1950)."

Resolution number 29-90 of the County Council requested that the Planning Board propose "amendments to the Baltimore County Zoning Regulations in order to clarify the various zoning regulations dealing with farming, forestry activities, and agriculture related operations." There was not an intent on the part of the County Council to modify the law; the County Council was looking to clarify the law. Examining the previous definitions of farm in the BCZR that were clarified by the definition of farm and commercial agriculture, we cannot detect any intent of the County Council to change the meaning of the preceding definitions. The preceding definitions clearly do not include respondent's business as an activity that occurs on a farm. Moreover, there was no discussion before the Planning Board of extending any of the relevant definitions to include any new animals involved in new types of commercial agriculture that were not explicitly stated in the new definition. Clearly, snakes were not an animal that the Planning Board or the County Council considered as

falling within the province of the definition of farm or commercial agriculture.

Furthermore, there are certain instances where it is appropriate to consider other factors when interpreting a statute, some of which were alluded to by the petitioners' expert witness. They include the fact that we do not set aside common experience and common sense when construing statutes. Absurd constructions are to be avoided. Simply stated, in the absence of proof that the legislative body expressly intended otherwise, the terms "farm" or "farm animals" would not normally include pythons and boa constrictors. Pythons, boa constrictors, and, for that matter, snakes in general, are not "farm animals." One can breed, raise, and sell snakes, but you cannot farm them. A snake is no more the equivalent of chickens, pigs, cows, goats, and sheep, than are lions, tigers, and elephants. In arriving at this assumption, we do not rely on treatises, scientific documentation, or other published works; we rely on common sense. A snake, however loveable it may be to some, is not a farm animal unless legislatively declared to be such. A boa constrictor can be an animal on a farm, but that does not make it a "farm animal," any more than a fox on the way to raiding the hen house is a "farm animal."

We hold that the Court of Special Appeals failed to give the proper deference to the decision of the Board of Appeals. The decision of the Board of Appeals was supported by substantial evidence in the record and was not premised on an erroneous conclusion of law. The Court of Special Appeals erred in finding that respondent's business was a permitted use in an R.C.4 zone. The Court of Special Appeals should have affirmed the decision of the

Board of Appeals.

C. Vested right

Respondent contends that he has obtained a vested right to use his property to raise, breed, and keep reptiles or snakes. In his brief, respondent states that in order for him to have a vested right he must satisfy two prongs. The first prong is that there has to be a valid permit. The second prong is that substantial work has to be performed under the permit so that it would be discernable to a member of the general public that work under the permit was occurring. Respondent states that he has satisfied both of the prongs and has a vested right to use the property for his business. Respondent fails to properly apply the prongs and to understand the circumstances of when a vested right occurs.

We examined the law of vested rights in *Prince George's County v. Sunrise Development Limited Partnership*, 330 Md. 297, 623 A.2d 1296 (1993). In *Sunrise*, we stated that:

> "The third stream of cases involves the issue of vested rights, per se. By a per se vested rights case we mean one invoking '[t]hat doctrine, which has a constitutional foundation [and which] rests upon the legal theory that when a property owner obtains a lawful building permit, commences to build in good faith, and completes substantial construction on the property, his right to complete and use that structure cannot be affected by any subsequent change of the applicable building or zoning regulations.' *Prince George's County v. Equitable Trust Co.*, 44 Md. App. 272, 278, 408 A.2d 737, 741 (1979).
>
> The first case in this Court squarely raising that doctrine is *Richmond Corp. v. Board of County Comm'rs for Prince George's County*, 254 Md. 244, 255 A.2d 398 (1969). There the developer owned commercially zoned land abutting residentially zoned land. The developer had expended large sums of money in acquisition of the property and in preparing plans, leases and

specifications for a shopping center on the commercially zoned tract that would utilize the residentially zoned tract for parking. Before there was any construction on the ground, the zoning ordinance was amended to require a special exception for parking on residentially zoned property as auxiliary to a commercial use. In rejecting a contention that the developer had vested rights under the earlier zoning, we borrowed from the law of nonconforming uses the concept of public knowledge in the neighborhood of the use, saying:

> 'In Maryland it is established that in order to obtain a "vested right" in the existing zoning use which will be constitutionally protected against a subsequent change in the zoning ordinance prohibiting or limiting that use, the owner must (1) obtain a permit or occupancy certificate where required by the applicable ordinance and (2) must proceed under that permit or certificate to exercise it on the land involved so that the neighborhood may be advised that the land is being devoted to that use. *See Feldstein v. LaVale Zoning Board*, 246 Md. 204, 210, 227 A.2d 731, 734 (1967), indicating that [*Mayor & City Council v.*] *Shapiro*[, 187 Md. 623, 51 A.2d 273 (1947)] as well as *Chayt v. Board of Zoning Appeals*, 177 Md. 426, 9 A.2d 747 (1939), established as one of the tests for determining the existence of a nonconforming use "is whether such use was known in the neighborhood."'

254 Md. at 255-56, 255 A.2d at 404.

> In *Rockville Fuel & Feed Co. v. Gaithersburg*, 266 Md. 117, 291 A.2d 672 (1972), we said that '[s]uch a "vested right" could only result when a lawful permit was obtained and the owner, in good faith, has proceeded with such construction under it as will advise the public that the owner has made a substantial beginning to construct the building and commit the use of the land to the permission granted.' *Id.* at 127, 291 A.2d at 677; *see also County Council for Montgomery County v. District Land Corp.*, 274 Md. 691, 337 A.2d 712 (1975)."

Id. at 312-13, 623 A.2d at 1303-04 (alteration in original); *see Sycamore Realty Co., Inc. v. People's Counsel of Baltimore County*, 344 Md. 57, 67, 684 A.2d 1331, 1336 (1996).

In the case *sub judice*, respondent obtained a permit and completed substantial

construction; however, he is not entitled to have a vested right because there has been no change, applicable to his case, in the zoning law itself and the permit was improperly issued. When respondent obtained his permit and started construction, the BCZR was the same as when petitioners filed for a hearing before the Zoning Commissioner. The Zoning Commissioner and later the Board of Appeals were not making a subsequent change to the BCZR, they were just interpreting the BCZR as it was already enacted. Based on the decision of the Board of Appeals that we are affirming, respondent's permit was not a lawful permit because he could not lawfully conduct his business in an R.C.4 zone.

Respondent did not satisfy the first prong because his permit was not proper. Additionally, he was not being subjected to a subsequent change in the zoning regulations. Generally, in the absence of bad faith on the part of the remitting official, applicants for permits involving interpretation accept the afforded interpretation at their risk. Therefore, respondent has not obtained a vested right to conduct his business on the property.

D. Equitable estoppel

We examined the doctrine of equitable estoppel and its application against a municipality in *Inlet Associates v. Assateague House Condominium Association*, 313 Md. 413, 545 A.2d 1296 (1988), when we stated that:

> "There is no settled rule in this country as to when, and under what circumstances, equitable estoppel is available against a municipal corporation. *Permanent Fin. Corp. v. Montgomery Cty.*, 308 Md. 239, 518 A.2d 123 (1986). Our cases have continually applied the definition of equitable estoppel set forth in 3 J. Pomeroy, *Equity Jurisprudence* § 804 (5th ed. 1941) as follows:

> 'Equitable estoppel is the effect of the voluntary conduct of a party whereby he is absolutely precluded, both at law and in equity, from asserting rights which might have otherwise existed, either of property, or contract or of remedy, as against another person who has in good faith relied upon such conduct, and has been led thereby to change his position for the worse and who on his part acquires some corresponding right, either of property, of contract, or of remedy.'
>
> . . .

Unlike *Permanent Fin.*, the present case does not turn on the ambiguity vel non of a county ordinance which was subject to two reasonable interpretations. Rather, we are now considering whether a municipality may be estopped when its city council, in clear violation of a fundamental charter requirement that it act by ordinance, with all the deliberate safeguards attendant upon the legislative process, purports to bind the municipality through passage of a simple resolution which is neither subject to executive approval nor veto nor the public right of referendum. Of course, no principle is better settled than that persons dealing with a municipality are bound to take notice of limitations upon its charter powers. *See City of Hagerstown*, *supra*, 264 Md. at 493, 287 A.2d 242; *Hanna v. Bd. of Ed. of Wicomico Co.*, 200 Md. 49, 57, 87 A.2d 846 (1952); *Gontrum v. City of Baltimore*, 182 Md. 370, 375, 35 A.2d 128 (1944). Consequently, '[e]veryone dealing with officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.' *Lipsitz v. Parr*, *supra*, 164 Md. at 228, 164 A. 743. *See also Berwyn Heights*, *supra*, 228 Md. at 279, 179 A.2d 712. Therefore, the doctrine of equitable estoppel 'cannot be . . . invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment.' *Lipsitz*, 164 Md. at 228, 164 A. 743. In the same vein, McQuillin, *supra*, § 29-104c states that estoppel cannot make lawful a municipal action which is beyond the scope of its power to act or is not executed in compliance with mandatory conditions prescribed in the charter. In other words, the doctrine of equitable estoppel cannot be invoked to defeat a municipality's required adherence to the provisions of its charter simply because of reliance upon erroneous advice given by an official in excess of his authority. *See City of Baltimore v. Crane*, *supra*, 277 Md. at 206, 352 A.2d 786. When, as here,

> it is a patent violation of one of the most fundamental provisions of a municipal charter – that its legislative body, when required to act in a legislative capacity, do so only by ordinance – it cannot matter that a party relies upon erroneous official advice to its detriment."

Id. at 434-37, 545 A.2d at 1307-08 (alteration in original).

Respondent contends that Baltimore County should be estopped from preventing him from using his property to raise, breed, and keep reptiles and snakes. Respondent states that it would be "fundamentally unfair" to not allow him to use the property for his business after he obtained permit approval and had substantially constructed the reptile barn before he knew the petitioners might file for a special hearing. Respondent contends that he relied on the permit approval to order materials and enter into a contract for construction.

In *Lipsitz v. Parr*, 164 Md. 222, 164 A. 743 (1933), Mr. Lipsitz brought a proceeding against Mr. Parr, the buildings engineer of the Mayor and City Council of Baltimore City, and the named members of the board of zoning appeals. Mr. Lipsitz had obtained a permit to construct a building to manufacture ice. The permit granted Mr. Lipsitz permission to construct the building and the permit carried an indorsement that the use of the land was in conformity with the provisions of the zoning ordinance. The land upon which the ice factory was to be constructed was actually in a zone where an ice factory was prohibited. Mr. Lipsitz was notified by letter that the permit was revoked and annulled as being in violation of the law and as having been issued by a mistake of a clerk. Mr. Lipsitz had already leased the premises to a tenant for a term of five years and had started construction on the building. Mr. Lipsitz alleged that the municipality was barred from denying his right to use the premises

as an ice factory by estoppel.

The Court held that the doctrine of estoppel did not apply because a municipality is not estopped from enforcing its zoning regulations when a permit had been issued by mistake by its officer or agent. The Court held that:

> "A municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law. Paragraph 31 of the ordinance forbade the officials of the municipality to grant the permit which the plaintiff asked and obtained; and paragraph 41 made it a misdemeanor for the plaintiff to use his premises as a factory to make ice as the invalid permit purported to empower.
>
> If the provision of the ordinance be constitutional, it was therefore unlawful for the officers and agents of the municipality to grant the permit, and it would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued without the official power to grant does not, under any principle of estoppel, prevent the permit from being unlawful nor from being denounced by the municipality because of its illegality. In the issuance of permits pursuant to the ordinance at bar, the municipality was not acting in any proprietary capacity nor in the exercise of its contractual powers, but in the discharge of a governmental function through its public officers of limited authority, and *the doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of this ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment.* Every one dealing with the officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.
>
> So, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act of its officer or agent, it is not estopped by the unauthorized or wrongful act of its officer or agent in issuing a permit that is forbidden by the explicit terms of an ordinance.
>
> It follows that, because the ordinance prohibited the use of the premises

> in question for the making of ice by artificial methods, any permit issued would be void, and the person who received the permit would derive no benefit, and whatever he might do in pursuance of this permission would be at his own risk and loss, unless the prohibition itself were void."

Id. at 227-28, 164 A. at 745-46 (citations omitted) (emphasis added).

In *Town of Berwyn Heights v. Rogers*, 228 Md. 271, 179 A.2d 712 (1962), Phillip Rogers, a home builder, began construction of a residence in Berwyn Heights. Mr. Rogers had not started construction until he had received building permits from both the county's building inspectors and the Town of Berwyn Heights'[15] inspectors. The construction was in compliance with the permits; however, the Town of Berwyn Heights concluded that a mistake had been made in the issuance of the permits so that the residence was being built in violation of a zoning ordinance. The Town of Berwyn Heights filed suit to enjoin the construction of Mr. Rogers.

Mr. Rogers alleged that the Town of Berwyn Heights was estopped from filing suit because it and the county had issued Mr. Rogers building permits, and Mr. Rogers had expended substantial amounts of money in partially constructing the residence. The Court held that:

> "Some authorities hold that the principle of estoppel does not apply against a city, but the majority rule is to the effect that the doctrine of estoppel in pais is applied to municipal, as well as to private, corporations and individuals, at least where the acts of its officers are within the scope of their authority and justice and right requires that the public be estopped. And it has been held that municipalities may be estopped by reason of the issuance of permits. However, the cases and text-writers very generally state that a municipality is

---

[15] The Town of Berwyn Heights was, and remains, a municipal corporation.

not estopped to set up the illegality of a permit. And the issuance of an illegal permit creates no 'vested rights' in the permittee. *We have held above that the permits issued to the appellee were in violation of the zoning ordinance; consequently they were unlawful and did not estop the appellant [the Town of Berwyn Heights] from prosecuting this suit."*

Id. at 279-80, 179 A.2d at 716 (citations omitted) (emphasis added).[16]

While we are sympathetic to the plight in which respondent has found himself, we hold that the county is not estopped from enforcing the BCZR as it was applied by the Board of Appeals. We have held, generally, that permits that have been issued that are in violation of the zoning ordinances are unlawful and cannot be grounds for estopping a municipality from the enforcement of the ordinance. We stated in *Lipsitz* that "the doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment." *Lipsitz,* 164 Md. at 227, 164 A. at 746.

III. Conclusion

We hold that the Court of Special Appeals failed to give appropriate deference to the

---

[16] There have been cases where we have granted equitable estoppel against a municipality; however, they are distinguishable from the case at bar. In *Permanent Financial Corp. v. Montgomery County*, 308 Md. 239, 518 A.2d 123 (1986), a builder sought to estop the county from asserting that the top floor of a building exceeded a height control imposed by local zoning ordinances. We held that the county was estopped because the builder had designed and constructed the building in reliance on the building permits and the counties long-standing and reasonable interpretation as to how a building's height should be calculated. The record in the case at bar does not indicate any long-standing practice in Baltimore County to include snakes as farm animals or the raising and breeding of snakes as commercial agriculture. To the extent there is any such evidence, it is to the contrary.

expertise of the Board of Appeals in interpreting the BCZR. Furthermore, there was substantial evidence in the record to support the findings made by the Board of Appeals and the decision made by the Board of Appeals was not based on an erroneous conclusion of law. The Board of Appeals properly found that respondent's business does not satisfy the definition of "commercial agriculture," because respondent was not involved in the use of the land or in animal husbandry. Also, it was not the intent of the County Council when enacting the definition of "commercial agriculture" to include activities like the breeding, raising, and selling of reptiles. Therefore, respondent's business does not satisfy the definition of "farm" and respondent is unable to conduct his business in an R.C.4 zone.

Respondent is not entitled to a vested right to use his property to raise, breed, and keep reptiles and snakes. Because we have held that respondent's business is not a use allowed in an R.C.4 zone, respondent cannot satisfy the first prong of vested rights jurisprudence because his permit was never properly issued. The permit was in violation of the BCZR. Respondent also is not entitled to a vested right because the concept of vested rights generally protects a party from a subsequent change to a zoning ordinance after construction under a valid permit has commenced. In the case at bar, there was not a subsequent change in the BCZR, there was only an interpretation of a statutory provision that existed at the time the alleged right vested, which interpretation was not contrary to any prior interpretation by the BCZR of that provision or local common practice and usage regarding the provision.

We also hold that Baltimore County is not estopped from preventing respondent from

using his property to conduct his business by enforcing the BCZR as it was interpreted by the Board of Appeals. Respondent knew, or should have known, that the permit obtained was not proper when it was issued; it cannot be grounds for estopping Baltimore County from enforcing the BCZR.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED; CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO REVERSE THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AND TO REMAND THE CASE TO THE CIRCUIT COURT FOR BALTIMORE COUNTY WITH DIRECTIONS TO AFFIRM THE DECISION OF THE BOARD OF APPEALS FOR BALTIMORE COUNTY; COSTS IN THIS COURT AND IN THE COURT OF SPECIAL APPEALS TO BE PAID BY RESPONDENT.

2/7/01

97-494-SPH /Marzullc
(Kahl Property)

The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

CHAMBERS OF
JOHN GRASON TURNBULL, II

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
410-887-2647

PETITION OF PETER A. KAHL	*	IN THE
PETITION FOR JUDICIAL REVIEW OF THE DECISION OF:	*	CIRCUIT COURT
	*	FOR
THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	BALTIMORE COUNTY
IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF MARY PAT MARZULLO CASE NUMBER 97-494-SPH	*	CASE NO. 03-C-98-12834

* * * \

12/26/00

1/25/01

97-494-SPH /Mary Pat Marzullo
(Kahl Property)
[illegible]A REVERSES CCt
12/26/00 (Eyler & Fischer,JJ)
Dissent by Karwacki, J)

REPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2301

September Term, 1999

MARY PAT MARZULLO, et al.

v.

PETER A. KAHL

Eyler,
Karwacki, Robert L.
(Ret., specially assigned),
Fischer, Robert F., Jr.
(Ret., specially assigned),

JJ.

Opinion by Fischer, J.
Dissenting opinion by Karwacki, J.

Filed: December 26, 2000

CIRCUIT COURT
COUNTY, MARYLAND
01 JAN 25 PM 1:04

#C9812834

This is an appeal by Mary Pat Marzullo and People's Counsel for Baltimore County, appellants, from a decision by the Circuit Court for Baltimore County reversing the County Board of Appeals (Board) in a zoning matter. The circuit court held as a matter of law that a facility for the breeding, raising, and marketing of snakes, owned by Peter Kahl, appellee, was a farm within the meaning of the "RC-4", "Resource Conservation – Watershed Protection" zone.

I. Factual Background

The underlying facts are not in dispute. Appellee is an avid snake lover and successful breeder of exotic pythons and boas. At first, appellee mated his reptiles in the basement of his home. Desiring to house his snakes in less constricted quarters, appellee built a facility on his Baltimore County property to breed, raise, and market snakes and transformed what began as a hobby into a business.[1] This case arose when some of his neighbors, including Ms. Marzullo, recoiled at the facility's inhabitants.

Appellee's business, Kahl Reptiles, Incorporated, is advertised on the Internet and "conducted on an extensive international basis." Appellee has one full-time employee, Marc Spataro, who testified before the Board and has had several

---

[1]Appellee testified that his snake breeding business generates an annual gross income of approximately $500,000.

articles published in scientific magazines and journals that are dedicated to the study and breeding of snakes. Both individuals were considered by the Board as "experts in the field of herpetology." Appellee also has co-authored articles and testified extensively regarding the "selectivity of the breeding... the mating process, conditions required throughout the entire process, the harvesting of eggs, the incubation process, developmental stages, and the final determination of which snakes would be trained and which would ultimately be marketed."

Appellee markets to other breeders, individuals, and institutions. While there is a market for both human consumption and manufacturing, appellee avoids selling for these purposes, except for inexpensive, subpar animals. The snakes are bred for color, pattern characteristics, and temperament. Appellee retains a significant portion of the snakes for breeding purposes. To attain these goals, appellee maintains extensive records and files on the snakes. Appellee also testified that he does not board or keep any animals for others at his facility. The Board noted that appellee's "expertise has resulted in the development of many varied strains of both Boas and Pythons relative to color and stripes and temperament."

Appellee's building is a two-level, ten thousand square foot, barn-like structure. The snakes are housed on the first

floor, comprised of sixteen rooms, one of which is appellee's office. Installed in the building is an elaborate heating, cooling and ventilation system and each room is equipped with a sink, window, and radiant floor heat. The rooms are temperature controlled for optimal breeding, hatching, and growing conditions. In addition to the ordinary safety measures of locks and fire alarms, appellee's facility contains extraordinary safety measures, including an alarm system in the incubation room set to monitor the temperature and a security system that requires all the snakes' cage doors and doors to the facility to be locked before the alarm can be set or the door locked.

The snakes are normally maintained inside the facility, but they are taken outside for exercise and "sunning." Appellee also testified that the best breeding results require the females to exercise in order to maintain good muscle tone.

The barn is served by its own well and septic system that guarantees the snakes are hydrated and their cages cleansed with clean water. A compost system breaks down the snakes' waste and is used to fertilize the yard. Within the facility, appellee breeds rats and rat pups that are used to feed the snakes.

Despite the snakes' outside exercise, the Board did not find that the snakes pose any threat to the community. In fact, the Board found that this case "is not a situation of community safety, increased traffic, [or] snake security...." The Board

further found that "testimony is uncontradicted that Kahl 'raises, breeds, keeps and markets' these animals (snakes)."

II. Procedural History

Appellee's residence and snake breeding and raising facility are located on 4.72 acres, zoned "RC-4" or "Resource Conservation– Watershed Protection." The primary purpose of RC-4 zoning is to protect water supplies by controlling development in watershed areas. Baltimore County Zoning Regulations (BCZR) § 1A03.1 (2000).

In July 1994, appellee applied to the Baltimore County Department of Permits and Licenses for a "Holding Facility/Kennel/Wild Life" animal license for his reptile barn. This one-year license was issued on July 12, 1994.

Later in July 1994, appellee contacted Mr. Arnold Jablon, Director of the Department of Permits and Development Management, to present a plan for a barn-like structure to house snakes.[2]

On April 5, 1995, two months prior to the expiration of his animal license, he requested a "farm qualification" for his property from the Baltimore County Agricultural Land Preservation Advisory Board (Advisory Board). Attached to appellee's application was a map and parcel reference. Upon receiving

---

[2]At the time Mr. Kahl proposed his business plan, the Department of Permits and Development Management was known as the Department of Zoning and Development Management. Mr. Jablon has remained as director throughout and his duties as such have not been altered. See BCZR §§ 5-1 to 5-2 (2000).

appellee's request, Mr. Jablon requested Mr. Wallace Lippincott, program administrator of the agricultural preservation program, to verify the legitimacy of appellee's "farm qualification" request. At the Advisory Board's April 12, 1995 meeting, the "farm usage was approved and verified to Mr. Jablon by the Bureau." The Board, in its opinion, noted that the "farm qualification" request from Mr. Jablon stated:

> This office is officially requesting verification of the legitimacy of a farm use on the referenced property. In the judgment of the Director and/or the Zoning Commissioner, in consideration of your findings, a special hearing may be required before the Zoning Commissioner prior to any zoning approvals. We are submitting a copy of....

In November 1996, appellee, pursuant to section 26-171(a)(7) of the Baltimore County Code, requested a limited exemption from the requirements of the building regulations. This request was granted by the Development Review Committee, Department of Permits and Development Management, by a letter from Mr. Jablon dated November 26, 1996. By virtue of this provision, appellee was exempted from both the community input meeting and the public hearing.

Appellee's first building permit was issued on February 14, 1997. Because appellee decided to add a basement to his facility, he re-applied and was issued a new permit on March 27,

1997, allowing for a 10,000 square foot facility.[3]

On April 16, 1997, Mr. Carl Richards, Supervisor of Baltimore County's Zoning Review Section, wrote appellee a letter informing him that there had been community complaints about his proposed usage for the barn. Mr. Richards pointed out that any citizen could file a petition for special hearing. Section 500.7 of the zoning regulations explains by whom and for what a petition for special hearing can be requested. It permits:

> any interested person to petition the zoning commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

BCZR § 500.7 (2000). In that same letter, however, Mr. Richards stated that his department accepted the Advisory Board's recommendation that appellee's property was a "farm" at face value and deferred to the Advisory Board's expertise and knowledge about the subject matter.

Ms. Marzullo filed a Petition for Special Hearing near the end of April 1997, arguing that appellee's facility was not a "farm" and thus not a permitted use in a RC-4 zone. Appellee was

---

[3]The original application stated that the facility would have a private water and sewage system, but the permit stated that the property would be fed by the public water and sewage system. The Board found that this discrepancy was merely an administrative error that was not "germane to the case."

notified that appellants' petition had been filed on April 30, 1997. The Board found that at the time of the petition's filing, the reptile barn was 45% complete with its foundation laid and walls erected.

The zoning commissioner heard the case on October 21, 1997, and denying appellant's petition, approved the site for the breeding, raising, and selling of reptiles.

On November 30, 1998, seeking a modern-day Phorbas,[4] appellants appealed to the Board. The Board reversed and held that the snake facility was not a use permitted as of right in a RC-4 zoning district.

Appellee then petitioned for judicial review of the Board's ruling to the circuit court. On November 16, 1999, the circuit court reversed the Board and held that the snake breeding facility was a farming activity permitted as of right. An appeal from the Circuit Court's decision was timely filed to this court.

III. Applicable Standard of Review

Our review of an administrative agency's decision is narrow. Board of Physician Quality Assur. v. Banks, 354 Md. 59, 67 (1999). We will not disturb the agency's factual findings unless those findings are clearly erroneous. Pierce v. Montgomery

---

[4]Phorbas, who hailed from the Ancient Greek region of Thessaly, was asked by the people of Rhodos to free them from the snakes that were plaguing their island. Upon doing so, he was heralded as a hero.

County, 116 Md. App. 522, 529 (1997) (quoting County Comm'rs of Carroll County v. Zent, 86 Md. App. 745, 752-53 (1991)). In other words, we will not substitute our judgment for an agency's factual findings if the record contains substantial evidence to support them. Banks, 354 Md. at 67. We review whether an agency correctly applied the facts to the law to determine if it abused its discretion. Pierce, 116 Md. App. at 529. In evaluating whether an abuse of discretion occurred, "we accord great deference to the agency and ask merely whether a reasoning mind could reasonably have reached the conclusion reached by the agency." Sterling Homes Corp. v. Anne Arundel County, 116 Md. App. 206, 216-17 (1997)(quoting Evans v. Shore Communs., 112 Md. App. 284, 299 (1996)). An agency's legal conclusions, however, will be reviewed *de novo*. Maryland State Dept. of Educ. v. Shoop, 119 Md. App. 181, 197, *cert. denied* 349 Md. 94 (1998).

Questions of statutory construction and interpretation are questions of law. See Enviro-Gro Technologies v. Bockelmann, 88 Md. App. 323, 329, cert. denied 325 Md. 94 (1991) (quoting Harford County v. McDonough, 74 Md. App. 119, 122 (1988) ("The order of an administrative agency, such as a county zoning board, must be upheld on review if it is not premised upon an error of law...."). Our cases have long held that a reviewing court is not bound by the agency's interpretation of statutes. See Department of Human Resources v. Thompson, 103 Md. App. 175, 190

(1995). When the facts are not disputed, we will review the agency's decision to determine that it is not based upon an erroneous conclusion of law. Banks, 354 Md. at 67-68.

In this case, all parties agree that appellee uses his snake breeding facility to breed, grow, and sell exotic boas and pythons. The question is whether this use meets the definition of "farm" as used in the Baltimore County Zoning Regulations. BCZR § 101 (2000).

IV. Applicable Rules of Statutory Construction

Long-standing canons of statutory interpretation mandate that we interpret a statute's words using their plain meaning. See Thompson, 103 Md. App. at 200 (citing Condon v. State, 332 Md. 481, 491 (1993)). And "where the statutory language is plain and free from ambiguity, and expresses a definite and simple meaning, courts do not normally look beyond the words of the statute itself." Degren v. State, 352 Md. 400, 417 (1999); see Marriott v. Employees Fed. Credit Union v. MVA, 346 Md. 437, 444 (1997); see also Lone v. Montgomery County, 85 Md. App. 477, 502 (1991). When statutory terms are free from ambiguity, we assign them a plain and sensible usage. Tidewater/Havre de Grace, Inc. v. Mayor & City Council of Havre de Grace, 337 Md. 338, 345 (1995)("we are not... at liberty to create an ambiguity where none otherwise exists....")(citations omitted). Finally, we "give every word effect, avoiding constructions that render any

portion of the language superfluous or redundant." Rouse-Fairwood Ltd. v. Supervisor of Assessments, 120 Md. App. 667, 687 (1998) (citing Blondell v. Baltimore City Police Dep't, 341 Md. 680, 691 (1996)).

On the other hand, when the plain meaning of a statute is unclear, "courts should consider not only the literal or usual meaning of the statutory language, but also its 'meaning and effect in light of the setting, the objectives and purpose of the enactment.'" Rouse-Fairwood, 120 Md. App. at 688 (quoting Tucker v. Fireman's Fund Ins. Co., 308 Md. 69, 75 (1986)). We look to the statutory scheme in which those words appear to ascertain their meaning. See Edgewater, 349 Md. at 808. In evaluating the statutory scheme, the provision's policies and purposes are evaluated in order to ascertain the legislative body's intent. See Porter, 349 Md. at 617. That said, however, we still avoid "giving the statute a strained interpretation or one that reaches an absurd result." Metheny v. State, 359 Md. 576, 610 (2000) (citing Huffman v. State, 356 Md. 622, 627-28 (1999)); see, e.g., Thanos v. State, 332 Md. 511, 525 (1993). We can never "embellish a statutory provision so as to enlarge its meaning." Abington Ctr. Assocs. Ltd. v. Baltimore County, 115 Md. App. 580, 603 (1997).

V. Discussion

The Baltimore County Zoning Regulations delineate uses permitted as of right and by special exception in section 1A03.3(A) and (B), respectively. BCZR § 1A03. Appellee argues that the snake breeding and raising facility is a use permitted as of right under section 1A03.3(A)(2), which entitles one in a RC-4 zone to use property as a farm. BCZR § 1A03.3(A)(2). "Farm" is defined by the zoning regulations as,

> Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses.

BCZR § 101. The zoning regulations, also in section 101, define "commercial agriculture":

> The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations.

Id. Because "animal" is not defined in section 101, the zoning regulations assign it the definition as stated in the most recent edition of the Webster's Third New International Dictionary. Id. Webster's defines "animal" as, "... being characterized by a requirement for complex organic nutrients including proteins or their constituents which are usually digested in an internal cavity before assimilation into the body proper...." WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 85 (1961).

Appellants argue that the Board properly found as a fact that appellee's facility was not a farm, and thus, we should review its finding for an abuse of discretion. We disagree.

The Board interpreted the BCZR's language and based its conclusion on that interpretation. The Board attempted to determine the intention of the legislative body and in doing so, considered expert testimony and the entire statutory scheme. The Board quoted from Porter v. Bayliner Marine Corp., 349 Md. 609, 617 (1998)("When interpreting any statute, we must look to the entire statutory scheme, and not any one provision in isolation to affect the statute's general policies and purposes. When the statute to be construed is part of the statutory scheme, the legislative intent is determined by considering it in light of the statutory scheme."); and Edgewater Liquors, Inc. v. Liston, 349 Md. 803, 808 (1998) ("... the meaning of the plainest language is controlled by the context in which it appears... In

analyzing a statute, we approach statutory construction from a common sense perspective... Accordingly, we avoid construing a statute so as to lead to results that are unreasonable, illegal, or inconsistent with common sense."). The Board determined that appellee's use was not a farm because it did not involve the "use of land" and it was not "animal husbandry." The Board explained that, while land may have been used in a technical sense, it was not being used in an agricultural sense. With respect to animal husbandry, the Board looked to the dictionary, concluded that it was limited to domestic animals and that snakes were not domestic.

Appellants rely on Enviro-Gro Technologies v. Bockelmann, 88 Md. App. 323 (1991), to support their position that the Board's determination was properly a factual one. This reliance is faulty. Enviro-Gro involved sludge that was ultimately to be used for agricultural purposes. The zoning authority had to decide at what point the sludge metamorphosized into an agricultural product. The case at bar is distinguishable. Whether one believes that a snake paved the way for the Golden Reign of Augustus, or felled Adam and Eve from the Garden of Eden, there is no question that a snake is an animal.[5] There is

---

[5]After losing the Battle of Actium in 31 BC, Cleopatra committed suicide, in order to save herself the humiliation of being led by Augustus through the streets of Rome, by sneaking an asp into her tower and letting it bite her. Plutarch, Lives.

(continued...)

also no dispute as to the underlying facts. In this case, the only question is whether appellee's snakes live on a "farm" as defined by the BCZR.

Appellee testified that he suns and exercises his animals outside. He composts their waste and spreads it over his land. The breeding facility is supported by the land and is hydrated from the well on the land. It is difficult to draw a distinction between this use of the land and other modern farm uses.

The Board determined that the legislative body intended to limit "the use of land" to uses that produced food or fiber. This conclusion was in error because the Board superimposed the definition of "farm animal" found in Baltimore County Code (BCC), Article I, section 6-1 (1991), onto the legislature's choice of the more general word, "animal." BCC Article I, section 6-1 defines "farm animal" as "[a]ny animal being maintained for the production of food, food products, and fiber." However, the "commercial agriculture" definition only requires that the land be used to "raise or keep animals for income." BCZR § 101.

In several places, the Board reasoned that appellee's use was not a "farm" within the BCZR's meaning because "there is no crop, growth, production or animal raised primarily *for food* or

---

[5](...continued)
The Bible tells how the serpent coerced Eve into biting the apple, causing Adam's and Eve's subsequent fall from Eden. 3 Genesis 14.

fiber." (Emphasis added). To arrive at this deduction, the Board relied on appellant's expert witnesses. This reliance was misplaced, however, because that testimony merely sought to define a term that was unambiguous. See Tidewater, 337 Md. at 345. Moreover, it is telling that the legislative body could have used "farm animal" in the definition or replace "income" with "production of food, food products, and fiber" and declined to do so. See BCC Art. I, § 6-1.

Appellee does what the definition of "commercial agriculture" requires – he breeds and raises snakes and then sells most of them for profit, except for the ones that he keeps for future breeding. The zoning ordinance defines "farm" and "commercial agriculture." Consequently, there is no need to go to the dictionary's definition of the terms.

The Board also relied on the Baltimore County Planning Board's Report, dated October 17, 1991, for the proposition that the Baltimore County Council intended a limited "farm" definition. We disagree. The first line of the Report, as referenced by the Board's opinion, states, "The principal that sets agricultural uses apart is that land *or structures and buildings* are utilized to produce plants *or raise animals for income*." (Emphasis added). The BCZR's definition of "commercial agriculture" mirrors this language. See BCZR § 101. Neither limit "animal" to a specific type and both simply require the

animals to produce income.[6] No production of food or food products is required.

When we apply the undisputed facts to the plain language of the ordinance and its statutory context, we conclude that appellee's facility is a farm as a matter of law. This conclusion is based on the fact that snakes are animals as defined by the ordinance and land is being used. Consequently, we have no need to address the definition of animal husbandry or whether appellee's use falls within the definition of the uses permitted in other zones.

We note, however, that the Board also concluded that appellee's facility was a "pet shop" and a permitted use in certain zones. It is difficult to square how snakes can be "pets" within the definition of "pet shop," but not domestic for purposes of animal husbandry. See BCZR § 101 ("PET SHOP – a store for the sale of dogs, cats, birds, tropical fish and/or other domesticated pets...."); cf. E. 36-37 ("... the Board concludes that in ordinary parlance as well as by the dictionary the word 'domestic' means relating to the home or household... This Board, while recognizing Mr. Kahl's efforts to breed snakes as domesticated, does not agree that they fit the definition....").

---

[6]The Board found that it was undisputed that snakes were "animals."

The Board also concluded that appellee's use was an "animal boarding place" permitted in certain zones. An animal boarding place involves "boarding, breeding and care of animals for profit, but excluding a farm, kennel, pet shop, veterinarian's office or veternarium." BCZR § 101. This definition does not include raising and keeping animals, but the farm definition does. There is no dispute about the fact that appellee raised and kept animals. The BCZR's definition of "animal boarding place" indicates that it is a more limited facility than a farm.

Section 101 of the Baltimore County Zoning Regulations also requires appellee's farm to qualify for the agricultural use assessment tax, pursuant to section 8-209 of the Tax-Property Article of the Maryland Annotated Code. BCZR § 101. It does not require appellee to have his land assessed agricultural, which is optional to a landowner. The Board found that because appellee's property was zoned "residential," he did not meet this part of the definition. This conclusion was in error.

The statute does not exclude property that is zoned as residential from being "commercial agriculture." BCZR section 101 only requires that the property "qualifies" for the agricultural use assessment. BCZR § 101. There are many reasons why a property owner may chose not to apply for the agricultural use assessment. First, a landowner may be

subjected to certain tax penalties. See State Department of Assessment and Taxation, Real Property, The Agricultural Use Assessment, (Sept. 23, 2000) <http://www.dat.state.md.us> ("Because certain risks in the form of potential tax penalties can result from receiving the agricultural use assessment, the property owner should carefully evaluate the actual tax savings against those risks."). Second, property assessed in the Agricultural Use category could be subjected to Agricultural Transfer Taxes upon transfer or other disposition of the land. See id. It is clearly not mandatory, therefore, to have one's land assessed as "agricultural use" in order to farm it. Rather, BCZR section 101 looks to the Tax-Property Article section 8-209 for additional guidance in determining if a land is being used for agricultural use.

Because the Board incorrectly understood this portion of section 101's definition and did not rely on any other evidence in making its determination, we remand this case back to the Board in order to determine whether appellee's land would qualify for the agricultural land use assessment, if he were to apply for it.

In conclusion, we hold that appellee's snake facility is a place that uses the land to breed and raise animals for income, pursuant to the plain language of BCZR section 101. On remand, the Board must decide if appellee would qualify for the

agricultural use assessment pursuant to section 8-209 of the Tax-Property Article, if appellee were to apply. Only then can it be determined whether appellee is operating a "farm" permitted in an RC-4 zone.

JUDGMENT REVERSED; CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE COUNTY WITH DIRECTIONS TO REMAND TO THE BALTIMORE COUNTY BOARD OF APPEALS FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO ABIDE THE RESULT.

12/24/60

97-494-SPH /Mary Pat Marzullo
(Kahl Property)
12/26/00 -Dissenting Opinion
REPORTED by Karwacki, J -CSA

IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2301

September Term, 1999

MARY PAT MARZULLO, et al.

v.

PETER A. KAHL

Eyler,
Karwacki, Robert L.,
(Retired, specially assigned)
Fischer, Robert F.,
(Retired, specially assigned)

JJ.

Dissenting Opinion by
Karwacki, J.

Filed: December 26, 2000

I respectfully dissent.

The Board of Appeals considered the evidence in this case and inferences properly drawn therefrom, and after applying the applicable definitions of the Baltimore County Zoning Regulations concluded that the appellee's snake breeding and raising facility did not meet the definition of a "farm" permitted in the R.C. 4 zone. The Board's resolution of this issue, dependent to some degree upon its expertise in applying Baltimore County Zoning Regulations, is entitled to deference. As the Court of Appeals explained *in Board of Physician v. Banks*, 354 Md. 59, 67-69 (1999):

> A Court's role in reviewing an administrative agency adjudicatory decision is narrow. (Citations omitted). It is limited to determining if there is substantial evidence in the record as a whole to support the agency's finding and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law. [Citations omitted.]
>
> In applying the substantial evidence test, a reviewing court decides whether a reasoning mind reasonably could have reached the factual conclusion the agency reached. [Citations omitted.] A reviewing court should defer to the agency's fact finding and drawing of inferences if they are supported by the record. [Citations omitted.] A reviewing court must review the agency's decision in the light most favorable to it; . . . The agency's decision is *prima facie* correct and presumed valid, and . . . it is the agency's province to resolve conflicting evidence and to draw inferences from that evidence [Citations omitted] . . . (Final

agency decisions "are *prima facie correct and carry with them the presumption of validity.*")

Despite some unfortunate language that has crept into a few of our opinions (fn. 1), a court's task on review is not to "substitute its judgment for the expertise of those persons who constitute the administrative agency." [Citations omitted]. **Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts.** [Citations omitted.] **(The interpretation of a statute by those officials charged with administering the statute is . . . entitled to weight.)** [Emphasis added.] Furthermore, the expertise of the agency in its own field should be respected. [Citations omitted.]

I would reverse the judgment below with instruction to affirm the decision of the Board of Appeals.

BEGIN STATE CART OF APPEALS ORDER COVER SHEET MISSING

11/60

Peter A. Kahl, respondent, used a parcel of land that was zoned R.C.4 for his residence and to operate Peter Kahl Reptiles, Inc. Mary Pat Marzullo and the People's Counsel for Baltimore County, petitioners, filed a Petition for a Special Hearing before the Zoning Commissioner of Baltimore County for the determination of whether an R.C.4 zone permits respondent to conduct his business – the breeding, raising, and selling of reptiles. The Zoning Commissioner determined that respondent's use was permitted in an R.C.4 zone.

Petitioners appealed to the Baltimore County Board of Appeals (hereinafter Board of Appeals). The Board of Appeals determined that respondent was not permitted to operate Peter Kahl Reptiles, Inc. in an R.C.4 zone. Respondent filed a Petition for Judicial Review in the Circuit Court for Baltimore County. The Circuit Court reversed the decision of the Board of Appeals, finding that respondent's business was a farming activity that was permitted by right in an R.C.4 zone.

Petitioners appealed to the Court of Special Appeals. The Court of Special Appeals affirmed the decision of the Circuit Court for Baltimore County (*Marzullo v. Kahl*, 135 Md. App. 663, 763 A.2d 1217 (2000)). Petitioners filed a Petition for Writ of Certiorari and respondent filed an Answer and Conditional Cross Petition for Writ of Certiorari. We granted both petitions. Petitioners presented two questions for our review:

1. Whether the Court of Special Appeals erred in construing the BCZR [Baltimore County Zoning Regulations] to permit breeding of snakes under an expanded definition of "farm" as opposed to the specific definition of "animal boarding place[?]"

2. Whether the Court of Special Appeals erred in failing to give deference to the expertise of the County Board of Appeals in applying the BCZR pursuant to *Board of Physicians v. Banks*, 354 Md. 59 (1999) as

suggested by Judge Karwacki in his Dissenting Opinion[?]

Respondent presented two questions in his Conditional Cross Petition for our review:

> 1. Has the landowner acquired a vested right, pursuant to either the common law or local ordinance, to use the property to raise, breed and keep reptiles or snakes?
>
> 2. Is the County estopped from preventing the use of the property to raise, breed and keep snakes or reptiles?

We hold that the Circuit Court and the Court of Special Appeals failed to afford the findings of the Board of Appeals the proper deference when those courts held that the raising, breeding, and keeping of snakes and reptiles was a "farm" under the Baltimore County Zoning Regulations. Respondent's business was a use which is prohibited in an R.C.4 zone. We also hold that respondent has not acquired a vested right to conduct his business on the property and that the County is not estopped from preventing the use of the property to raise, breed, and keep snakes and reptiles.

I. Facts

In 1991 respondent purchased a parcel of land to use as his residence. When respondent moved into the residence he used part of the residence to engage in his hobby of herpetology.[1] Specifically, respondent was engaged in the raising and breeding of pythons

---

[1] Herpetology is defined as "the branch of zoology dealing with reptiles and amphibians." *The Random House Dictionary of the English Language* 666 (Jess Stein ed., The Unabridged Edition, Random House 1983).

and boas.[2] Respondent's hobby eventually grew into a business and to accommodate its growth and to provide a proper facility for the care of the snakes, respondent started to examine the feasability of constructing a separate building on the same parcel of land for the purpose of breeding, raising, and selling snakes.

In July of 1994, respondent applied to the Baltimore County Department of Permits and Licenses for a "Holding Facility/Kennel/Wild Life" animal license for the purpose of breeding and research of boas and pythons in his residence. The Department of Permits and Licenses issued this license to respondent.

In 1994 respondent presented to the Department of Zoning and Development Management (hereinafter Department of Zoning)[3] a building plan and a site plan which included the proposed use and site for the new building. The parcel of land upon which respondent's residence was located and upon which respondent wanted to construct the building to use as a facility for the breeding and raising of the snakes was zoned R.C.4. An R.C.4 zone limits development to protect critical watersheds[4] and permits as of right, among

---

[2] Both boas and pythons are members of the family *Boidae* and are large non-venomous snakes that kill their prey by constriction.

[3] In 1995, the Department of Zoning and Development Management became the Department of Permits and Development Management.

[4] Section 1A03.1 of the Baltimore County Zoning Regulations (hereinafter BCZR) provides that:

> "The County Council finds that major, high-quality sources of water supply for the entire Baltimore Metropolitan Area and for other neighboring jurisdictions

(continued...)

other uses, a one-family detached dwelling and farms.[5] The Department of Zoning requested that the Baltimore County Agricultural Land Preservation Advisory Board (hereinafter Advisory Board) review respondent's intended use and advise the Department of Zoning as to whether respondent's intended use qualified as a farm which was allowed by right in an R.C.4 zone.[6] At an April 12, 1995 meeting, the Advisory Board found that the building used

---

[4](...continued)
lie within Baltimore County and that continuing development in the critical watersheds of those water supply sources is causing increased pollution and sedimentation in the impoundments, resulting in increasing water treatment costs and decreasing water storage capacity. The R.C.4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds."

[5] Section 1A03.3 of the BCZR provides that:

> "A. Uses permitted as of right. The following uses, only are permitted as of right in R.C.4 Zones:
>
> 1. Dwellings, one-family detached.
>
> 2. Farms and limited-acreage wholesale flower farms .
> . . ."

[6] In the inter-office correspondence from the Department of Zoning to the Advisory Board, the Director of the Department of Zoning stated that:

> "This office is officially requesting verification of the legitimacy of a farm use on the referenced property. In the judgement of the Director and/or the Zoning Commissioner, in consideration of your findings, a special hearing may be required before the Zoning Commissioner prior to any zoning approvals."

for the breeding, raising, and sale of snakes qualified as a farm.[7]

The Department of Zoning then submitted respondent's request to construct a building to the Development Review Committee. The Development Review Committee granted respondent a limited exception under section 26-171(a)(7) of the Baltimore County Code, which provides for a limited exception to the public hearing process for "[t]he construction of residential accessory structures or minor commercial structures." In a November 25, 1996 letter from the Department of Zoning, respondent was told of the limited exception and that he could proceed with his building permit application.

---

[7] The Baltimore County Agricultural Land Preservation Advisory Board's opinion was advisory; the opinion did not have any authority. Section 14-451 of the Baltimore County Code states that:

> "**Sec. 14-451. Agricultural land preservation advisory board; created; duties and responsibilities; membership; terms of office.**
>
> . . .
>
> (c) *Duties and responsibilities.* The agricultural preservation advisory board shall be vested with and shall possess all the powers and duties in this article specified and also all powers necessary to properly carry out fully and factually, the provisions of this article. In addition to those duties prescribed by state law, the board shall:
>
> . . .
>
> (5) Review and make recommendations to the office of zoning administration and development management on zoning regulation proposals that relate to agricultural uses such as tenant buildings, farmer's roadside stands and other agricultural issues as the need arises."

In January of 1997, respondent requested a building permit from the Department of Zoning for a 5,000 square foot reptile barn. This permit was approved on February 14, 1997. A second permit was issued on March 27, 1997 which allowed respondent to double the square footage of the barn by adding a basement level instead of a crawl space.[8] Respondent contracted in January of 1997 with Advanced Building Structures for the construction of the outer shell[9] of the reptile barn. Advanced Building Structures started construction on the outer shell on February 26, 1997 and finished the construction on April 29, 1997. At this point, the barn did not have a roof, windows, or siding. The barn was just a shell, with only a concrete floor and no interior walls. William Yost, a project manager for Advanced Building Structures, stated at the hearing before the Board of Appeals that the barn was 45% completed when the outer shell was finished at the end of April, 1997.

At the beginning of April of 1997, petitioner, Mrs. Marzullo, an adjoining property owner to respondent's property, and other neighbors contacted Mr. Carl Richards, a Supervisor in Zoning Review for the Department of Zoning, regarding the construction activities they observed on respondent's property. On April 16, 1997, Mr. Richards sent a letter to respondent that advised respondent as to the complaints from the neighbors about the permit that was issued for his reptile barn. The letter also stated that a petition for a special hearing for an interpretation as to whether a particular parcel is being used

---

[8] In this particular case, the basement, it can be argued, was nevertheless a crawl space.

[9] The outer shell of the reptile barn was from the footings up to the roofline.

appropriately can be filed by any citizen. While such a petition had not actually been filed, Mr. Richards was advising respondent of the possibility.

On April 25, 1997, petitioners filed an appeal from the issuance of the second permit, which allowed for the construction of the basement in the reptile barn. This appeal was dismissed by the Board of Appeals because, at the time, the Baltimore County Code only provided for an appeal by the applicant after a denial of a building permit.

On April 29, 1997, petitioners filed a Petition for Special Hearing under section 500.7 of the BCZR. Section 500.7 states that:

> "The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. *The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises* or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations." [Emphasis added.]

The petition stated that it was filed to determine "whether or not the Zoning Commissioner should approve in an RC 4 Zone, the use of the site for the breeding, raising and selling of reptiles."

On September 22, 1997, a hearing was held before the Zoning Commissioner of Baltimore County (hereinafter Zoning Commissioner) on the Petition for Special Hearing. In his Findings of Fact and Conclusions of Law, the Zoning Commissioner stated that the issue was whether respondent's use of the property qualified as a farm under the BCZR. If

the use qualified as a farm, then it is a use by right and if the use was not as a farm, then it was not permitted, even by special exception. Section 101 of the BCZR defines a "Farm" as:

> "**FARM** – Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture,[10] as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses."

Respondent's property was more than three acres, so the Zoning Commissioner stated that the issue as to whether this was a farm was whether the property was being used for commercial agriculture. Section 101 of the BCZR defines "Commercial Agriculture" as:

> "**AGRICULTURE, COMMERCIAL** – The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations."

The Zoning Commissioner determined that respondent was engaging in commercial agriculture by raising and keeping snakes for income. Therefore, he also determined that

---

[10] *The Random House Dictionary of the English Language* 29 (Jess Stein ed., The Unabridged Edition, Random House 1983) provides that agriculture is: "1. the science or art of cultivating land in the raising of crops; tillage; husbandry; farming. 2. the production of crops, livestock, or poultry. 3. agronomy."

respondent's property was being used as a farm and he could continue with the use as it was a use permitted by right. Petitioners filed an appeal of the Zoning Commissioner's findings to the Board of Appeals.

Over the course of two days, a hearing was held before the Board of Appeals. The Board of Appeals issued an Opinion on November 30, 1998, which stated that "the use of the subject site for the breeding, raising, and selling of reptiles is not permissible in the R.C. 4 zone." The Board of Appeals found that respondent had not satisfied the definition of "Commercial Agriculture." The Board of Appeals stated that:

> "Terms such as 'animal,' 'animal husbandry,' and 'domestic animal' need to rest interpretively on an *ordinarily accepted* definition as stated above. The Board does not disagree with the Zoning Commissioner or the Petitioner's analysis that a snake is an 'animal.' Testimony is uncontradicted that Kahl 'raises, breeds, keeps and markets' these animals (snakes). Is this practice, however, 'commercial agriculture'; and, further, is it the practice of 'animal husbandry'? 'Commercial agriculture' is defined under Section 101 [of the BCZR]. *Webster's* defines 'animal husbandry' as: '. . . A branch of agriculture concerned with the production and care of domestic animals . . . the scientific study of the problems of animal production.' A 'domestic animal' may include '. . . any of the various animals . . . which have been domesticated by man so as to live and breed in a tame condition.' *Webster* defines 'domestic' as '. . . relating to the household or family . . . connected with the supply, service, activities of the household and private residences . . . suited to the physical livability of a private dwelling.' And 'domestic' means to 'bring into a degree of conformity and comfortable accommodation . . . to subject to control and service of man.'
>
> Having heard the testimony and a review of the various exhibits and evidence, this Board has concluded that the Property Owner's use of the R.C. zoned land is an improper use, and hence illegal under present statutory law.
>
> . . .

In reaching its decision, the Board has also given weight to the definitions assigned to significant terms which have been the subject of the various briefs submitted by Counsel. The first defect in the Property Owner's case is one involving 'the use of land' as it appears in the BCZR 'Farm' definition. . . . There was more than sufficient testimony and evidence produced at the hearing that Mr. Kahl's reptile activities are not land-based or oriented. He does not employ the use of land (fields, forest, streams), nor is there any other crop, growth, production or animal raised primarily for food or fiber that even stretching [the] interpretation is for the benefit or extension of agriculture. The facts of the case clearly demonstrate that the raising, breeding, and marketing of the Boas and Pythons do not require the use of the land in an agricultural sense. The subject snakes are only outside of the subject building when 'sunning.' They are not dependent on the land or otherwise use the land, agriculturally, on which the building is situated. They exist almost exclusively within the constructed building and are not land dependent." [Emphasis added.]

The Board of Appeals then found that respondent also had not satisfied the definition of "Commercial Agriculture" because the land must qualify for farm or agriculture assessment use and respondent's property was zoned residential by the Department of Assessment and Taxation.

The Board of Appeals also found that respondent's activities did not satisfy the requirement of "animal husbandry." The Board of Appeals stated that:

"Exploring the matter further as to whether or not Mr. Kahl's activities include 'animal husbandry,' the Board also concludes that snakes are 'animals.' The Board also acknowledges that Mr. Kahl raises, breeds and sells animals (snakes). Animal husbandry, however, deals with the prŏdŭction and care of *domestic animals.* The question is one of whether or not Boas and Pythons are to be considered as 'domestic animals.' The term 'domestic' has previously been expounded in this opinion. Significantly, back in July 1994, Mr. Kahl applied for and received a permit for a 'holding facility/kennel/wild life animal license' naming the Peter Kahl Reptiles, Inc., as the facility (his residence) for the purpose of 'research and breeding' valid from July 1, 1994 through June 30, 1995. Article I, Section 6-1 'Definitions' defines 'Wild

Animal' as:

> 'Any animal of a species that in its natural life is wild, dangerous, or ferocious and, though it may be trained and domesticated by the owner, will remain dangerous to the public at large.'

A 'farm animal' is defined as:

> 'Any animal being maintained for the production of food, food products, and fiber.'

Clearly, the Property Owner back in 1994 did not believe his operation fit the definition of a 'farm animal' facility, but rather one of a 'holding facility . . . requiring the use of a wild animal license.' Mr. Kahl vividly described his attempts to demonstrate how Boas and Pythons could be domesticated. Yet, if left unattended and not fed on a regular and systematic basis, they are aggressive and will seek out food and prey by scent. What contemplates food or prey is anyone's guess, but one must conclude that they must [be] consider[ed] dangerous by nature of their size and capacity of constriction and causing death to prey. By definition, domestic animals cannot include any wild animal. While opinions may vary, the Board concludes that in ordinary parlance as well as by the dictionary the word 'domestic' means relating to the home or household and the word 'domesticated' means made domestic or converted to domestic use.

This Board, while recognizing Mr. Kahl's efforts to breed snakes as domesticated, does not agree that they fit the definition as viewed by the members of this Board *or the general public*. While the Board has concluded that Mr. Kahl's activities are an improper use in R.C.4 zone, it is the conclusion of the Board that present zoning classifications do permit such usage as a pet shop defined under Section 101 as 'a person or establishment that sells and/or offers to sell animals, whether as an owner, agent or on consignment, to the general public,' which permits the marketing of pets; and BCZR Section 270 provides appropriate zones where animal boarding places (Class A and Class B) are permitted. While not a use permitted by right or special exception in an R.C.4 zone, they are permitted by special exception in R.C.2 zone by way of Bill 178-79, and 'animal boarding place' (Class B) is allowed by special exception, additionally, in D.R.1, D.R.2, D.R.3.5 and B.M. zones, as well as by right in B.R., M.L. and M.H. zones – but specifically

> prohibited in R.C.4, R.C.5, R.C.20, R.C.50, R.A., R.A.E.1 and 2, B.L. and M.L.R. zones. There are, therefore, ample locations for this type of commercial activity which is engaged in by Mr. Kahl. The present location, however, is not one of them." [Emphasis added.]

The Board of Appeals then addressed the last issue raised by respondent which was equitable estoppel. The Board of Appeals found that it lacked jurisdiction to resolve the issue; nevertheless, the Board of Appeals opined that based on the facts of the case and the relevant case law, respondent would not be entitled to equitable estoppel. Respondent filed a petition for judicial review of the decision of the Board of Appeals in the Circuit Court for Baltimore County.

After a hearing was held on November 10, 1999, the Circuit Court issued an Opinion and Order on November 16, 1999. The Circuit Court reversed the decision of the Board of Appeals. The Board of Appeals had determined that respondent could conduct his business in a zone that allows animal boarding places or pet shops. The Circuit Court determined that these were not appropriate zones for respondent's business and that respondent was engaged in commercial agriculture on a farm, so he could conduct his business in an R.C.4 zone as a matter of right. The Circuit Court then determined that petitioners should be estopped from challenging respondent's use of the land. The Circuit Court stated that, "[s]omewhere in the three years between initially contacting the Department of Permits and Development Management and prior to receiving notice of the special hearing, Kahl was justified in relying upon the approvals he had received from Baltimore County."

Petitioners filed an appeal to the Court of Special Appeals. The Court of Special

Appeals held that respondent's facility is a farm as a matter of law. The Court of Special Appeals also held that respondent is not required to have his land assessed agricultural, respondent's property must merely qualify for the agricultural use assessment. In conclusion, the Court of Special Appeals, remanding the action to the Board of Appeals, stated that:

> "In conclusion, we hold that appellee's [respondent] snake facility is a place that uses the land to breed and raise animals for income, pursuant to the plain language of BCZR section 101. On remand, the Board must decide if appellee would qualify for the agricultural use assessment pursuant to section 8-209 of the Tax-Property Article, if appellee were to apply."

Petitioners then filed a Petition for Writ of Certiorari to this Court and respondent filed a Conditional Cross Petition for Writ of Certiorari. We granted both petitions.

II. Discussion

A. Standard of Review

In *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 729 A.2d 376 (1999), we examined an appellate court's role in reviewing an administrative agency. Judge Eldridge, writing for the Court, stated that:

> "A court's role in reviewing an administrative agency adjudicatory decision is narrow, *United Parcel v. People's Counsel*, 336 Md. 569, 576, 650 A.2d 226, 230 (1994); it 'is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.' *United Parcel*, 336 Md. at 577, 650 A.2d at 230. *See also* Code (1984, 1995 Repl. Vol.), § 10-222(h) of the State Government Article; *District Council v. Brandywine*, 350 Md. 339, 349, 711 A.2d 1346, 1350-1351 (1998); *Catonsville Nursing v. Loveman*, 349 Md. 560, 568-569, 709 A.2d 749, 753 (1998).

In applying the substantial evidence test, a reviewing court decides

> ""whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.'"" *Bulluck v. Pelham Wood Apts.*, 283 Md. 505, 512, 390 A.2d 1119, 1123 (1978). See *Anderson v. Dep't of Public Safety*, 330 Md. 187, 213, 623 A.2d 198, 210 (1993). A reviewing court should defer to the agency's fact-finding and drawing of inferences if they are supported by the record. *CBS v. Comptroller*, 319 Md. 687, 698, 575 A.2d 324, 329 (1990). A reviewing court '"must review the agency's decision in the light most favorable to it; . . . the agency's decision is prima facie correct and presumed valid, and . . . it is the agency's province to resolve conflicting evidence" and to draw inferences from that evidence.' *CBS v. Comptroller*, *supra*, 319 Md. at 698, 575 A.2d at 329, quoting *Ramsay, Scarlett & Co. v. Comptroller*, 302 Md. 825, 834-835, 490 A.2d 1296, 1301 (1985). *See Catonsville Nursing v. Loveman*, *supra*, 349 Md. at 569, 709 A.2d at 753 (final agency decisions 'are *prima facie* correct and carry with them the presumption of validity').
>
> Despite some unfortunate language that has crept into a few of our opinions, a 'court's task on review is *not* to '"'"substitute its judgment for the expertise of those persons who constitute the administrative agency,'"'" *United Parcel v. People's Counsel*, *supra*, 336 Md. at 576-577, 650 A.2d at 230, quoting *Bulluck v. Pelham Woods Apts.*, *supra*, 283 Md. at 513, 390 A.2d at 1124. Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts. *Lussier v. Md. Racing Commission*, 343 Md. 681, 696-697, 684 A.2d 804, 811-812 (1996), and cases there cited; *McCullough v. Wittner*, 314 Md. 602, 612, 552 A.2d 881, 886 (1989) ('The interpretation of a statute by those officials charged with administering the statute is . . . entitled to weight'). Furthermore, the expertise of the agency in its own field should be respected. *Fogle v. H & G Restaurant*, 337 Md. 441, 455, 654 A.2d 449, 456 (1995); *Christ v. Department of Natural Resources*, 335 Md. 427, 445, 644 A.2d 34, 42 (1994) (legislative delegations of authority to administrative agencies will often include the authority to make 'significant discretionary policy determinations'); *Bd. of Ed. For Dorchester Co. v. Hubbard*, 305 Md. 774, 792, 506 A.2d 625, 634 (1986) ('application of the State Board of Education's expertise would clearly be desirable before a court attempts to resolve the' legal issues)."

Id. at 67-69, 729 A.2d at 380-81 (footnotes omitted). In the case *sub judice*, the facts of the

case are not in dispute; however, the Board of Appeals' interpretation and application of the BCZR is in dispute. As stated in *Banks*, even though the decision of the Board of Appeals was based on the law, its expertise should be taken into consideration and its decision should be afforded appropriate deference in our analysis of whether it was "premised upon an erroneous conclusion of law."[11] *Banks*, 354 Md. at 68, 729 A.2d at 380, quoting from *United Parcel Service, Inc. v. People's Counsel for Baltimore County*, 336 Md. 569, 577, 650 A.2d 226, 230 (1994).

Respondent contends that the appropriate standard of review is the substituted judgment standard. Respondent states that the decision of the Board of Appeals is not due any deference. Among other cases, respondent cites *Montgomery County v. Buckman*, 333 Md. 516, 636 A.2d 448 (1994) for the proposition that "[t]he agency's resolution of the legal question is not due deference . . . ." We do not find the language in *Buckman* to support the proposition that the decision of an administrative agency is not due any deference.

B. Commercial Agriculture

Petitioners contend that the Court of Special Appeals erred by failing to give the proper deference to the decision of the Board of Appeals and by substituting its judgment for that of the Board of Appeals in construing the BCZR. We agree with petitioners that the

---

[11] In Baltimore County, since at least 1978, the Board of Appeals has been charged with "all the functions and duties relating to zoning [appeals] described in Article 25A of the Annotated Code of Maryland." Baltimore County Charter, § 602 (a). As such, its presumed expertise in interpreting the BCZR, developed over the ensuing years, is what gives weight to appropriate deference in our analysis of its legal reasoning in this matter.

Court of Special Appeals did not properly defer to the presumed expertise of the Board of Appeals in interpreting the BCZR. Moreover, there was substantial evidence to support its findings and its conclusions.

The question before the Board of Appeals was whether respondent's business qualified as commercial agriculture under the definition of farm. *If his business qualified as* commercial agriculture then he would be able to conduct his business because a farm is a use permitted as of right in an R.C.4 zone. The Board of Appeals determined that respondent had not satisfied the definition of commercial agriculture,[12] because respondent was not using the land for the raising of animals. The Board of Appeals stated that "the raising, breeding, and marketing of the Boas and Pythons do not require the use of the land in an agricultural sense." The Board of Appeals also determined that respondent had not satisfied the definition of commercial agriculture because respondent's business was not animal husbandry as it was intended in the definition of commercial agriculture. The Board of

---

[12] As stated, *supra*, commercial agriculture is defined in section 101 of the BCZR as:

> "**AGRICULTURE, COMMERCIAL** – The *use of land*, including ancillary structures and buildings, to cultivate plants or *raise or keep animals* for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, *animal and poultry husbandry*, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations." [Emphasis added.]

Appeals found that respondent's snakes were wild animals as supported by respondent's application for the holding facility/kennel/wild life animal license in 1994 for his residence and as supported by the definitions of wild animal and domestic animal. The Board of Appeals determined that animal husbandry concerned domestic animals and that the snakes bred by respondent do not fit the definition of domestic animals.

We commence our analysis of the relevant aspects of the BCZR by attempting to ascertain the intent of the legislative body, in this case the County Council of Baltimore County. In *State v. Bell*, 351 Md. 709, 720 A.2d 311 (1998), we stated that:

> "We have said that '[t]he cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature.' *Oaks v. Connors*, 339 Md. 24, 35, 660 A.2d 423, 429 (1995). Legislative intent must be sought first in the actual language of the statute. *Marriott Employees Fed. Credit Union v. Motor Vehicle Admin.*, 346 Md. 437, 444-45, 697 A.2d 455, 458 (1997); *Stanford v. Maryland Police Training & Correctional Comm'n*, 346 Md. 374, 380, 697 A.2d 424, 427 (1997) (quoting *Tidewater v. Mayor of Havre de Grace*, 337 Md. 338, 344, 653 A.2d 468, 472 (1995)); *Coburn v. Coburn*, 342 Md. 244, 256, 674 A.2d 951, 957 (1996); *Romm v. Flax*, 340 Md. 690, 693, 668 A.2d 1, 2 (1995); *Oaks*, 339 Md. at 35, 660 A.2d at 429; *Mauzy v. Hornbeck*, 285 Md. 84, 92, 400 A.2d 1091, 1096 (1979); *Board of Supervisors v. Weiss*, 217 Md. 133, 136, 141 A.2d 734, 736 (1958). Where the statutory language is plain and free from ambiguity, and expresses a definite and simple meaning, courts normally do not look beyond the words of the statute to determine legislative intent. *Marriott Employees*, 346 Md. at 445, 697 A.2d at 458; *Kaczorowski v. Mayor of Baltimore*, 309 Md. 505, 515, 525 A.2d 628, 633 (1987); *Hunt v. Montgomery County*, 248 Md. 403, 414, 237 A.2d 35, 41 (1968).
>
> . . .
>
> This Court recently stated that 'statutory language is not read in isolation, but "in light of the full context in which [it] appear[s], and in light of external manifestations of intent or general purpose available through other

evidence.'" *Stanford v. Maryland Police Training & Correctional Comm'n*, 346 Md. 374, 380, 697 A.2d 424, 427 (1997) (alterations in original) (quoting *Cunningham v. State*, 318 Md. 182, 185, 567 A.2d 126, 127 (1989)). To this end,

> [w]hen we pursue the context of statutory language, we are not limited to the words of the statute as they are printed. . . . We may and often must consider other 'external manifestations' or 'persuasive evidence,' including a bill's title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of legislative purpose or goal, which becomes the context within which we read the particular language before us in a given case.
>
> . . . [I]n *State v. One 1983 Chevrolet Van*, 309 Md. 327, 524 A.2d 51 (1987), . . . [a]lthough we did not describe any of the statutes involved in that case as ambiguous or uncertain, we did search for legislative purpose or meaning – what Judge Orth, writing for the Court, described as 'the legislative scheme.' [*Id.* at] 344-45, 524 A.2d at 59. We identified that scheme or purpose after an extensive review of the context of Ch. 549, Acts of 1984, which had effected major changes in Art. 27, § 297. That context included, among other things, a bill request form, prior legislation, a legislative committee report, a bill title, related statutes and amendments to the bill. *See also Ogrinz v. James*, 309 Md. 381, 524 A.2d 77 (1987), in which we considered legislative history (a committee report) to assist in construing legislation that we did not identify as ambiguous or of uncertain meaning.
>
> *Kaczorowski*, 309 Md. at 514-15, 525 A.2d at 632-33 (some citations omitted)."

Id. at 717-19, 720 A.2d at 315-16 (some alterations in original); *see Williams v. Mayor & City Council of Baltimore*, 359 Md. 101, 115-17, 753 A.2d 41, 48-49 (2000); *Riemer v. Columbia Medical Plan, Inc.*, 358 Md. 222, 235-36, 747 A.2d 677, 684-85 (2000); *Laznovsky v. Laznovsky*, 357 Md. 586, 606-07, 745 A.2d 1054, 1065 (2000).

The Baltimore County Planning Board (hereinafter Planning Board) was charged by the Baltimore County Council, in response to the number and the complexity of zoning regulations for farms and agriculture-related businesses, to study the situation. The County Council requested that the Planning Board propose amendments to the BCZR in order to clarify the various zoning regulations dealing with farming and agriculture related operations. A Final Report of the Planning Board was presented on October 17, 1991. The report was titled "Proposed Amendments to the Baltimore County Zoning Regulations Regarding Definition of Commercial Agriculture and Farm."

The Planning Board started the report by providing background as to why amendments were needed to the definition for a farm. The Planning Board stated that:

> "The agricultural industry is changing dramatically. Consumer preferences and economic necessity are transforming the manner in which agricultural businesses are operated. More and more farmers are engaged in retail distribution in addition to production activities. For example, *The Pennsylvania Farmer*, a magazine geared towards the farming community, reports innovative business practices which have greatly increased farm revenues. One farmer raised his income by selling some of his fruits in fruit baskets and delivering them to nearby offices and homes, as well as shipping them via mail order. Another farmer began to process his crops into cider after a hailstorm downgraded his apples. Today he is blending his ciders with cranberries, cherries, grapes and fruits purchased from other farms and is producing 10,000 gallons per day. Different products are being tried out. An apiarian, who initially restricted his production to honey only developed a carob/cranberry bar utilizing honey and by-products from honey processing. Ocean Spray, the cranberry operative, became one of his major buyers . . . .
>
> New types of crops are becoming commonplace. Farmers experiment with raising ornamental and edible fish, shellfish and aquatic plants for the wholesale and retail trade. Hardier varieties of plants allow the cultivating of grapes in local climates and more County farmers are trying their hand in wine

production. Today the uses are frequently included when agriculture is defined in zoning regulations.

All of the business practices listed above are far removed from traditional agricultural operations. Smaller parcels of land are used to produce higher yields with the aid of intensive application of pesticides. Agricultural crops are processed, packaged and stored on site and many producers adopt the same marketing and distribution principles as commercial and industrial operations. Other aspects indicative of the changes in the agricultural industry are reflected in the type of equipment used and the modes of chemical application. Often involved in processing and distribution, today[']s farmers are more likely to use heavy equipment. Some farmers own a fleet of trucks. Other farmers use airplanes to apply pesticides.

> The industrialization of agriculture has enormous implications on land use and it is essential to acknowledge that reality in the proposed definition. Recognizing the transformation of agriculture, this report provides recommendations for updating the Zoning Regulations."

The Planning Board then went on to discuss the new definition of agriculture. The Planning Board stated that:

> "Formulation of a separate definition for agriculture is essential to complete the proposed set of farm definitions. 'Agriculture' has a broader meaning than 'farm'. Comparable in concept to words like 'commercial', 'residential' and 'industrial', *'agriculture' represents a class of land uses* and thus accommodates operations which might be agricultural in nature but do not fit into the narrower, traditional farm definition. For example, riding stables, firewood operations, landscape operations do not qualify as farms yet they are related to agriculture.
>
> . . .
>
> The principal standard that sets agricultural uses apart is that land or structures and buildings are utilized to produce plants or raise animals for income. The proposed definition acknowledges that agriculture is an industrial use which involves such activities as storage, processing, marketing, distributing and financing, but qualifies that all of the above activities must be ancillary to the principal agricultural operation." [Emphasis added.]

The Planning Board then examined the old definitions of "farm" and discussed why a new definition for farm and commercial agriculture was needed. The Planning Board stated that:

> "The Baltimore County Zoning Regulations presently offer two definitions for farm and two additional definitions, which describe different types of farms:
>
> > **Farm:** Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, including but not limited to: crop, dairy, stock and poultry farming; greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm. {Bill No. 85, 1967.}
>
> **Farm:** A single tract of land more than three acres, primarily devoted to agriculture, including but not limited to raising of crops, dairy, forestry, livestock and poultry farming; horse breeding, training and stabling, grazing, commercial greenhousing, flower farms and nurseries, whether wholesale or retail, excluding a limited-acreage wholesale flower farm and commercial or noncommercial riding stables. {Bill No. 98, 1975.}
>
> **Farm, Satellite:** A tract of land owned by the farmer or another individual or individuals which is more than 5 acres, and is primarily devoted to productive agriculture, including but not limited to the raising of crops, forestry, dairy, or livestock grazing: provided that the products from these areas are processed on the site or are brought to and processed on the principal farm, as defined, or are processed in other appropriate areas. {Bill No. 98, 1975.}

The existing farm definitions are repetitive and obsolete and Planning Board recommends replacing them with a version which more accurately addresses the special needs of today's farming industry. Discussions with farm representatives revealed that Baltimore County has a continuum of different farm types, all of which can be grouped under the catchall of 'metrofarm'.

They range from large scale field crop producers to small, intensively farmed operations. Farmers may conduct their business on a full-time or on a part-time basis and in addition to production, they may be involved in an array of industrial type activities.

The 'Farm, Satellite' definition has limited application. Its primary purpose is to accommodate individual farmers or farm cooperatives who own or lease non-contiguous parcels of land and who use the principal farm building or other appropriate areas for processing purposes. Planning Board believes that that form of land use is accommodated in the proposed farm definition and recommends deleting the Farm, Satellite definition.

Section 100 of the Baltimore County Zoning Regulations includes a fourth definition for small farms between three and ten acres which are either commercial or noncommercial operations. The definition of 'farmette' includes a livestock ratio table which is intended to control animal waste pollution and overgrazing on small lots.

> **Farmette:** A parcel of land more than 3 acres and less than 10 acres, devoted primarily to a single-family residence with associated agricultural uses such as commercial or noncommercial raising of farm produce, flowers, nursery stock, greenhousing and limited livestock[13] . . . ."

The Planning Board then proposed a definition for "Commercial Agriculture" that was eventually enacted, without change, by the County Council by Bill No. 51-93 on April 19, 1993. This proposed and enacted definition is the same as the definition used by the Board of Appeals in the case at bar.

At the hearing before the Board of Appeals, petitioners presented testimony from two

---

[13] The livestock, fowl, and poultry listed in the livestock ratio table were horses, burros, cattle, sheep, goats, pigs, ponies, miniature horses, chickens, ducks, geese, pigeons, pheasant, and quail. Snakes were not listed as an animal that would be on a farmette and would need to be included in a ratio table to help control animal waste pollution.

experts in the area of land planning. The first to testify was Paul Solomon, who, among other credentials, had worked for the Baltimore County Office of Planning and Zoning and the Baltimore County Department of Environmental Protection and Resource Management. Specifically, Mr. Solomon was the planner in charge of the implementation of the resource conservation zoning classifications, which included the R.C.4 zone. In his testimony, Mr. Solomon stated that:

> "Q. Do you remember the question? Do you agree with the Zoning Commissioner's approach to the issues?
>
> A. Yes, I recall the question. No, I do not agree with the Zoning Commissioner's opinion, nor the basis for it in this case.
>
> Q. Why not, Mr. Solomon?
>
> . . . .
>
> A. Well, there are several reasons that I base my answer on.
>
> First, there's no apparent – it's not apparent he considered the evolution of the R.C. zones that took place and then the need for them, so forth, I think clearly sheds light on this issue of what is a farm.
>
> Secondly, in the definition itself, the definition is now in the zoning regulations which was put in in '91.
>
> Incidently, he didn't consider all the aspects of the definition which have to be taken together, and pulls out one word, basically, animals, and he does not consider the various types of agricultural described in that definition and how they relate to this exotic use.
>
> He does not understand or consider the fact that land is the key component of the definition.
>
> He does not consider the ancillary structures are just that. They are

ancillary to the total agricultural use of the land.

He apparently did not consider the assessment requirement of that definition, since it's my understanding that this property is zoned residential and not agricultural.

He did not consider the report that was done in 1991 by the planning board which updated the definition as described here and provides a lot of insight into the meaning of this definition and the types of agriculture which the planning board and the County Council were alluding to.

That's a quick review. That's why I find fault with the Zoning Commissioner's decision in this case.

. . .

Q. Now, during the time the R.C. zones were under study, under your direction heading the committee you have just discussed, did you or your colleagues have a concept as to what animals would be considered as part of an agricultural operation?

A. Yes.

. . .

Q. Mr. Solomon, what did you have in mind when that terminology 'raise or keep animals for income' was included in the commercial agriculture definition?

A. Well, I must say, in all honesty, this definition is totally consistent with and actually reinforces the earlier definition.

But this definition is somewhat different, but with that footnote, the basis which we utilized consistent throughout the process was this activity involving these animals, farm animals, basically, was that it was land-based.

In other words, did it need land as a raw resource to function, or was it production of food and fiber?

So, basically, if either one of those conditions had been met, then the

likelihood was that that particular use for that livestock would qualify, and I think we were pretty steadfast in that regard.

Q. Now, for example, would breeding of dogs be included in this concept you just described?

A. No, it would not.

Q. Why not?

A. In the first place, it is not land-based. It doesn't require land for feed or even towards disposal of waste materials, anything of that type.

It is more of a suburban-urban type use involving kennels, so forth. Dogs are not food or fiber, so it passed neither aspects of the tests.

It is not land based, and it was not production of food or fiber.

. . .

Q. Now, you mentioned earlier in your testimony when you were discussing the agricultural – commercial agriculture definition in the Baltimore County zoning regulations, that – strike that.

There was a prior definition before the one that's currently in the zoning regulations, is that correct?

A. That is correct.

Q. And, in your opinion, does the current definition differ materially from the original definition of commercial agriculture?

. . .

A. It differs only in one regard, a very specific regard, that is, the newer definition requires that in order . . . to accommodate commercial agriculture, the land must qualify for the agricultural use assessment.

With that one difference, the definition is precisely, or is the same. And, in fact, reinforces the intent and meaning of the earlier definition by

adding other agricultural uses such as aquaculture.

It's conspicuous here it does not add uses such as exotic pets, or other non-agricultural uses.

. . .

Q. In your opinion – I will rephrase the question. Does the planning board report [the October 17, 1991 report of the Planning Board discussed *supra*] suggest any change in the understanding of the term 'commercial agriculture' from a previous definition in the 1970s to the current definition in 1993, other than the change about the agricultural use assessment?

A. No, it does not.

. . .

Q. What are the changes that are contained in the planning board report of 1991?

A. Well, the impetus of this report was that agriculture was evolving in the sense that there was some – involving some farming enterprises which were not covered under traditional agricultural.

They wanted to clarify. They mentioned four agricultural uses of the land in particular which included the raising of grapes, called viticulture; the production of fish, which is aquaculture; forestry, which is simply reiterated from the earlier definition, and then the raising of bees.

And they felt that these should be added to the more traditional accepted uses because of the state of transition of agriculture. . . .

. . .

A. Well, there's no indication in the report that they considered – there's no indication in the report in considering all of the various types of agricultural uses that they were aware of, including the ones they added, of course, in that review, they did not apparently entertain any notion of kennel or animal boarding place or exotic snake farms as being within the definition of agricultural use.

Q. Are you familiar with the phrase 'animal and poultry husbandry'?

A. Yes, I am.

Q. Based on your experiences in developing the agricultural zones in Baltimore County, what is your understanding of the term 'animal husbandry'?

A. Anîmāl husbandry consists of production of livestock or the raising of livestock primarily for food, although in the case of the horse industry, for other uses as well, but it's also land-based.

Q. And in your opinion, does the operat[ion] conducted by Mr. Kahl consist of animal husbandry, or is it consistent with that definition?

A. No, it is not land-based. It is not land-based in any sense of the word.

Q. In preparing for the zoning case, is it appropriate to sometimes consult the Baltimore County Code for reference?

A. Yes, it is.

Q. And did you consult the Code in this case?

A. Yes, I did.

Q. What, if anything, did you find that may be relevant to the issues that we are discussing today?

A. In looking or in reviewing the County Code, I reviewed the Title VI, Article 9.

Title VI is entitled animals, and Article 9 refers to wild animals.

But in the definition section, it breaks down animals into various groupings. It breaks them down into domestic animals, cats and dogs, basically, or as an example. It distinguishes very clearly farm animals.

And then it includes a third category called wild or exotic animals. . .

. . .

Q. Was the County Code helpful to you in forming your opinion in this case?

A. It was helpful, yes.

Q. In forming your opinion, did you make, and based on the testimony you heard, and in your review of the matters in this case, did you make a determination as to what category Mr. Kahl's raising and breeding and selling snakes would fit into?

A. Yes. It would fall under the wild or exotic animals. Not, obviously, farm animals.

. . .

Q. Why would it not fall into the definition of a farm animal under the Baltimore County code?

A. It states – the definition states farm animals means any animal being maintained for production of food, food product, and fiber, period.

That's the entire definition, and that's consistent with the definition or the expressed understanding we had when we developed the R.C. zones.

Q. Have you heard anything today concerning Mr. Kahl's operation though that would lead you to believe it is an agricultural operation?

A. No.

Q. Now, based on these experiences that you discussed with Baltimore County zoning laws, and based on your investigation in this case and the matters that you heard today, do you have an opinion whether the use requested by the petitioner qualifies as commercial agriculture?

. . .

A. I do have an opinion.

Q. What is that opinion?

A. It is that his operation does not qualify under the definition in the Baltimore County zoning regulations for commercial agriculture.

Q. What do you base that opinion on? If you could tell the Board.

A. I base it first on the definition itself, which in its entirety makes it very clear what animals are.

In the first instance, the definition starts out by saying 'the use of land,' so the livestock operation, the animal operation has to be land-based, which it is not in this case.

Then there's a comment after land. It goes on to say 'including ancillary structures and buildings,' which makes it very clear that any structures are ancillary or secondary to the actual use of the land.

Then it goes on to say 'to cultivate plants or raise or keep animals for income, providing that the land also qualifies for farm or agriculture or agricultural land use assessment.'

In this case, there is clear, clear evidence that it is presently not assessed for agricultural use . . . .

. . .

A. So I am now discussing the actual definition of commercial agriculture in trying to show where the use that's before this Board is not consistent with this definition.

Coming to the end of that definition, it lists, and it is updated, it lists based on the '90 changes to the definition which includes all types of agriculture, they list nine or ten forms of agriculture.

They take commercial agriculture. It includes production of field crops, dairying, pasturage, agriculture, horticulture, aquaculture, apiculture, viticulture, forestry and animal and poultry husbandry, horse breeding and horse training.

And then it includes ancillary activities such as processing packages, so forth.

But if the Zoning Commissioner would have taken a look at those uses, there is not a hint there it involves pets or exotic animals or anything of the kind.

. . .

Q. Mr. Solomon, my original question was, on what did you base your opinion? Is there anything else?

A. Yes.

Q. Other than what you have discussed?

A. In addition to the definition itself, the Zoning Commissioner, in my opinion, should have looked at the County Code as far as looking at the definitions of animal, which very clearly distinguishes farm animals and other animals.

He should have considered the evolution and the process involving the construction of the R.C. zones, determined what, if any, meaning could be gleaned from that research.

He could have looked, should have looked at the Maryland assessment law to see how that was consistent with the definition.

So in concluding my answer to you question, he should have looked both within the definition in its entirety for enlightenment and consistency, and should have looked at the external office I alluded to, and the whole process

of the R.C. zone.

Q. Finally, Mr. Solomon, based on your position in Baltimore County in doing the R.C. 4 zones and based upon your experience, was there ever any thought given to including raising, breeding reptiles, snakes, as a farming activity?

A. No, never."

Mr. Solomon also stated in his testimony that it was his opinion that respondent's business could be located in a zone that allowed an animal boarding place.

After the testimony of Mr. Solomon, petitioners presented Mr. Norman Gerber, who also was accepted as an expert in land planning. Mr. Gerber worked in the planning office in Baltimore County for thirty years and he was the Director of Planning for eight years. As the Director of Planning, Mr. Gerber had been involved with the R.C. zones legislation and the application of the legislation to the land. Mr. Gerber stated that in his opinion respondent's business could not be conducted in an R.C.4 zone, but Mr. Gerber stated that in his opinion respondent's business could be located in a zone that allowed an animal boarding place class B. Mr. Gerber stated that he disagreed with the Zoning Commissioner's decision and that he thought that the Zoning Commissioner overlooked the fact that there is a broad zone (animal boarding place class B) in which this use is permitted. Mr. Gerber stated that this use does not meet the definition of a farm and that this use is not related to the land.

Respondent alleges that he is using the land in the same manner as poultry husbandry

and aquaculture, two forms of commercial agriculture.[14] At the hearing, the distinction was drawn between the two recognized forms of commercial agriculture in that they both provide food. Respondent also alleges that he practices animal husbandry within the definition of commercial agriculture. The Board of Appeals distinguished respondent's business because it involves wild animals, not domestic animals, and the definition of animal husbandry is the production and care of domestic animals.

After an examination of the record, we determine that there is substantial evidence in the record to support the Board of Appeals' decision to find that the breeding, raising, and selling of snakes is not a permissible use in an R.C.4 zone. There is no dispute as to the facts. Moreover, the legislative intent, as evidenced by the County Council's adoption of the Planning Board's proposed amendments and the testimony as to the intent of the Planning Board, provided the Board of Appeals with substantial evidence to interpret and apply the statutes in the manner in which it did. Examining the Board of Appeals' decision and giving the appropriate deference to the expertise of the Board of Appeals in interpreting the BCZR, we hold that the Board of Appeals' decision was not premised on an erroneous conclusion of law.

Furthermore, we have held that a change in a statute as part of a recodification will not modify the law unless the intent of the legislative body to change the law is clear. In

---

[14] The definition of commercial agriculture, stated *supra*, explicitly states that aquaculture and poultry husbandry are included as commercial agriculture. The definition does not state that the raising, breeding, and selling of snakes – snake husbandry – is included as commercial agriculture.

Blevins & Wills v. Baltimore County, 352 Md. 620, 642, 724 A.2d 22, 32-33 (1999), we stated that:

> "We have long recognized and applied the principle that 'a change in a statute as part of a general recodification will ordinarily not be deemed to modify the law *unless the change is such that the intention of the Legislature to modify the law is unmistakable*.' *Duffy v. Conaway*, 295 Md. 242, 257, 455 A.2d 955 (1983) (emphasis added); *In re Special Investigation No. 236*, 295 Md. 573, 458 A.2d 75 (1983). That is because the principal function of code revision 'is to reorganize the statutes and state them in simpler form,' and thus 'changes are presumed to be for the purpose of clarity rather than for a change in meaning.' *Bureau of Mines v. George's Creek*, 272 Md. 143, 155, 321 A.2d 748, 754 (1974), quoting from *Welsh v. Kuntz*, 196 Md. 86, 97, 75 A.2d 343, 347 (1950)."

Resolution number 29-90 of the County Council requested that the Planning Board propose "amendments to the Baltimore County Zoning Regulations in order to clarify the various zoning regulations dealing with farming, forestry activities, and agriculture related operations." There was not an intent on the part of the County Council to modify the law; the County Council was looking to clarify the law. Examining the previous definitions of farm in the BCZR that were clarified by the definition of farm and commercial agriculture, we cannot detect any intent of the County Council to change the meaning of the preceding definitions. The preceding definitions clearly do not include respondent's business as an activity that occurs on a farm. Moreover, there was no discussion before the Planning Board of extending any of the relevant definitions to include any new animals involved in new types of commercial agriculture that were not explicitly stated in the new definition. Clearly, snakes were not an animal that the Planning Board or the County Council considered as

falling within the province of the definition of farm or commercial agriculture.

Furthermore, there are certain instances where it is appropriate to consider other factors when interpreting a statute, some of which were alluded to by the petitioners' expert witness. They include the fact that we do not set aside common experience and common sense when construing statutes. Absurd constructions are to be avoided. Simply stated, in the absence of proof that the legislative body expressly intended otherwise, the terms "farm" or "farm animals" would not normally include pythons and boa constrictors. Pythons, boa constrictors, and, for that matter, snakes in general, are not "farm animals." One can breed, raise, and sell snakes, but you cannot farm them. A snake is no more the equivalent of chickens, pigs, cows, goats, and sheep, than are lions, tigers, and elephants. In arriving at this assumption, we do not rely on treatises, scientific documentation, or other published works; we rely on common sense. A snake, however loveable it may be to some, is not a farm animal unless legislatively declared to be such. A boa constrictor can be an animal on a farm, but that does not make it a "farm animal," any more than a fox on the way to raiding the hen house is a "farm animal."

We hold that the Court of Special Appeals failed to give the proper deference to the decision of the Board of Appeals. The decision of the Board of Appeals was supported by substantial evidence in the record and was not premised on an erroneous conclusion of law. The Court of Special Appeals erred in finding that respondent's business was a permitted use in an R.C.4 zone. The Court of Special Appeals should have affirmed the decision of the

Board of Appeals.

C. Vested right

Respondent contends that he has obtained a vested right to use his property to raise, breed, and keep reptiles or snakes. In his brief, respondent states that in order for him to have a vested right he must satisfy two prongs. The first prong is that there has to be a valid permit. The second prong is that substantial work has to be performed under the permit so that it would be discernable to a member of the general public that work under the permit was occurring. Respondent states that he has satisfied both of the prongs and has a vested right to use the property for his business. Respondent fails to properly apply the prongs and to understand the circumstances of when a vested right occurs.

We examined the law of vested rights in *Prince George's County v. Sunrise Development Limited Partnership*, 330 Md. 297, 623 A.2d 1296 (1993). In *Sunrise*, we stated that:

> "The third stream of cases involves the issue of vested rights, per se. By a per se vested rights case we mean one invoking '[t]hat doctrine, which has a constitutional foundation [and which] rests upon the legal theory that when a property owner obtains a lawful building permit, commences to build in good faith, and completes substantial construction on the property, his right to complete and use that structure cannot be affected by any subsequent change of the applicable building or zoning regulations.' *Prince George's County v. Equitable Trust Co.*, 44 Md. App. 272, 278, 408 A.2d 737, 741 (1979).

The first case in this Court squarely raising that doctrine is *Richmond Corp. v. Board of County Comm'rs for Prince George's County*, 254 Md. 244, 255 A.2d 398 (1969). There the developer owned commercially zoned land abutting residentially zoned land. The developer had expended large sums of money in acquisition of the property and in preparing plans, leases and

specifications for a shopping center on the commercially zoned tract that would utilize the residentially zoned tract for parking. Before there was any construction on the ground, the zoning ordinance was amended to require a special exception for parking on residentially zoned property as auxiliary to a commercial use. In rejecting a contention that the developer had vested rights under the earlier zoning, we borrowed from the law of nonconforming uses the concept of public knowledge in the neighborhood of the use, saying:

> 'In Maryland it is established that in order to obtain a "vested right" in the existing zoning use which will be constitutionally protected against a subsequent change in the zoning ordinance prohibiting or limiting that use, the owner must (1) obtain a permit or occupancy certificate where required by the applicable ordinance and (2) must proceed under that permit or certificate to exercise it on the land involved so that the neighborhood may be advised that the land is being devoted to that use. *See Feldstein v. LaVale Zoning Board*, 246 Md. 204, 210, 227 A.2d 731, 734 (1967), indicating that [*Mayor & City Council v.*] *Shapiro*[, 187 Md. 623, 51 A.2d 273 (1947)] as well as *Chayt v. Board of Zoning Appeals*, 177 Md. 426, 9 A.2d 747 (1939), established as one of the tests for determining the existence of a nonconforming use "is whether such use was known in the neighborhood."'

254 Md. at 255-56, 255 A.2d at 404.

In *Rockville Fuel & Feed Co. v. Gaithersburg*, 266 Md. 117, 291 A.2d 672 (1972), we said that '[s]uch a "vested right" could only result when a lawful permit was obtained and the owner, in good faith, has proceeded with such construction under it as will advise the public that the owner has made a substantial beginning to construct the building and commit the use of the land to the permission granted.' *Id.* at 127, 291 A.2d at 677; *see also County Council for Montgomery County v. District Land Corp.*, 274 Md. 691, 337 A.2d 712 (1975)."

Id. at 312-13, 623 A.2d at 1303-04 (alteration in original); *see Sycamore Realty Co., Inc. v. People's Counsel of Baltimore County*, 344 Md. 57, 67, 684 A.2d 1331, 1336 (1996).

In the case *sub judice*, respondent obtained a permit and completed substantial

construction; however, he is not entitled to have a vested right because there has been no change, applicable to his case, in the zoning law itself and the permit was improperly issued. When respondent obtained his permit and started construction, the BCZR was the same as when petitioners filed for a hearing before the Zoning Commissioner. The Zoning Commissioner and later the Board of Appeals were not making a subsequent change to the BCZR, they were just interpreting the BCZR as it was already enacted. Based on the decision of the Board of Appeals that we are affirming, respondent's permit was not a lawful permit because he could not lawfully conduct his business in an R.C.4 zone.

Respondent did not satisfy the first prong because his permit was not proper. Additionally, he was not being subjected to a subsequent change in the zoning regulations. Generally, in the absence of bad faith on the part of the remitting official, applicants for permits involving interpretation accept the afforded interpretation at their risk. Therefore, respondent has not obtained a vested right to conduct his business on the property.

D. Equitable estoppel

We examined the doctrine of equitable estoppel and its application against a municipality in *Inlet Associates v. Assateague House Condominium Association*, 313 Md. 413, 545 A.2d 1296 (1988), when we stated that:

> "There is no settled rule in this country as to when, and under what circumstances, equitable estoppel is available against a municipal corporation. *Permanent Fin. Corp. v. Montgomery Cty.*, 308 Md. 239, 518 A.2d 123 (1986). Our cases have continually applied the definition of equitable estoppel set forth in 3 J. Pomeroy, *Equity Jurisprudence* § 804 (5th ed. 1941) as follows:

> 'Equitable estoppel is the effect of the voluntary conduct of a party whereby he is absolutely precluded, both at law and in equity, from asserting rights which might have otherwise existed, either of property, or contract or of remedy, as against another person who has in good faith relied upon such conduct, and has been led thereby to change his position for the worse and who on his part acquires some corresponding right, either of property, of contract, or of remedy.'

Unlike *Permanent Fin.*, the present case does not turn on the ambiguity vel non of a county ordinance which was subject to two reasonable interpretations. Rather, we are now considering whether a municipality may be estopped when its city council, in clear violation of a fundamental charter requirement that it act by ordinance, with all the deliberate safeguards attendant upon the legislative process, purports to bind the municipality through passage of a simple resolution which is neither subject to executive approval nor veto nor the public right of referendum. Of course, no principle is better settled than that persons dealing with a municipality are bound to take notice of limitations upon its charter powers. *See City of Hagerstown, supra*, 264 Md. at 493, 287 A.2d 242; *Hanna v. Bd. of Ed. of Wicomico Co.*, 200 Md. 49, 57, 87 A.2d 846 (1952); *Gontrum v. City of Baltimore*, 182 Md. 370, 375, 35 A.2d 128 (1944). Consequently, '[e]veryone dealing with officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.' *Lipsitz v. Parr*, *supra*, 164 Md. at 228, 164 A. 743. *See also Berwyn Heights*, *supra*, 228 Md. at 279, 179 A.2d 712. Therefore, the doctrine of equitable estoppel 'cannot be . . . invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment.' *Lipsitz*, 164 Md. at 228, 164 A. 743. In the same vein, McQuillin, *supra*, § 29-104c states that estoppel cannot make lawful a municipal action which is beyond the scope of its power to act or is not executed in compliance with mandatory conditions prescribed in the charter. In other words, the doctrine of equitable estoppel cannot be invoked to defeat a municipality's required adherence to the provisions of its charter simply because of reliance upon erroneous advice given by an official in excess of his authority. *See City of Baltimore v. Crane*, *supra*, 277 Md. at 206, 352 A.2d 786. When, as here,

> it is a patent violation of one of the most fundamental provisions of a municipal charter – that its legislative body, when required to act in a legislative capacity, do so only by ordinance – it cannot matter that a party relies upon erroneous official advice to its detriment."

Id. at 434-37, 545 A.2d at 1307-08 (alteration in original).

Respondent contends that Baltimore County should be estopped from preventing him from using his property to raise, breed, and keep reptiles and snakes. Respondent states that it would be "fundamentally unfair" to not allow him to use the property for his business after he obtained permit approval and had substantially constructed the reptile barn before he knew the petitioners might file for a special hearing. Respondent contends that he relied on the permit approval to order materials and enter into a contract for construction.

In *Lipsitz v. Parr*, 164 Md. 222, 164 A. 743 (1933), Mr. Lipsitz brought a proceeding against Mr. Parr, the buildings engineer of the Mayor and City Council of Baltimore City, and the named members of the board of zoning appeals. Mr. Lipsitz had obtained a permit to construct a building to manufacture ice. The permit granted Mr. Lipsitz permission to construct the building and the permit carried an indorsement that the use of the land was in conformity with the provisions of the zoning ordinance. The land upon which the ice factory was to be constructed was actually in a zone where an ice factory was prohibited. Mr. Lipsitz was notified by letter that the permit was revoked and annulled as being in violation of the law and as having been issued by a mistake of a clerk. Mr. Lipsitz had already leased the premises to a tenant for a term of five years and had started construction on the building. Mr. Lipsitz alleged that the municipality was barred from denying his right to use the premises

as an ice factory by estoppel.

The Court held that the doctrine of estoppel did not apply because a municipality is not estopped from enforcing its zoning regulations when a permit had been issued by mistake by its officer or agent. The Court held that:

> "A municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law. Paragraph 31 of the ordinance forbade the officials of the municipality to grant the permit which the plaintiff asked and obtained; and paragraph 41 made it a misdemeanor for the plaintiff to use his premises as a factory to make ice as the invalid permit purported to empower.
>
> If the provision of the ordinance be constitutional, it was therefore unlawful for the officers and agents of the municipality to grant the permit, and it would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued without the official power to grant does not, under any principle of estoppel, prevent the permit from being unlawful nor from being denounced by the municipality because of its illegality. In the issuance of permits pursuant to the ordinance at bar, the municipality was not acting in any proprietary capacity nor in the exercise of its contractual powers, but in the discharge of a governmental function through its public officers of limited authority, and *the doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of this ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment.* Every one dealing with the officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.
>
> So, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act of its officer or agent, it is not estopped by the unauthorized or wrongful act of its officer or agent in issuing a permit that is forbidden by the explicit terms of an ordinance.

It follows that, because the ordinance prohibited the use of the premises

> in question for the making of ice by artificial methods, any permit issued would be void, and the person who received the permit would derive no benefit, and whatever he might do in pursuance of this permission would be at his own risk and loss, unless the prohibition itself were void."

Id. at 227-28, 164 A. at 745-46 (citations omitted) (emphasis added).

In *Town of Berwyn Heights v. Rogers*, 228 Md. 271, 179 A.2d 712 (1962), Phillip Rogers, a home builder, began construction of a residence in Berwyn Heights. Mr. Rogers had not started construction until he had received building permits from both the county's building inspectors and the Town of Berwyn Heights'[15] inspectors. The construction was in compliance with the permits; however, the Town of Berwyn Heights concluded that a mistake had been made in the issuance of the permits so that the residence was being built in violation of a zoning ordinance. The Town of Berwyn Heights filed suit to enjoin the construction of Mr. Rogers.

Mr. Rogers alleged that the Town of Berwyn Heights was estopped from filing suit because it and the county had issued Mr. Rogers building permits, and Mr. Rogers had expended substantial amounts of money in partially constructing the residence. The Court held that:

> "Some authorities hold that the principle of estoppel does not apply against a city, but the majority rule is to the effect that the doctrine of estoppel in pais is applied to municipal, as well as to private, corporations and individuals, at least where the acts of its officers are within the scope of their authority and justice and right requires that the public be estopped. And it has been held that municipalities may be estopped by reason of the issuance of permits. However, the cases and text-writers very generally state that a municipality is

---

[15] The Town of Berwyn Heights was, and remains, a municipal corporation.

> not estopped to set up the illegality of a permit. And the issuance of an illegal permit creates no 'vested rights' in the permittee. *We have held above that the permits issued to the appellee were in violation of the zoning ordinance; consequently they were unlawful and did not estop the appellant [the Town of Berwyn Heights] from prosecuting this suit."*

Id. at 279-80, 179 A.2d at 716 (citations omitted) (emphasis added).[16]

While we are sympathetic to the plight in which respondent has found himself, we hold that the county is not estopped from enforcing the BCZR as it was applied by the Board of Appeals. We have held, generally, that permits that have been issued that are in violation of the zoning ordinances are unlawful and cannot be grounds for estopping a municipality from the enforcement of the ordinance. We stated in *Lipsitz* that "the doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of its ordinances, because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment." *Lipsitz*, 164 Md. at 227, 164 A. at 746.

III. Conclusion

We hold that the Court of Special Appeals failed to give appropriate deference to the

---

[16] There have been cases where we have granted equitable estoppel against a municipality; however, they are distinguishable from the case at bar. In *Permanent Financial Corp. v. Montgomery County*, 308 Md. 239, 518 A.2d 123 (1986), a builder sought to estop the county from asserting that the top floor of a building exceeded a height control imposed by local zoning ordinances. We held that the county was estopped because the builder had designed and constructed the building in reliance on the building permits and the counties long-standing and reasonable interpretation as to how a building's height should be calculated. The record in the case at bar does not indicate any long-standing practice in Baltimore County to include snakes as farm animals or the raising and breeding of snakes as commercial agriculture. To the extent there is any such evidence, it is to the contrary.

expertise of the Board of Appeals in interpreting the BCZR. Furthermore, there was substantial evidence in the record to support the findings made by the Board of Appeals and the decision made by the Board of Appeals was not based on an erroneous conclusion of law. The Board of Appeals properly found that respondent's business does not satisfy the definition of "commercial agriculture," because respondent was not involved in the use of the land or in animal husbandry. Also, it was not the intent of the County Council when enacting the definition of "commercial agriculture" to include activities like the breeding, raising, and selling of reptiles. Therefore, respondent's business does not satisfy the definition of "farm" and respondent is unable to conduct his business in an R.C.4 zone.

Respondent is not entitled to a vested right to use his property to raise, breed, and keep reptiles and snakes. Because we have held that respondent's business is not a use allowed in an R.C.4 zone, respondent cannot satisfy the first prong of vested rights jurisprudence because his permit was never properly issued. The permit was in violation of the BCZR. Respondent also is not entitled to a vested right because the concept of vested rights generally protects a party from a subsequent change to a zoning ordinance after construction under a valid permit has commenced. In the case at bar, there was not a subsequent change in the BCZR, there was only an interpretation of a statutory provision that existed at the time the alleged right vested, which interpretation was not contrary to any prior interpretation by the BCZR of that provision or local common practice and usage regarding the provision.

We also hold that Baltimore County is not estopped from preventing respondent from

using his property to conduct his business by enforcing the BCZR as it was interpreted by the Board of Appeals. Respondent knew, or should have known, that the permit obtained was not proper when it was issued; it cannot be grounds for estopping Baltimore County from enforcing the BCZR.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED; CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO REVERSE THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AND TO REMAND THE CASE TO THE CIRCUIT COURT FOR BALTIMORE COUNTY WITH DIRECTIONS TO AFFIRM THE DECISION OF THE BOARD OF APPEALS FOR BALTIMORE COUNTY; COSTS IN THIS COURT AND IN THE COURT OF SPECIAL APPEALS TO BE PAID BY RESPONDENT.

12/31/98

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF PETER A. KAHL
12240 Manor Road
Glen Arm, Maryland 21057

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washington Avenue, Towson, MD 21204

IN THE CASE OF: IN THE MATTER OF THE APPLICATION OF
MARY PAT MARZULLO - Petitioner
FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE WEST SIDE OF MANOR ROAD. 450' SOUTH OF THE CENTERLINE MANOR VIEW ROAD (12240 MANOR ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

CASE NO. 97-494-SPH

* * * * * * * * * *

CIVIL ACTION
No. 3-C-98-12834

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Kristine K. Howanski, Charles L. Marks, and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Michael J. Moran, Esquire, 401 Allegheny Avenue, Towson, MD 21204 and John B. Gontrum, Esquire, ROMADKA, GONTRUM & MCLAUGHLIN, P.A., 814 Eastern Blvd., Baltimore, MD 21221, Counsel for Petitioner; Peter A. Kahl, 12240 Manor Road, Glen Arm, MD 21057, Petitioner; Mary Pat Marzullo, 12244 Manor Road, Glen Arm, MD 21057, Protestant; J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, MD 21286, Counsel for Mary Pat Marzullo; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204.

RECEIVED AND FILED
98 DEC 31 PM 12:56
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Charlotte E. Radcliffe

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael J. Moran, Esquire, 401 Allegheny Avenue, Towson, MD 21204 and John B. Gontrum, Esquire, ROMADKA, GONTRUM & MCLAUGHLIN, P.A., 814 Eastern Blvd., Baltimore, MD 21221, Counsel for Petitioner; Peter A. Kahl, 12240 Manor Road, Glen Arm, MD 21057, Petitioner; Mary Pat Marzullo, 12244 Manor Road, Glen Arm, MD 21057, Protestant; J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, MD 21286, Counsel for Mary Pat Marzullo; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204, this 31st day of December, 1998.

Charlotte E. Radcliffe

Charlotte E. Radcliffe/Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

12/21/98

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY, MARYLAND

PETITION OF PETER A. KAHL *
12240 Manor Road
Glen Arm, MD 21057

FOR JUDICIAL REVIEW OF THE * Case No.: C-98-12834
DECISION OF THE
BALTIMORE COUNTY BOARD OF APPEALS
Old Court House
400 Washington Avenue *
Towson, MD 21204

IN THE CASE OF:
IN THE MATTER OF *
THE APPLICATION OF
MARY PAT MARZULLO-PETITIONER
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE WEST *
SIDE OF MANOR ROAD, 450' SOUTH
OF THE CENTERLINE MANOR VIEW
ROAD (12240 MANOR ROAD)
11th ELECTION DISTRICT *
6th COUNCILMANIC DISTRICT
Case No: 97-494-SPH

98 DEC 30 PM 12:14
RECEIVED
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY, MARYLAND

* * * * *

PETITION FOR JUDICIAL REVIEW

Petitioner Peter A. Kahl, pursuant to Title 7, Subtitle 2, Section 7-201 et seq of the Maryland Rules of Civil Procedure requests judicial review of the Memorandum Opinion and Order of the Baltimore County Board of Appeals entered in Case No. 97-494-SPH, In the Matter of the Application of Mary Pat Marzullo for Special Hearing, dated 30 November 1998. Petitioner was a party to the proceeding before the Baltimore County Board of Appeals.

RECEIVED AND FILED
98 DEC 29 AM 9:30
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Michael J. Moran
401 Allegheny Avenue
Towson, MD 21204

410/828-4800

John Gontrum
Gontrum, Hennegan & McLaughlin
814 Eastern Boulevard
Essex, MD 21221

410/686-8274

11/16/99

97-494-SPH /Mary Pat Marzullo
(Kahl Property)
CCt REVERSES CBA
11/16/99 (John G. Turnbull, J)

The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

CHAMBERS OF
JOHN GRASON TURNBULL, II

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
410-887-2647

PETITION OF PETER A. KAHL 12240 MANOR ROAD GLEN ARM, MARYLAND 21057	*	
PETITION FOR JUDICIAL REVIEW OF THE DECISION OF:	*	IN THE CIRCUIT COURT
THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY ROOM 49, OLD COURTHOUSE 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	* * *	FOR BALTIMORE COUNTY
IN THE CASE OF: IN THE MATTER OF THE *APPLICATION OF MARY PAT MARZULLO* CASE NUMBER 97-494-SPH	* *	CASE NUMBER: 03-C-98-12834

* * * * * * * * * * * * *

OPINION AND ORDER

This case comes before this court upon Peter A. Kahl's ("Kahl") Petition for Judicial Review of the decision of the County Board of Appeals ("Board"). On November 30, 1999, the Board issued an *Opinion* concluding that Kahl's use of his land did not conform with Baltimore County Zoning Regulations ("BCZR"). This court heard argument on November 10, 1999, and held the matter sub curia. The opinion of the Board was clearly erroneous and, therefore, must be reversed.

Kahl owns 4.71 acres of land in Baltimore County situated within a R.C.4 (Resources

of the People's Counsel testified on direct examination that Kahl's snakes were "wild or exotic animals." This as well defeats the possibility of classifying Kahl's operation as a Pet Shop since the BCZR only permits domestic pets in Pet Shops.

The answer to our first question, where can Kahl pursue his business in Baltimore County, can only be found in the BCZR definition of a Farm. For the purposes of this case, a Farm is land used for Commercial Agriculture. Commercial Agriculture is the use of land to raise or keep animals for income. Additionally, marketing, distributing and managing are expressly permitted ancillary activities under the Commercial Agriculture definition. Where the error occurred in the Opinion from the Board was in allowing the creation of ambiguity within the BCZR where none existed. Much testimony and argument was put forth suggesting "land use" is the controlling component of Commercial Agriculture. Kahl uses his land to exercise and sun his snakes. Testimony and argument minimalizing the *amount* of land necessary to do so is in and of itself an admission of the necessity of Kahl's land.

Nonetheless, the extent to which actual land use is required, versus buildings on the land, should have been settled by the first exhibit introduced by People's Counsel at the Board hearing. The Board neglected to properly analyze the intent of the Baltimore County Planning Board who made known in their final report, People's Counsel's first exhibit, "The principal standard that sets agricultural uses apart is that land *or* structures *and* buildings are utilized to produce plants *or* raise animals for income." (Emphasis added). In this report, the Planning Board recognized the changing face of agriculture and gave four examples of the evolution of the agriculture concept: beekeeping, forestry, grape collection and aquaculture. Aquaculture, just like Kahl's business, maximizes growth and profits by manipulating the natural cycles of animals through precisely controlled environments. The precision sought, by Kahl and aquaculturalist, can not be achieved

in open land. The Planning Board knowingly expanded the purview of "agriculture" to include the use of buildings to grow animals. The Planning Board's declaration was in direct opposition of the testimony from the experts for People's Counsel and Petitioner. The effect of the creation of this ambiguity manifested itself in the erroneous opinion of the Board.

The cardinal rule of statutory construction is to ascertain and carry out the intent of the legislature. Montgomery County v. Buckman, supra at 523. The intent of the County Council for the R.C.4 (Watershed Protection) Zone is laid out in Section 1A03.1 of the BCZR, "The R.C.4 zoning classification and its regulation are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds." There is not one scintilla of evidence or argument suggesting that Kahl is not in complete compliance with the intent of the BCZR.

Citizens of Baltimore County would be shocked to see Kahl's snakes sunning and exercising at the corner pet shop, the local animal boarding place, or, the neighborhood kennel. Had Kahl initiated his business activities in an area of Baltimore County that permitted pet shops, kennels, or animal boarding places, he would have found himself in the same fix with different citizens arguing that Kahl was in violation of the BCZR and the intent of the County Council. Fortunately for Kahl, the R.C.4 zone permits farming as a right, and as such, Kahl's neighbors are unable to create ambiguity in the language or intent of the BCZR to alleviate their true problem - the location of this farming activity.

The second question to be examined is whether the appellees are estopped from challenging Kahl's use of his land. It was uncontroverted that Kahl met with the Baltimore County Department of Permits and Development Management Director in 1994, made a formal

submission and had two meetings with the Development Review Committee in 1995 and 1996, received approval from the Development Review Committee in November of 1996, and, at the DRC's direction, obtained building permits in February and March 1997. From day one Kahl was forthright with his intentions. Other than the four-line boilerplate paragraph on the Rural Accessory Uses form completed by Kahl in April 1995, the only notice received by Kahl that he might have a problem with his intended use was in a letter dated April 16, 1997 from a Department of Permits and Development Management Supervisor. This was two months after construction began, three years after first asking Baltimore County for permission, and after the barn was 45% complete. That letter recognized its own policy to rubber stamp the approvals of the Agricultural Preservation Board because of the "expertise of the Board," but, also, attempted to qualify the practice by cautioning Kahl that citizens could file for a special hearing. This was the first and only direct attempt to notify Kahl that all of the efforts he had been putting forth, the hoops he jumped through, the meetings he attended, the bureaucracy that he waded through might be for naught because all of the thoroughly informed persons, boards, and committees he had obtained approval from might lack their apparent authority.

The Board, while recognizing their lack of jurisdiction, still offered dicta on the estoppel argument. The Board's efforts were riddled with error as to applicable case law, the facts as applied to the case law, and the evaluation of Kahl's options upon receipt of notice of special hearing. The Board was mistakenly led to believe Cromwell v. Ward, 102 Md.App. 691 (1995), would defeat the estoppel argument, when in fact Cromwell is supportive of Kahl. The Board misquoted, "The mere use (sic) of a permit...does not create a vested right, or estop the petitioning party (sic) from revoking it." Cromwell, at 723. This declaration originates from Francis v. MacGill, 196 Md. 77 (1950), where a property owner hurriedly obtained a building

permit in the mistaken belief he would be insulated from pending changes to the zoning that would make his desired activity impermissible. Francis is distinguishable from the case *sub judice* in that there was no pending change in the relevant zoning regulations and there was nothing ulterior to Kahl's motives.

A more thorough reading of Cromwell uncovers the case of Lipsitz v. Parr, 164 Md. 222 (1933). In Lipsitz, a building permit was issued for the construction of an ice factory in a zone that not only explicitly prohibited ice factories, but, it was a misdemeanor for the owner to use his property in such a fashion. The issuance of the permit was unquestionably outside the legal authority of the issuing officer and was revoked within three weeks. *Id.* at 227, 225. As cited in Cromwell, at 724, and in Lipsitz, at 227, a municipality may be estopped by the act of its officers if the acts are done within the scope and in the course of their authority or employment, but, estoppel does not arise should the act be in violation of law. From Cromwell we know that Kahl may assert an estoppel argument because Kahl's permits were issued at the direction of the "official power" and the breeding, raising, and selling of snakes is not a criminal activity.

Uncontroverted was the testimony of Kahl's subcontractor as to the Catch-22 at the time of receipt of the April 25, 1997 notice of special hearing: complete the scheduled construction and risk losing the use of the $250,000 barn, or, immediately stop construction only to deal with suits from subcontractors and the unavoidable deterioration of the $100,000 worth of completed construction. To say that when Kahl elected the rock, in lieu of the hard place, and advanced with construction that he waived his right to raise estoppel or that he assumed the risk is wholly unreasonable and to uphold same would be inequitable. Somewhere in the three years between initially contacting the Department of Permits and Development Management and prior to receiving notice of the special hearing, Kahl was justified in relying upon the approvals he had

Conservation) Zone. On this land, in a building recently constructed, Kahl actively breeds and raises snakes for sale. Kahl had applied for and received the necessary building permits for construction, but, the flurry of activity surrounding construction invoked the curiosity of Kahl's neighbors. Discovery of Kahl's intended use of the building prompted the initiation of this case which, as the record exhaustively reflects, has been before the Zoning Commissioner, who sided with Kahl, and the County Board of Appeals, which reversed, prior to coming before this court.

Unfortunately, a thorough reading of the BCZR and search of the legislative history fail to reflect even the slightest consideration of snakes or reptiles. However, merely because the BCZR does not expressly permit snakes to be bred, raised, and sold does not make his activity impermissible per se. The first issue before this court is where can the undisputably legal business of Peter Kahl Reptiles, Inc. be permissibly located in Baltimore County?

As previously stated, the Board determined that Peter Kahl Reptiles, Inc., as it exists in present form, can not be located in an R.C.4 zone. This court has great respect for the Board and gives deference to opinions emanating therefrom. This reversal is not improperly based upon mere difference of opinion. *See*, Eger v. Stone, 253 Md. 533 (1969). The errors in the Board's Opinion are in analysis of the construction of the BCZR, a conclusion of law, thereby enabling expansive, unconstrained, review. Montgomery County v. Buckman, 333 Md 516 (1994). Because the grounds for reversal are based upon an erroneous conclusion of law, not factual conclusions of which reasoning minds could differ, the narrow role of an appellate court in reviewing matters of factual evidence is not applicable. Board of Physician v. Banks, 354 Md. 59 (1999), United Parcel v. People's Counsel, 336 Md. 569 (1994).

The BCZR is an example of well written legislation. General Provisions, Section 101, (Definitions) delves into laborious detail on a myriad of topics: After Hours Club may have, but

are not required to have, dance floors; Arcades require five or more pinball machines; Brewery, Class 5B can not produce more than 100,000 barrels of malt beverage per year; there are four distinguishable categories of Car Washes; the use of helicopters warranted five separate definitions; Nursery Schools are for instruction of children between two and four years of age; Rail Passenger Stations may include facilities for bus bays and taxicab stands; and, the definition of Sludge necessitated five sub-definitions. It would be egregious to suggest that the BCZR was thrown together haphazardly. Absent a clear intent to the contrary, a statute is to be read so that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless, or nugatory. Montgomery County v. Buckman, 333 Md. at 523, 524.

To determine where Kahl can carry out his activities in Baltimore County it is necessary to ascertain which definition in the BCZR is most applicable to the activities. The Board accepted the notion that a permissible zone for Kahl's business would be one that allows Animal Boarding Places or Pet Shops. From Tidewater Inc. v. M&CC of Havre de Grace, 338 Md. 338 (1995), it is well settled that we are not at liberty to create an ambiguity where none exists. Forcing Kahl's activities into the narrow confines of inapplicable categories is nothing more than a disingenuous attempt to force Kahl's business out of the R.C.4 zone.

An Animal Boarding Place is inapplicable as Kahl does not operate a 'pet hotel.' Kahl does not board or care for animals other than his own. Animal Boarding Places do permit breeding for profit, but, does not expressly permit ancillary activities such as marketing, distributing, or managing from the location. These ancillary activities distinguish the classification of Farm from Animal Boarding Place. Pet Shops also fail for multiple reasons. Kahl does not sell the related supplies and equipment as required by the BCZR. Breeding is not permitted in Pet Shops by the BCZR. Further defeating the asserted designation of Pet Shop, an expert on behalf

received from Baltimore County. Therefore, the answer to our second question, are the appellees estopped from challenging the use of Kahl's land, is again in favor of Kahl.

Accordingly, it is this 16th day of November, 1999,

ORDERED, by the Circuit Court for Baltimore County, that the decision of the County Board of Appeals be, and the same is hereby, REVERSED, and,

ORDERED, that the use of the subject site for the breeding, raising, and selling of snakes is a farming activity permitted by right in the R.C.4 Zone, and,

ORDERED, that the appellees are estopped from challenging the use of Kahl's land.

JOHN GRASON TURNBULL, II
JUDGE

CC: J. Carroll Holzer, Esquire
Carol Demilio, Esquire
Michael J. Moran, Esquire
John Gontrum, Esquire

11/6/98

BEFORE THE BOARD OF APPEALS
FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF
12240 Manor Road, etc.

and

MARY PAT MARZULLO, et al

Petitioner

vs.

PETER A. KAHL,

Respondent

* No.: 97-CBA-494 SPH

* * *

POST TRIAL BRIEF OF PROPERTY OWNER AND RESPONDENT
PETER A. KAHL

THE STATEMENT OF THE CASE

Respondent, Peter A. Kahl owns a tract of land, zoned RC-4, that consists of 4.71 acres situate in Manor Road in Baltimore County, Maryland. Farming is a permitted use in this zone. The tract is currently improved with a residence and a building. Respondent, Peter A. Kahl (hereafter "Kahl") operates a business, Peter A. Kahl Reptiles, Inc. from the building. Kahl raises, keeps and breeds non-poisonous reptiles, primarily boa constrictors and pythons and sells them for income. Kahl consistently grosses $500,000.00 annually from his occupation.

Previously, Kahl had raised and bred the animals in his residence.[1] Over time, Kahl realized the need to expand the business and decided that if he could obtain County approval that he would expand onsite by building a structure in which to keep and raise the animals. After informal conferences with certain County officials Kahl applied for and received formal zoning and land use approvals. The County issued a building permit to Kahl on 14 February 1997. Kahl began construction of the building and had completed the basement and first story walls on 29 April 1997 when the County informed him that his neighbor, Petitioner Mary Pat Marzullo had filed a Petition for Special Hearing pursuant to Section 500.1 of the Baltimore County Zoning Regulations.

On 22 September 1997 the Zoning Commissioner conducted a hearing on the Petition for Special Hearing. The Petitioners essentially contended that the use of the property was not permitted in an RC-4 zone because of the type of the animal Kahl raises and keeps. The Zoning Commissioner disagreed with the Petitioner and found that snakes, like any other animal, could be farmed and husbanded in an RC-4 zone.

On 5 November 1997 the Office of the People's Counsel appealed the Zoning Commissioner's decision to this Board. The original Petitioner joined the People's Counsel in an appeal noted to this Board on 17 November 1997. The Board of Appeals assigned a hearing date and received the Petitioner's case and a portion of the property owner's testimony on 9 September 1998. The Board continued the hearing from 9 September to 23 October when it received the balance of Respondent's case and the rebuttal testimony of the Protestant. At the conclusion of that hearing the Board of Appeals directed the parties to submit briefs in lieu of oral argument and assigned the date

---

[1] Home occupation is a permitted use in an RC-4 zone.

of 10 November 1998 to deliberate its findings pursuant to the Open Meetings Law of Maryland.

THE QUESTIONS PRESENTED

1. Is the raising, keeping and husbanding of snakes such as boa constrictors and pythons for income a permitted use in an RC-4 zone?

2. Assuming, for argument's sake, that raising, keeping and husbanding snakes is not a permitted use in an RC-4 zone, does the doctrine of estoppel preclude the enforcement of the retroactive interpretation of the term "commercial agriculture" in the facts and circumstances of this case?

3. Assuming, for argument's sake, that the raising, keeping and husbanding of snakes is not a permitted use in an RC-4 zone, and that the doctrine of estoppel does not preclude the enforcement, retroactively, of the new interpretation of the term "commercial agriculture", has the property owner acquired vested rights in the use of the property that the United States Constitution and the State Constitution protects?

THE STATEMENT OF THE FACTS

Peter Kahl owns a tract of land, zoned RC-4, consisting of 4.71 acres, situate on Manor Road in Baltimore County, Maryland. The tract is currently improved with a residence and a building. Kahl operates his business, Peter A. Kahl Reptiles, Inc. from the premises and uses the building to raise, keep and breed boa constrictors and pythons for income. Kahl grosses income of about one-half a million dollars annually from the operation.

Kahl testified at length concerning the raising, breeding and keeping of his animals. Kahl determines the characteristics of each species that he would like to produce. Based

upon that criteria Kahl selects the adult males and females that will breed. Kahl regulates temperature and climatological conditions to simulate natural conditions and thereby produces regular breeding cycles. Following fertilization, Kahl harvests the eggs and incubates them in a carefully monitored incubation room. When the eggs hatch Kahl places the juveniles in containers in a room that is separate from those which house the subadults and the adults. Kahl raises the juveniles in containers in a separate room. Kahl or his employee feed, water and examine the juveniles regularly. The subadults and adults live in separate areas within the building and are also watered, fed and examined regularly. Water is provided to the animals from a well which serves the building only. Kahl feeds the animals rodents that Kahl raises on the property. Kahl, or his employee clean the cages and containers regularly. Fecal waste is disposed of either by composting it on the property or spreading it on the ground around the building.

Kahl also testified at length regarding the husbandry practices that he employs. Kahl stated that he and his employee work regularly with the animals by handling them either to minimize or eliminate undesirable characteristics such as aggressiveness or irritability. Kahl achieves behavioral traits not only through the choice of the adults that will breed but also by regularly handling the animals, thus familiarizing them to human beings. Another aspect of the quality of the husbandry that Kahl provides is the regular examination of each animal for signs of disease that can potentially decimate the entire stock of animals. If one detects a virus in an animal, treatment consists of antibiotics which either Kahl or his veterinarian administer.

Kahl initially raised and kept the animals in his residence on Manor Road until the collection became so large that he was forced to expand. Kahl decided that if the County

would grant the required approvals that he would build onsite. Kahl consulted with the County's Department of Permits and Development Management and informed them of his plan to build a barn[2] in which he would raise and keep the animals. The Department of Permits and Development Management directed Kahl to the Agricultural Land Preservation Board, the County agency recognized by The Department of Permits and Development Management as having the "..expertise and knowledge where [sic] proposed use fits within the category 'farm use'." The Department of Permits and Development Management requested that the Board verify the "legitimacy of farm use". Kahl met with the Board, explained his proposed use and received a recommendation of the Board that the Board reported to the Department of Permits and Development Management on 12 April 1995. The Board verified that the use proposed by Kahl was a legitimate farm use. Kahl subsequently received formal development approvals from the Development Review Committee of Baltimore County. Pursuant to the recommendations of the Development Review Committee the Director of the Department of Permits and Development Management wrote a letter to Kahl on 25 November 1996, described therein as a "...administrative order and decision on the request for issuance, renewal, or modification of a ...permit...or other form of permission..." you filed with this Department. In that letter, the Director of the Department of Permits and Development Management "...reviewed the recommendations of the [Development Review Committee] carefully and ...determined to adopt [them]..." The Director then instructed Kahl to "...proceed with your building permit application..." which Kahl did.

---

[2] The unique division of the barn into separately monitored and air conditioned rooms resulted from a desire to minimize the possibility of disease spreading among the animals, many of which are quite valuable and several of which exceedingly rare.

The County issued a building permit to build a barn to Kahl on 14 February 1997 and an amended permit on 17 March 1997. Pursuant to the permit Kahl, which had contracted with a builder, paid thousands of dollars worth of deposits for material to be used in the construction of the building. On 2 March 1997 the contractor, Advanced Building Structures, Inc. had trenched out the footings and had completed pumping the footing by 4 March 1997. Between 4 March and 21 March the contractor completed the placement and installation of the block walls to an elevation about 1 foot above the ground surface. The contractor began pumping the concrete around the block walls on 21 March and completed that operation by the end of the day. The contractor then delivered 11 tons of steel to the site between 21 and 25 March and dropped the steel onsite for storage. Between the end of March and April, 1997, the contractor constructed the above grade walls, poured concrete inside the walls, installed a concrete floor on the steel platform, and finally left the site on 29 April 1997.

THE ARGUMENT

I. THIS BOARD MUST DENY THE PETITION FOR SPECIAL HEARING BECAUSE:

A. KAHL (1) RAISES AND KEEPS ANIMALS FOR INCOME; AND/OR (2) PRACTICES ANIMAL HUSBANDRY, EITHER OR BOTH OF WHICH CONSTITUTE "COMMERCIAL AGRICULTURE", A PERMITTED USE ON 3 ACRES OR MORE OF LAND IN AN RC-4 ZONE.

Kahl's use of the property is permitted pursuant to the RC-4 Zoning Regulations of Baltimore County and the Board must therefore deny the Petitioners' Petition for Special Hearing. Kahl owns more than three acres of land which he devotes to commercial agriculture. Kahl raises and keeps animals for income and practices animal husbandry on the property. Neither the RC-4 zoning regulations nor the definition of "commercial

agriculture" either regulate or restrict the type of animal that one may farm on 3 acres or more of land in the RC-4 zone. Kahl's activity constitute commercial agriculture and the RC-4 zoning regulations permit the use of the property. The Board must deny the Petition for Special Hearing.

Section 1AO3.3A.2 provides that "farms" are "uses permitted as of right." Section 101 defines a "farm" as:

> " Three acres[3] or more of land, and any improvements thereon, used primarily for commercial agriculture, *as defined in these regulations* (emphasis supplied) or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery.

Section 101 defines "commercial agriculture" as

> "...the use of land, including ancillary structures and buildings to cultivate plants or raise and keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209[4] of the tax-property [sic] article of the Annotated Code of Maryland as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floraculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry...and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agriculture activity.

The County Council also said that:

> " Any word or term not defined in this section shall have the ordinarily accepted definition set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, unabridged."

---

[3] Kahl owns 4.71 acres.

[4] The legislative criteria to determine qualification for agricultural use assessment includes: (1) zoning of the land; (2) present and past use of the land; (3) productivity of the land; and (4) gross income derived from the activity. Kahl's land use qualifies for agricultural use assessment. The zoning is RC-4 and permits the use, as a matter of right, of the land for farming. Kahl's tract is therefore situate in the appropriate locale to qualify for the preferential assessment if he chose to apply for it. Since Klahl has lived on the property he has used it to raise and keep his animals for income; or, at least, no more intensive use of the property appears to have been made. Kahl grosses well into 6 figures from the agricultural operation. One must regard the land as at least as productive as if a chicken farm operated from the premises.

A snake is an animal. If one raises and keeps snakes for income on 3 acres or more of land in the RC-4 zone the activity is commercial agriculture and the use of the land is "farming" pursuant to the RC-4 zoning regulations. WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE, unabridged (hereafter, "Webster's") defines "animal" as "...an organism...being characterized by a requirement for complex organic nutrients including proteins or their constituents which are usually digested in an internal cavity...being distinguished from typical plants by lack of chlorophyll and inability to perform photosynthesis...by greater irritability commonly mediated through a more or less centralized nervous system..." The definition of "animal", as the Zoning Commissioner observed, easily includes "snakes". Snakes are animals and the "...standard that sets agricultural uses apart is that land or structures and buildings are utilized to cultivate plants or raise or keep animals for income..." (Respondent's Exhibit No.). There is ample testimony that demonstrates how Kahl "raises and keeps" these animals.[5] The activity of raising and keeping this kind of animal is "commercial agriculture" and the RC-4 zoning regulations permit the use.

"Commercial agriculture" includes the practice of "animal husbandry". Webster's defines "animal husbandry" as "...a branch of agriculture concerned with the production and care of domestic animals...the scientific study of the problems of animal production (the breeding and feeding)." A "domestic animal" may include "...any of the various

---

5 Kahl does not "board" any animals. The animals that he raises and keeps on the premises are his. To summarize the pertinent testimony, Kahl selects the animals that will breed and controls the environment to mimic natural conditions to encourage breeding and increase the breeding cycles. Kahl regularly feeds, waters and examines the animals from the time that the eggs hatch through the several developmental stages of the animals. Also, Kahl provides veterinary care to the animals to control viruses

animals...which have been domesticated by man so as to live and breed in a tame condition..." Webster's defines "domestic" as "...relating to the household or family...connected with the supply, service, activities of the household and private residences...suited to the physical requirement and livability of a private dwelling..." And, "domesticate" means to "bring into a degree of conformity and comfortable accommodation...to subject to the control and service of man..."

Kahl's practices "animal husbandry" on the property. Kahl breeds the animals and manipulates the environment and climate to encourage breeding and increase the frequency of the breeding cycles Kahl designed the barn to promote the healthy maintenance of these animals in captivity and to reduce the potential for viruses and devastating disease. In response to consumer demand for animals as pets, Kahl breeds the snakes for "attitude" and "domesticates" the animals by regular handling, familiarizing the animals to humans and adapting them to a "domestic" rather natural environment. The essence of a "domestic animal" is one that has been made subject to the control and service of man. Kahl does exactly this. Kahl therefore practices "animal husbandry" on the property an activity expressly within the statutory definition of "commercial agriculture." Kahl's use of the land is permitted as a matter of right in an RC-4 zone and the Board must deny the Petition for Special Hearing.

The terms "animal" and "animal husbandry" are entitled to receive their ordinary and commonly understood meaning. Three reasons support this conclusion. First, the County Council already provided, pursuant to Webster's the definition of "animal" and "animal husbandry." Second, the words themselves are unambiguous, non-technical, and

---

and preserve the animals. Kahl keeps and raises the animals until the animals are ready for sale to

express a clear, definite and simple idea. Third, attributing to the terms their ordinary, commonly understood meaning produces neither inconsistency between the words themselves and the legislative intent that resulted in the creation of the RC-4 zone specifically or the Resource Conservation zoning generally nor ambiguity among the provisions of the RC-4 regulations. Pursuant to the "plain meaning" rule of statutory construction the words are entitled to the full import of their commonly understood definition and the search for the legislative intent begins and ends in the literal language of the regulation.

In Catonsville Nursing Home, Inc. v. Loveman, 349 Md. 560 (1998) the Court of Appeals said

> "...the cardinal rule of statutory construction is to ascertain and effectuate the intent of those who framed or adopted the statute...the intention of the legislature must be sought first in the actual language of the statute...a court, in determining the legislative intent, must read the language of the statute in context and in relation to all of its provisions and purpose...furthermore, where the statutory language is plain, free from ambiguity and expresses a definite and simple meaning, courts do not normally look beyond the words of the statute itself...we look first to its language...we assume that the words of the statute are intended to have their natural, ordinary and generally understood meaning in the absence of evidence to the contrary...Brodsky v. Brodsky, 319 Md. 92 (1990)
>
> ...

Citing to Tucker v. Fireman's Fund Insurance Co., 308 Md. 69 (1986), the Court observed

> "...a term may be free from ambiguity in one context but of doubtful application in another context...when a statute is plainly susceptible of more than one meaning and thus contains an ambiguity, courts consider not only the literal or usual meaning of the words but their meaning and effect in light of the setting, the objectives and the purposes of the enactment...[T]he court may consider the consequences resulting from one meaning rather than another, and adopt the

---

consumers.

construction that avoids an illogical or unreasonable results or one which is inconsistent with common sense..."

The Court of Appeals states unequivocally that: (1) the cardinal rule of statutory construction is to effect the intent of the Legislature; and (2) the primary access to the Legislature's intention nevertheless remains through the literal terms or "plain meaning" of the words used in the text of the law. The definition of "animal" is here "twice blessed." First, the Court of Appeals has instructed the interpreter of the statutory language to "...seek first in the actual language of the statute..." the legislative intent and "...assume that the words of the statute are intended to have their natural, ordinary and generally understood meaning in the absence of evidence to the contrary..." Second, the County Council has effectively adopted the definition of "animal" contained in Webster's pursuant to Section 101 of the Baltimore County Zoning Regulations. Absent any legislative restriction on the scope of the terms used, the word "animal" is entitled to receive the full import of its ordinary, commonly understood and literal meaning; Howard Co., Maryland v. Carroll, 71 Md. App. 635 (1987). Webster's definition of the term "animal" easily includes reptiles and snakes. The use of the property is permitted in an RC-4 zone and the Board must deny the Petition for Special Hearing.

Attributing to the terms "animal" and "animal husbandry" their ordinary or "plain meaning" does not produce ambiguity among the various provisions of the text of the RC-4 regulations. One could apply the literal meanings of these words in other provisions of the RC-4 zoning regulations without creating the appearance that either term, when used

in the definition of "commercial agriculture", was being read without the context intended.[6]

When one considers the construction of the terms "animal" and "animal husbandry" that results from the attribution of the ordinary meaning of those words, in light of the detailed legislative findings and expressly stated legislative intent, Sec. 1A00.1-"Findings"; 1A00.2-"Purposes"; Sec. 1A01.1A.1 and B; Sec.1A02.1A; Sec. 1A02.3.1; one finds that no conflict exists between the ordinary meaning attributed to the terms and the legislative goal of the RC-4 legislation. For example, the object of the RC-4 legislation is to curtail undesirable development patterns and preserve water quality. The type of the animal that is "farmed" seems irrelevant to the ability of the County Council to achieve the stated goals of the RC-4 legislation. If farming, albeit permitted, may generally result in the disposal, upon the land, of refuse and other matter, or an infiltration of other substances into the surface and groundwater, it is difficult to imagine how the nature of the animal farmed would derogate from the goal of the legislation. Whatever the nature of the animal farmed, there would seem to be no conflict with the County Council's intention.

Because the language is entitled to its ordinary meaning resort to extrinsic evidence bearing on the County Council's intent is either unnecessary or precluded altogether. Nevertheless, the Council Notes that accompany Council Bill No. 51-93

---

6 This is the problem that the Court of Appeals addresses in Edgewater Liquors v. Liston, 349 Md. (1998). There, the issue was whether the attribution of a literal meaning to the term "licensee" in the administrative appeal provision of the State's Alchoholic Beverage law would result in either ambiguity or inconsistency if the same literal meaning were applied to the paragraph immediately preceding. The Court of Appeals found that the General Assembly did not intend to confer upon *any* neighboring licensee the right of appeal from a decision concerning the holder's license, but only that licensee whose permit was involved in the administrative proceeding. In this case, there would appear to

express the intention of the Council to expand the definition of agriculture to include "non-traditional" agricultural activities. The Council Notes state that the Bill "...adds a definition of 'commercial agriculture' which has a broader meaning than the term 'farm.' In order to accommodate operations which might be agricultural in nature but do not fit into the narrower, traditional farm definition...." The standard that "...set agricultural uses apart is that land or structure and buildings are utilized to... raise or keep animals for income..." Alternately, there is no evidence contained in the Notes that accompany Council Bill No. 51-93 that the Council intended to restrict the nature of the animal that could be farmed or the nature of the farming activity. The extrinsic evidence of the legislative activity therefore supports the application of the "plain meaning" of the language.

If one considers extrinsic evidence from sources other than the Council itself, one finds again that the evidence that exists is at least not necessarily inconsistent with the construction of the language proposed by Kahl if not supportive. For example, Paul Solomon testified that the County Planning Commission considered and activity that would qualify as either a farm or commercial agriculture as one that was "land based" or produced food or fiber. Kahl's activity meets either test. Kahl testified, in response to a question from Panel Member Marks that a segment of the consumer market that exists for these animals was comprised of consumers who eat boa constrictors and pythons. Moreover, Kahls' activity is at least as "land based" as Mr. Solomon's poultry farm or goldfish aquaculture. Kahl draws groundwater to feed the animals from a well that serves the building and uses the land around the building to spread the fecal refuse of the animals.

---

be no other provision that would be read either ambiguously or out of context if the literal meaning of the

Kahl's activity is one that qualifies under either the "food or fiber" or "land based" test proposed by Mr. Solomon and fits squarely within the definition of "commercial agriculture." The Board must deny the Petition for Special Hearing.

Finally the constitutional dimensions of the case that arise from the question of statutory construction must not be overlooked. The Fifth and Fourteenth Amendments to the Untied States Constitution protect property. Accord, Article 24, Maryland Declaration of Rights. At common law, a property had the absolute right to put his property to the highest possible use. Zoning Regulations restrict the rights that the federal and state constitutions otherwise guarantee to the citizens of the state. Because the zoning regulations derogate from common law, one must not, absent a clearly expressed intention of the County Council to the contrary, construe the Zoning Regulations to prohibit that which the federal and State constitutions guarantee; Landay v. MacWilliams, 173 Md. 460 (1938) "...Such ordinance are in derogation of the common law right to use private property to realize its highest utility and while they should be liberally construed to *accomplish their plain purpose and intent they should not be extended by implication to* cases not clearly within their scope and purpose manifest in their language..." citing to Monument Garage Corp. v. Levy, 194 NE 848 (NY, 1936). See also, Anderson, AMERICAN LAW OF ZONING, 4th ed. Section 18.04 (zoning statutes are in derogation of common law and should be strictly construed in favor of the property owners); Appeal of Ethken, 493 A. 2d 787 (Pa. Commonwealth, 1985) ("...we must afford *permitted uses* (emphasis supplied) the broadest interpretation so that the landowner may have the benefit of the least restrictive use of his land...")

---

word "animal" were attributed to it.

The contest here arises in the context of a use permitted by the Zoning Regulations. The uses permitted are described in the language of the zoning regulations but not limited by those regulations. To construe the zoning regulations consistently with the constitution one must afford the language of the Zoning Regulations its full meaning. To do otherwise would be to: (1) create a restriction quasi-judicially where none was intended, thus usurping the legislative prerogative of the County Council; and (2) violate the rights secured to the property owner by the federal and state constitutions.

The "plain meaning rule" applies to this dispute and yields the result that snakes may be farmed in an RC-4 zone in Baltimore County. The plain meaning rule applies because : (1) the statutory terms at issue, "animal," and "animal husbandry" are simple, clear, definite and non-technical in their nature; (2) unambiguous in themselves; and (3) when read in context with the balance of the RC-4 zoning regulations and the expressly stated legislative goals do not produce conflict. Accordingly, there is no need to look beyond the language of the statutory text to discern the intent of the County Council. If however, one were to resort to extrinsic aids to interpretation one finds that the Council Notes that accompany Bill No. 51-93 reflect the County Council's intention to expand the definition of "commercial agriculture" to include new kinds of agricultural forms that would have otherwise been excluded under the prior definition or the nature of traditional Agriculture. Moreover, Kahl's activity meets the alternate tests of "food or Fiber" or "land based" proposed by Mr. Solomon. Accordingly, Kahl's activity is commercial agriculture, the use is permitted in the RC-4 zone and the Board must deny the Petition for Special Hearing.

B. ASSUMING, FOR ARGUMENT'S SAKE, THAT FARMING REPTILES IS NOT A PERMITTED USE OF PROPERTY IN AN RC-4 ZONE, NEVERTHELESS THE DOCTRINE OF ESTOPPEL PRECLUDES THE RETROACTIVE ENFORCEMENT OF THE NEW CONSTRUCTION OF THE ZONING REGULATIONS TO THIS PROPERTY BECAUSE THE PROPERTY OWNER OBTAINED AND RELIED UPON FORMAL APPROVALS AND PERMITS FROM THE COUNTY BASED UPON A REASONABLE INTERPRETATION, OF THE COUNTY, OF THE DEFINITION OF COMERCIAL AGRICULTURE.

Assuming, for argument's sake, that raising, breeding and husbanding snakes is not a permitted use in an RC-4 zone in Baltimore County, nevertheless, the doctrine of estoppel applies and precludes the enforcement, against Kahl, of the new interpretation of the definition of "animal" and/or "commercial agriculture." Kahl obtained all formal zoning, land use and building approvals from the County in reliance upon the County's construction of the term "animal" and "commercial agriculture." Kahl relied initially upon the interpretation of the zoning regulation by the Agricultural Land Preservation Board, the agency recognized by the Department of Permits and Development Management that possessed the expertise concerning legitimacy of farm use issues. On two occasions Kahl appeared before the Development Review Committee, the County agency composed of various members of all agencies concerned with land use, zoning and development. Having received the positive recommendation of the Development Review Committee, Kahl then received the formal approval of the Director of the Department of Permits and Development Management who approved the recommendations of the DRC. The Building Engineer issued multiple permits to Kahl. The County's construction of these terms, through the permit and land use approval process was reasonable. The construction of the zoning regulations by the County's administrative agencies is eminently reasonable. Nothing appears from the record to show that any interpretation of the language of the

regulation is palpably unreasonable. Accordingly, the doctrine of estoppel precludes the application of a different interpretation of the term "animal" or "commercial agriculture" to Kahl.

Estoppel is a remedy that is available against the government; Permanent Financial Corporation v. Montgomery County, 308 Md. 239 (1986) and is applicable here. Kahl approached the County in a series of informal and formal presentations and informed the County of the use that he intended to make of the land. The Director of the Department of Permits and Development Management directed Kahl to the Agricultural Land Preservation Board, the agency regarded by the Department of Permits and Development Management as having the expertise to determine whether Kahl's proposed use of the property was legitimately a "farm use." The Agricultural Land Preservation Board, after meeting and considering the question, decided that it was and informed the Department of Permits and Development Management. Subsequent formal land use approvals followed. Kahl obtained a building permit, invested and spent money, undertook construction of the barn, and received a certificate of use and occupancy, without opposition from the County. Because the County had the opportunity, at any stage of the development or building permit review and approval process, to withhold further approval, one can only conclude that the County intended to maintain its position that the use of the land was a legitimate farm use, based upon the construction of the regulations at issue here. Moreover, the absence of any enforcement action by the County indicates the County's persistence to the present time in this respect. The construction of the definition "commercial agriculture" and the specific terms "animal" and "animal husbandry" to include snakes is not unreasonable and arguably directed and ordained by the County

Council's instruction to accept the definition of undefined terms in the zoning regulations provided in Webster's Dictionary. Assuming, for argument's sake, that farming snakes is not a permitted use in an RC-4 zone, nevertheless, the doctrine of estoppel precludes the retroactive application of the new construction of the language of the regulations to this property.

If the doctrine of estoppel were inapplicable it is important to note such a holding would render Kahl's building virtually useless. The building is specifically designed around good husbandry practices for the animals. A perusal of the Baltimore County Zoning regulations leaves one with the impression that there really is no other defined use in which Kahl fits. Absent such a defined use, Kahl would be precluded from using his barn altogether. This result is effectively a taking of property without either compensation or due process of law.

C. ASSUMING, FOR ARGUMENT'S SAKE, THAT: (1) RAISING, BREEDING AND HUSBANDING SNAKES IS NOT A PERMITTED USE IN AN RC-4 ZONE; AND (2) THE DOCTRINE OF ESTOPPEL IS INAPPLICABLE: NEVERTHELESS, THE ENFORCEMENT OF NEW INTERPRETATION OF THE ZONING REGULATIONS WOULD DEPRIVE THE PROPERTY OWNER OF VESTED RIGHTS, PROTECTED PURSUANT TO THE UNITED STATES AND STATE CONSTITUTION.

Assuming, for argument's sake that farming snakes is not permitted in an RC-4 zone and that the doctrine of estoppel is inapplicable, the enforcement against Kahl of an interpretation of "commercial agriculture" that does not include snakes as farmable animals would result in a deprivation of vested rights. Kahl built the barn relying on and pursuant to a reasonable construction of the zoning regulations by those charged with the administration and enforcement of those regulations. A contrary administrative

interpretation of the term "commercial agriculture" or "animal" would inflict the same consequence upon Kahl as an amendment to the language of the regulations by the County Council. In that case, however, the doctrine of vested rights, as articulated by the Court of Appeals of Maryland, Sycamore Realty Co., Inc. v. People's Counsel of Baltimore County, Md. 344 Md. 57 (1996), would protect Kahl against the legislative change.

In Sycamore Farms, the Court of Appeals posited the vested rights theory in Maryland. Quoting David G. Heeter, *Zoning Estoppel: Application of the Principles of Equitable Estoppel and Vested Rights to Zoning Disputes,* URB. L. ANN. 63, 64-65 (1971):

> "... vested rights is derived from principles of common and constitutional law and focuses upon 'whether the owner acquired real property rights which cannot be taken away by governmental regulation.'" Sycamore, id. at 67.

Citing to Prince George's Co. v. Sunrise Development Corp., 330 Md. 297 at 312 (1993) the Court of Appeals continued that

> "...Under Maryland's vested rights theory, 'when a property owner obtains a lawful building permit, commences to build in good faith, and completes substantial construction on the property, his right to complete *and use that structure* (emphasis supplied) cannot be affected by any subsequent change by the applicable building or zoning regulations..."

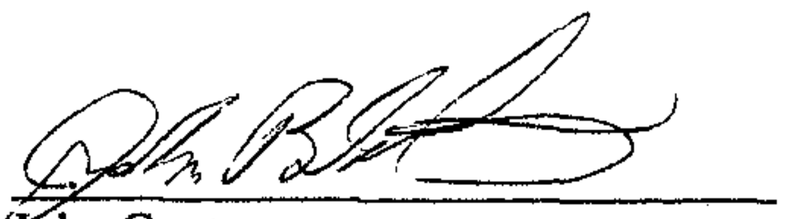
Citing to Richmond Corp. v. Board of County Commissioners, 254 Md. 244 at 255-56 (1969) the Court said that

> "... In Maryland it is established that in order to obtain a vested right in the existing zoning use which will be constitutionally protected against a subsequent change in the zoning ordinance prohibiting or limiting that use, the owner must(1) obtain a permit or occupancy certificate required by the applicable ordinance; and (2) must proceed under that permit or certificate to exercise it on the land involved so that the land involved so that the neighborhood may be advised that the land is being devoted to that use."

Kahl has vested his rights to use the barn under either or both of two theories. First, Kahl is vested pursuant to the common law. Kahl has obtained a certificate of occupancy for the barn. Prior to the institution of the Petition for Special Hearing Kahl had completed construction of the barn to a degree that placed the neighborhood on notice that a building was under construction. Moreover, construction of the building had proceeded to such a degree when the Petitioner filed her Petition for Special Hearing construction of the walls was above ground level. The degree of construction completed to that time is certainly substantial; Sycamore Realty Co., id. Second, Kahl is vested pursuant to the Development Regulations of Baltimore County. Title 26 of the County Code provides that obtaining a building permit vests a development against subsequent changes in law. Kahl has vested rights in the use of the barn for the specific purpose of snake husbandry and denial of the rights now would constitute a taking of property without compensation or a deprivation without due process of law.

SUMMARY AND CONCLUSION

For all of the foregoing reasons the Petition for Special Hearing must be denied and the property owner requests that this Board enter an Order affirming the decision of the Zoning Commissioner.



John Gontrum
Attorney for Respondent
814 Eastern Boulevard
Essex, Md 21221

410/686-8274

Michael J. Moran
Attorney for Respondent
401 Allegheny Avenue
Towson, MD 21204

410/828-4800

2/24/99

RE: PETITION OF PETER A. KAHL	*	IN THE
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	CIRCUIT COURT
IN THE MATER OF THE APPLICATION OF *MARY PAT MARZULLO FOR A SPECIAL* HEARING on property owned by PETER A. KAHL, located on the W/S Manor Road, 450 degrees S of the centerline Manor View Road (12240 Manor Road) 11th Election District, 6th Councilmanic District	*	FOR BALTIMORE COUNTY Civil No.: 3-C-98-12834

****

ORDER

Upon review and consideration of the foregoing Motion to Extend filed by Peter A. Kahl in the above referenced case It is hereby

ORDERED, by the Circuit Court for Baltimore County this 24 day of February, 1999 that the record in the above referenced case be transmitted no later than March 31, 1999.

JUDGE

True Copy Test
SUZANNE MENSH, Clerk
Per _____
Assistant Clerk

FILED FEB 24 1999

11/30/98

IN THE MATTER OF THE THE APPLICATION OF MARY PAT MARZULLO -PETITIONER FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE WEST SIDE MANOR ROAD, 450' SOUTH OF THE CENTERLINE MANOR VIEW ROAD (12240 MANOR ROAD) 11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 97-494-SPH

* * * * * * * * *

O P I N I O N

This matter comes to this Board on appeal from a decision of the Zoning Commissioner wherein the Commissioner ordered that the use of the subject site for the raising, breeding and selling of reptiles was permissible in an R.C. 4 zone, and, as such, the Petition for Special Hearing filed by adjoining property owner, Mary Pat Marzullo, was denied.

This case was heard over a two-day period on September 9, 1998 and October 23, 1998, with closing memorandums filed by counsel two weeks after the close of the hearing. A public deliberation was held on November 10, 1998. J. Carroll Holzer, Esquire, appeared on behalf of Petitioners; Michael J. Moran, Esquire, and John B. Gontrum, Esquire, represented the Property Owner /Respondent, Peter Kahl; with Carole S. Demilio representing the Office of People's Counsel.

This case involves the use of land in Baltimore County that is zoned R.C. 4 (Resources Conservation) on which the Property Owner has erected a building that is used for the raising, breeding, and marketing of snakes, restricted, at the present time by Mr. Kahl's personal pursuits, to a non-poisonous variety; that is, Pythons and Boas. The hearing encompassed two full days during which the Board

E.15

listened to a number of witnesses and received a substantial amount of evidence. The facts of the case are clear as reflected in the testimony and evidence offered by both sides to the controversy.

The Property Owner, Peter Kahl, owns 4.71 acres in the Glen Arm section of Baltimore County, located off of Manor Road. At the present time, Mr. Kahl has a residence on the property and a building 150 ft. by 28 ft. located in proximity to his residence. Maps, photographs and a videotape were admitted into evidence by the Petitioners (Petitioners' Exhibits Nos. 2, 3, 4, 5 and 6) and reflect that the general area of Mr. Kahl's property borders a diversity of single-family dwellings, typical of the area, surrounded by animal farms and crop growth. Based on the testimony received, neither the Petitioner nor any of Mr. Kahl's neighbors were aware of Mr. Kahl's snake activities until he began construction of the adjacent reptile facility in 1997. At this point, it is helpful to place in chronological order the events that led up to the construction of the building. Mr. Kahl acknowledged that his hobby of collecting, raising, and breeding snakes (Boas and Pythons) through the passage of time developed into a full-fledged business (Petitioners' Exhibit No. 7). Initially these activities were conducted from his residence on Manor Road. Because of the success of his business, Mr. Kahl, in July 1994, applied to the Baltimore County Department of Permits & Licenses for a "Holding Facility /Kennel /Wild Life" animal license naming the "Peter Kahl Reptiles, 12240 Manor Road, Glen Arm, MD 21057" as the facility with a stated purpose of "research and

E.16

breeding" of Boas and Pythons. On July 12, 1994, that Baltimore County department issued a license valid from July 1, 1994 through June 30, 1995. Two months prior to the expiration of that license, Mr. Kahl, on April 5, 1995, requested a "farm qualification" of his Manor Road property from the Baltimore County Agricultural Land Preservation Commission, supplying as required from the Applicant the precise map reference (Property Owner /Respondent's No.6). That application prompted the inquiry from Mr. Arnold Jablon, Director of the Department of Permits & Development Management, to Mr. Wallace Lippincott of the Farm Bureau as to verification of the legitimacy of the farm use of the Kahl property, as reflected on the application. At a meeting on April 12, 1995 of the Agricultural Land Preservation Commission, that farm usage was approved and verified to Mr. Jablon by the Bureau. Directly below the Applicant's completion of property location is the following caveat:

> "This office is officially requesting verification of the legitimacy of a farm use on the referenced property. In the judgement of the Director and/or the Zoning Commissioner, in consideration of your findings, a special hearing may be required before the zoning Commissioner prior to any zoning approvals. We are submitting a copy of...." (Respondent's No. 6)

Subsequently, in November 1996 the Property Owner requested from the Baltimore County Department of Permits & Licenses an exemption under Section 26-171(a)(7) of the Baltimore County Code for a limited exemption which was granted by the Development Review Committee by letter dated November 26, 1996 from Director Arnold Jablon (Property Owner /Respondent's No. 7). Under the provisions

of a limited exemption grant, there is no community input meeting or public hearing by a hearing officer.

Shortly thereafter, Mr. Kahl met Mr. William R. Yost, a contractor, and discussed the possibility of erecting the basic shell for the proposed "reptile barn." To that end, a contract was entered into between Mr. Kahl and Mr. Yost. On February 14, 1997, Building Permit No. 294783 (Property Owner /Respondent's Exhibit No. 2) was secured from Baltimore County granting approval to Mr. Kahl to construct a "reptile barn" 100 ft. by 50 ft. by 18 ft., 5,000 sq. ft., and while the application filed by Mr. Kahl clearly showed a private water and sewer system, the permit was issued reflecting public water and sewerage on the property (Property Owner /Respondent's Exhibit No. 12). While there is a discrepancy between the application and the finally issued permit, the Board does not believe that there was any attempt on the part of Mr. Kahl to cloud the issue, but simply an administrative error not germane to the case.

Seeking to enlarge the square footage within the original footprint, the Property Owner secured a second permit No. 297790 on March 27, 1997 (Property Owner /Respondent's Exhibit No. 3) enlarging the original square footage from 5,000 sq. ft. to 10,000 sq. ft., again calling for the construction of a "reptile barn" on the Manor Road property. According to the testimony of Mrs. Marzullo, the Petitioner, it was only after the actual construction of the facility that neighbors inquired as to its ultimate usage. Petitioner testified that her knowledge and that of the community

concerning the reptile farm came about when a neighbor visited the Baltimore County Department of Permits and viewed the permits reflecting the "construction of a reptile barn," and that would have been toward the end of March 1997. The Petitioner and the other neighbors made subsequent inquiries to Mr. Carl Richards, Supervisor of the Zoning Review Section of Baltimore County, who in turn wrote to Mr. Kahl on April 17, 1997 (Property Owner /Respondent's Exhibit No. 8) specifically noting community complaints about the proposed usage of the building being constructed as a "reptile barn." In that letter, Mr. Richards acknowledged that his department of zoning accepts the recommendation of the agricultural preservation group, which he stated in his letter has the expertise and knowledge to determine which uses fit into "farm uses", and, taking these recommendations on face value, his department accordingly issued the permit. He also noted the appropriateness of Section 500.7 (Special Hearing) to determine the ultimate use of property. It also should be observed that at this time, that is April 17, 1997, the Property Owner had been placed on notice, on two occasions, as to the appropriateness of the special hearing to determine the use of the property; that is, in April 1995, in applying to the Baltimore County Agricultural Land Preservation body, and Mr. Richard's letter of April 17, 1997 noting the complaints of the neighbors. According to the testimony of the contractor, Mr. Yost, the work actually began constructing the building in February 1997 and was finished by the end of April 1997; that is, the basic shell. On

April 25, 1997, the Petitioner appealed the issuance of the second permit (Property Owner /Respondent's Exhibit No. 9). On April 30, 1997, the Property Owner was notified that a Petition for Special Hearing had been filed by Petitioners (Property Owner /Respondent's Exhibit No. 11). At that point in time, again, according to the testimony of Mr. Yost, his work was basically completed as to the construction of the building shell. The foundation was secured, concrete in place, stone in the basement, with the next step being construction of the interior walls and roof placement. Work continued on the building with various inspections certified and issued by Baltimore County (Property Owner /Respondent's Exhibit No. 10), and according to Mr. Yost, substantially completed during a site visit by him on September 12, 1997, when he returned to take pictures of the completed building for his possible sales usage.

Additionally, when this Board considered the appeal filed by the Petitioner as to the second permit, the building was fully completed. That "Motion to Dismiss" was granted by this Board since the Baltimore County Code provides that only the denial of a building permit by the applicant is an appealable event. Thereafter, the Zoning Commissioner held hearings concerning the filing of a special hearing by the Petitioner to determine the approval of the reptile facility as a farm located in a R.C. 4 zone.

On October 21, 1997, Commissioner Schmidt determined that the use of the subject property for the purpose of raising, breeding and selling of snakes was a permitted use in the R.C. 4 zone, which

E. 30

leads us to the essential question in this case. Is the property used as a farm -- or is it outside the definition of a farm as defined under Section 101 of the Baltimore County Zoning Regulations (BCZR) which states:

> "FARM: A Farm is three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses."

The term "farm" specifically includes certain uses -- none of which are applicable to this case.

It is undisputed that the land owned by the Property Owner is in excess of 4.5 acres and satisfies the land area requirements. It is well established law that the Baltimore County Zoning Regulations are written in the inclusive. The regulations specify and provide the use of land as determined by the Baltimore County Council. Under Maryland law, there are two classes of uses -- those which are granted by right and those which are authorized by special exception. Both have their own rules, regulations, and case law applicability. A special exception requires that the property's use must not be detrimental to neighboring properties or communities to the extent that the use, if granted, would not be more adverse in its proposed location than anywhere else in the zone. That is not an issue in this case. It is not a situation of community safety, increased traffic, snake security, or an activity the community feels is offensive to their lifestyle or in determination of property values. In Kowalski v. Lamar, 25 Md.App. 493 (1975), the Court of Appeals stated that the zoning regulations must be construed to have been written in the inclusive. It is

simply not a question of the impact of the Property Owner's use, if in fact the use is one of a "farm" as defined by the Baltimore County Zoning Regulations. If the land use is that of a farm, the use is a proper use in a proper place.

The Petitioners offered two land planning experts in support of their position, Mr. Paul Solomon and Mr. Norman Gerber. Both gentlemen have appeared before this Board on numerous occasions and were accepted without objection. Both expressed disagreement with the Opinion and Order issued by the Zoning Commissioner. A key issue opined by Mr. Solomon involved the term "commercial agriculture" as positioned in the BCZR definition of a farm:

> "Agriculture, Commercial: The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the tax-property article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing provided that any such activity shall be secondary to the principal agricultural operations.

Mr. Solomon related to the Board his considerable experience in land issues, having been employed for 22 years by Baltimore County with the Office of Planning and Zoning (1970 through 1992); head of environmental planning, the administration of the Baltimore County Agricultural Land Program; and while a north County planner, his extensive involvement in developing the R.C. zoning classifications. It was his expert testimony that "the use of

land" is key in the interpretation of the definition of "commercial agriculture" and that the term "the raising or keeping of animals for income" requires that the use be "land based"; that is, that its primary function must be the utilization of land, i.e., the woods or fields, and for the ultimate production of crops for food and/or fiber provided by the animals thereon.

People's Counsel Exhibit No. 1 was cited representing the final report of the Baltimore County Planning Board dated October 17, 1991, which, on page 3, notes that "the agricultural industry is changing dramatically" and on page 3 expresses the following:

> The principal standard that sets agricultural uses apart is that land or structures and buildings are utilized to produce plants or raise animals for income. The proposed definition acknowledges that agriculture is an industrial use which involves such activities as storage, processing, marketing, distributing and financing, but qualifies that all of the above activities must be ancillary to the principal agricultural operation.

Examples were cited in the report that specifically relate to agriculture, but are not qualified as farms -- such as, riding stables, firewood operations, and landscape facilities, which are all land based but not necessarily of an agricultural nature. That report further proceeds to designate four uses that were not involved in the old definition that could now qualify: beekeeping, forestry, grape collection, and aquaculture. Mr. Solomon also noted on page 6 of that report the primary determinant which would decide whether an operation is a farm would be the criteria used by the State for assessment purposes. He referenced People's Counsel Exhibit No. 2 which specifies that the Kahl property is zoned "residential" by the Maryland State Department of Taxation and

Assessment. Additionally, Mr. Solomon opined that other provisions in the zoning regulations provide for the type of operation in which Mr. Kahl was engaged. The breeding of animals is an activity permitted under other sections of the regulations; for example, the breeding of dogs which is not land-based nor food or fiber production, but is permitted as "kennel use" for the breeding of dogs. Also Section 101 of the BCZR provides for "pet shops" (a non-agricultural use) where animal boarding is permitted.

Essentially, Mr. Solomon's review of the BCC and regulations led him to the conclusions that Peter Kahl Reptiles, Inc., was not a permitted activity in the R.C. zones; and considering all factors, it could not be considered as a farm.

Mr. Norman Gerber, a former Baltimore County planning director, also qualified without objection as an expert in the field of land planning and use. He has also testified on many occasions before this Board. He opined that he had also reviewed the opinion and order of the Zoning Commissioner, had physically visited the site, and was familiar with the R.C. zones, and concurred with the testimony of Mr. Solomon that the reptile facility was not a permitted use by right in the R.C. zone or by special exception. It was his expressed opinion that the use simply did not fit into the definition -- but rather one covered as a "boarding place" (Section 101) and under a Class B permit, which is allowed in a number of zones, and in R.C. 2 or R.C. 4 zones as a special exception. Again, he emphasized that Section 101 of the BCZR (definitions) which require that a farm must, among other

E. 24

things, be essentially for "commercial agriculture" as defined; and "commercial agriculture" must be land-based or employing the actual use of the land and ancillary structures and buildings for crop growth or the raising and breeding of animals for food or fiber. It was Mr. Gerber's conclusion that, while he did not disagree with the Zoning Commissioner's definition of an "animal" (not defined in the BCZR), snakes could be classified as animals, but the primary focus must be on "the use of the land..." to cultivate plants or raise or keep animals for income. Since snakes are not farmland-oriented, and not raised or bred primarily for food production or fiber, they would not qualify, since they can be maintained, raised, bred and marketed without dependency on the land. The distinction, according to Mr. Gerber's testimony, was primarily why the BCZR provided specific provisions for the breeding and selling of animals (exclusive of farm and household animals) under an animal boarding plan, Class B.

Mr. Peter Kahl testified at considerable length concerning the development of his hobby into a well-managed business and the development of same through various stages of progression. He opined that he began raising and breeding the Boas and Pythons in his Manor Road residence. The business became so successful that he decided to enlarge it by erecting a building in proximity to his home so that he could be nearby to give personal attention to the facility. The business is advertised on the World Wide Web and is conducted on an extensive international basis. Essentially, he and his associate maintain the facility which is a very profitable use,

E.25

with gross income of roughly $500,000.00 annually. Mr. Kahl's testimony was forthright, articulate, clear, illuminating, and convincing. Unquestionably, both he and his associate must be considered as experts in the field of herpetology. His precise description of how his business is managed, the way the various snakes are maintained, raised and bred is a fascinating study. Mr. Kahl went into considerable depth as to the selectivity of breeding of the snakes, the mating process, conditions required throughout the entire process, the harvesting of eggs, the incubation process, development stages, and the final determination of which snakes would be retained and which would ultimately be marketed. It should also be noted that Mr. Kahl's expertise has resulted in the development of many varied strains of both Boas and Pythons relative to color and stripes and temperament.

Mr. Kahl described the facility which houses the snakes, the security factors he has instituted and which are currently present, and that the snakes are generally handled within the confines of the building, except for "sunning practices" which require direct sunlight; and the intense security maintained during that process. Mr. Kahl opined that a considerable portion of his time is engaged in the field of what he deems to be animal husbandry, which is a term included within the parameters of "commercial agriculture." This activity requires that he and his associate expend considerable time by working with and handling the snakes to effectively minimize or attempt to eliminate undesirable characteristics, such as aggressiveness or irritability. By daily

familiarization with human beings and continued breeding, this factor can be considerably reduced, thus enlarging the Python's and Boa's capacity as domesticated animals. The Property Owner testified that Boas and Pythons are not normally aggressive, but will respond to scent, since their eyesight is limited. If not regularly fed, and a scent is detected, this leads the snakes to believe prey is at hand and they will attack. Death is caused by constriction, while the prey exhales, until there is no breathing possible. Mr. Kahl outlined in depth the daily care, feeding, and removal of snake waste. When marketed, the snakes are transported in trucks in safe containers. It was Mr. Kahl's position that snakes are animals. He maintains, breeds and raises them for income, in addition to practicing animal husbandry on his 4.5 acres. He very aptly described the methodology by which he initially used his residence for this business and the various stages previously outlined in this opinion to construct his "reptile barn." It was his belief that someone in an official capacity along the path of inquiring for the various permits and various stages of construction should have been more definitive and informed him if there was any problem concerning the construction of the facility on the Glen Arm site.

The second day of hearing produced testimony from Mr. William R. Yost, the project manager, an individual responsible for the construction of the building shell. Mr. Yost was articulate and clearly outlined his involvement in the building and its construction. He opined that he had met Mr. Kahl in the fall of

1996; that the Property Owner had discussed the new building with him, and specifics required because of its future usage as a reptile barn, which led to a contract to construct the facility. The actual work began in the middle of February 1997 when a hole was in the ground (110 ft. by 60 ft.), and material came in from Canada. He described the progression of the building from March 2, 1997 through April 29, 1997, the pouring of the floor concrete, studs for the walls, steel erection, block walls going up, and contractual progress. Essentially, he testified his work was completed by April 29, 1997, and the building was approximately 45 percent complete at that time, with the shell formulated, ready for interior work and roof trusses to be installed. He opined that he last visited the site in September 1997 when the building was substantially completed and he took photos for possible future sales usage.

Mr. Mark Spataco, an associate of Mr. Kahl's for the past year and a half, described his educational credits in the field of herpetology, his various research work projects, his reptile work in Jamaica, snake habitat study, and, in particular, his extensive work and study relative to the Jamaican Boa with several professional papers being published. He testified that the Kahl operation is a Class A-1 facility and the operation is recognized world-wide as a leader in the raising, breeding and handling of Boas and Pythons. He again described the facility, the entire raising and breeding process, research stages, and that he had no financial interest in the business. His testimony was consistent

E. 24

in nature to that of Mr. Kahl.

Dr. Kenneth Gold also testified in support of the Property Owner's position. He is a Doctor of Veterinary Medicine, licensed since 1989, and is engaged in the field of veterinary medicine at the Falls Road Animal Hospital. He described the nature of animals treated by him; dogs, cats, and reptiles (non-poisonous), and also "pocket pets." He also testified as to his activities in various professional societies, and also noted his volunteer work in the rehabilitation of wild animals in the Maryland Habitat organization, and of his various activities concerning animals, wild life, and the raising and breeding of same. An attempt was made to qualify Dr. Gold as an expert in the field of animal husbandry, which led to an extensive voir dire. While the witness had testified before the Zoning Commissioner, he acknowledged no special certifications relative to expertise in the general field of reptile study. After considerable discussion, a proffer was made relative to Dr. Gold's qualification as a licensed veterinarian by the State of Maryland, and it was acknowledged that what Mr. Kahl was doing at the subject site had been clearly previously delineated by prior witnesses, and it was left to the Board to determine the interpretation of animal husbandry as defined by the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged, as provided for by the BCZR.

Mr. Holzer produced several witnesses, all of whom had the same generic problems with the use of the subject property as a

snake facility. All lived in proximity to the snake building. They alleged concerns relative to safety if the snakes got loose, increased traffic to and from the facility relative to customers and delivery /transportation trucks, and a declination in property values. None acknowledged that they had actually been in the reptile facility. The photograph of a snake, loose in proximity to one of the neighbor's homes, was introduced by the Petitioners (Petitioners' Exhibit No. 8). However, it was obvious to the Board that this snake was not alive, and the Board was inclined to believe Mr. Kahl's testimony that he did have a snake that had died and he had taken the carcass out to the woods to decompose in its natural state.

One of the witnesses, Mr. Emmett, 4213 Manor Road, a resident of 32 years in the area, living 32 yards from the Kahl property line, indicated that another property owner close to Mr. Kahl was also raising snakes in his barn.

Having presented the testimony of the neighboring residents, Petitioner concluded her case in chief. Briefs were requested by the Board from both Counsel with emphasis to be placed on the legal aspects of the matter, since the facts of the case had been comprehensively presented at the hearing.

(6) The primary question which must be decided by this Board is one of analyzing the facts, and applying the facts to the law, and, if required, interpreting the law in the manner that best suits the definition of the terms as they appear in the BCZR and/or dictionary. The definition of a "Farm" and "Commercial

E.30

Agriculture" have been previously referenced in this Opinion.

Additionally, the Baltimore County Council has stated that:

> "Any word or term not defined in this section shall have the ordinarily accepted definition set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, unabridged."

Unquestionably, Section 1A03.3A.2.2 provides that "farms" are "uses permitted as of right." Since the Property Owner owns 4.71 acres, the land area of Section 101 has been satisfied. Similarly, the term "commercial agriculture" has been defined. Those terms not specifically defined as required by the Council "shall have the ordinarily accepted definition set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, unabridged." Terms such as "animal," "animal husbandry," and "domestic animal" need to rest interpretively on an ordinarily accepted definition as stated above. The Board does not disagree with the Zoning Commissioner or the Petitioner's analysis that a snake is an "animal." Testimony is uncontradicted that Kahl "raises, breeds, keeps and markets" these animals (snakes). Is this practice, however, "commercial agriculture"; and, further, is it the practice of "animal husbandry"? "Commercial agriculture" is defined under Section 101. Webster's defines "animal husbandry" as: "...A branch of agriculture concerned with the production and care of domestic animals...the scientific study of the problems of animal production." A "domestic animal" may include "...any of the various animals...which have been domesticated by man so as to live and breed in a tame condition." Webster defines "domestic" as

"...relating to the household or family...connected with the supply, service, activities of the household and private residences...suited to the physical livability of a private dwelling." And "domestic" means to "bring into a degree of conformity and comfortable accommodation...to subject to control and service of man."

Having heard the testimony and a review of the various exhibits and evidence, this Board has concluded that the Property Owner's use of the R.C. zoned land is an improper use, and hence illegal under present statutory law. In reaching its decision, the Board has concluded the case of Porter v. Bayliner, 349 Md. 609, 617 (1998) where the Court of Appeals reaffirmed prior cases when quoting, "When interpreting any statute, we must look to the entire statutory scheme, and not any one provision in isolation to affect the statute's general policies and purposes. When the statute to be construed is part of the statutory scheme, the legislative intent is determined by considering it in light of the statutory scheme."

Similarly, in 1998 in the case of Edgewater Liquors, Inc., et al v. Liston, 349 Md. 803, 808-809, the Court reaffirmed prior case law and stated: "...the meaning of the plainest language is controlled by the context in which it appears...In analyzing a statute, we approach statutory construction from a common sense perspective...Accordingly, we avoid construing a statute so as to lead to results that are unreasonable, illegal, or inconsistent with common sense."

E. 32

In reaching its decision, the Board has also given weight to the definitions assigned to significant terms which have been the subject of the various briefs submitted by Counsel. The first defect in the Property Owner's case is one involving "the use of land" as it appears in the BCZR "Farm" definition. There appears to be no question from the testimony of both Mr. Solomon and Mr. Gerber, both experts in the field of land planning and usage, but that the intent of the County Council was to have the "use of land, including ancillary buildings and structures" to complement food production or pasturage. There was more than sufficient testimony and evidence produced at the hearing that Mr. Kahl's reptile activities are not land-based or oriented. He does not employ the use of land (fields, forest, streams), nor is there any other crop, growth, production or animal raised primarily for food or fiber that even stretching interpretation is for the benefit or extension of agriculture. The facts of the case clearly demonstrate that the raising, breeding, and marketing of the Boas and Pythons do not require the use of the land in an agricultural sense. The subject snakes are only outside of the subject building when "sunning." They are not dependent on the land or otherwise use the land, agriculturally, on which the building is situated. They exist almost exclusively within the constructed building and are not land dependent.

Counsel for the Property Owner contends that one must regard the land as at least as productive as one of a chicken farm operated from the premises (assuming the chickens never leave the

facility). However, chickens are normally fed from products of the soil or land. As Mr. Kahl testified, the food for his reptiles is essentially raised within the building's confines in the form of mice, rodents and "puppies." Additionally, poultry husbandry is very specifically designated in the zoning regulations as "commercial agriculture."

The Board has also considered the report of the Planning Board (People's Counsel Exhibit No. 1) which explains in depth the entire question of agriculture and the need to include current activities. The final report of the Baltimore County Planning Board dated October 17, 1991 states as follows: "The agricultural industry is changing dramatically." Nevertheless, on page 3 it recites:

> "The principal standard that sets agricultural uses apart is that land or structures and buildings are utilized to produce plants or raise animals for income. The proposed definition acknowledges that agriculture is an industrial use which involves such activities as storage, processing, marketing, distributing and financing, but qualifies that all of the above activities must be ancillary to the principal agricultural operation."

The final report goes on and proceeds to specify four uses not mentioned in the old definition that could qualify; that is, beekeeping, forestry, grape collection, and aquaculture, all of which are land-based. Examples of not being appropriate are riding stables, firewood operations, landscaping operations, which do not qualify as farms and yet are related to agriculture. When Bill 51-93 was introduced to amend the zoning regulations to "define terms relating to agricultural uses... and generally relating to farms and commercial activities in Baltimore County," there obviously was no expansion then as to raising snakes for the breeding and sale of

same. In reaching its conclusions, the Board is mindful of Kowalski v. Lamar, 25 Md.App. 493 (1975) in which the Court of Appeals determined the regulations must be construed to have been written in the inclusive. The Board is also mindful of its responsibilities under Section 600 of the Baltimore County Charter which require that in the subject of zoning regulations the specific, or more restrictive, controls over the general.

Applying these principles, the Board is constrained to conclude that Mr. Kahl's activities do not fit within the definition of a farm "used primarily for agriculture." Additionally, the definition of "commercial agriculture" requires that the land also qualifies for farm or agricultural assessment use, as provided by the tax assessment article of the State Department of Assessment and Taxation. The testimony of Mr. Kahl was that the 4.5 acres is zoned "residential" by that department. As classified, it fails to meet this definition.

Exploring the matter further as to whether or not Mr. Kahl's activities include "animal husbandry," the Board also concludes that snakes are "animals." The Board also acknowledges that Mr. Kahl raises, breeds and sells animals (snakes). Animal husbandry, however, deals with the production and care of domestic animals. The question is one of whether or not Boas and Pythons are to be considered as "domestic animals." The term "domestic" has previously been expounded in this opinion. Significantly, back in July 1994, Mr. Kahl applied for and received a permit for a "holding facility /kennel /wild life animal license" naming the

E-35

Peter Kahl Reptiles, Inc., as the facility (his residence) for the purpose of "research and breeding" valid from July 1, 1994 through June 30, 1995. Article I, Section 6-1 "Definitions" defines "Wild Animal" as:

> "Any animal of a species that in its natural life is wild, dangerous, or ferocious and, though it may be trained and domesticated by the owner, will remain dangerous to the public at large."

A "farm animal" is defined as:

> "Any animal being maintained for the production of food, food products, and fiber."

Clearly, the Property Owner back in 1994 did not believe his operation fit the definition of a "farm animal" facility, but rather one of a "holding facility...requiring the use of a wild animal license." Mr. Kahl vividly described his attempts to demonstrate how Boas and Pythons could be domesticated. Yet, if left unattended and not fed on a regular and systematic basis, they are aggressive and will seek out food and prey by scent. What contemplates food or prey is anyone's guess, but one must conclude that they must consider dangerous by nature of their size and capacity of constriction and causing death to prey. By definition, domestic animals cannot include any wild animal. While opinions may vary, the Board concludes that in ordinary parlance as well as by the dictionary the word "domestic" means relating to the home or household and the word "domesticated" means made domestic or converted to domestic use.

This Board, while recognizing Mr. Kahl's efforts to breed snakes as domesticated, does not agree that they fit the definition

as viewed by the members of this Board or the general public. While the Board has concluded that Mr. Kahl's activities are an improper use in R.C. 4 zone, it is the conclusion of the Board that present zoning classifications do permit such usage as a pet shop defined under Section 101 as "a person or establishment that sells and/or offers to sell animals, whether as an owner, agent or on consignment, to the general public," which permits the marketing of pets; and BCZR Section 270 provides appropriate zones where animal boarding places (Class A and Class B) are permitted. While not a use permitted by right or special exception in an R.C. 4 zone, they are permitted by special exception in R.C. 2 zone by way of Bill 178-79, and "animal boarding place" (Class B) is allowed by special exception, additionally, in D.R. 1, D.R. 2, D.R. 3.5 and B.M. zones, as well as by right in B.R., M.L. and M.H. zones -- but specifically prohibited in R.C. 4, R.C. 5, R.C. 20, R.C. 50, R.A., R.A.E.1 and 2, B.L. and M.L.R. zones. There are, therefore, ample locations for this type of commercial activity which is engaged in by Mr. Kahl. The present location, however, is not one of them.

The second question raised by the Respondent involves a question of equitable estoppel, appropriately raised by the Respondent but one lacking in jurisdiction by this Board. The facts are undisputed that the Respondent applied for various licenses and permits in a timely fashion, and to a considerable extent relied upon those forms of County authority to proceed in the manner and form which he did. That chronology has been previously discussed in this opinion. It is necessary and proper,

E 37

however, to comment thereon. Mr. Kahl's application in July 1994 for a "holding facility /kennel /wild life animal" license while raising the reptiles in his residence leads the Board to conclude that Mr. Kahl believed his residence to be a holding facility for "wild animals," an acknowledgement that the Boas and Pythons were not domesticated animals. Applying for the "farm qualification" by him in April 1997, Respondent had to be aware of the caveat imposed directly below the applicable section which was to be completed only by the Respondent which reads as previously stated within this Opinion. Mr. Kahl was cautioned that a special hearing might be required before the Zoning Commissioner prior to any zoning approval. When the second building permit was issued on March 27, 1997, and neighbors first had knowledge of the "reptile barn" construction, he was notified by Mr. Carl Richards of zoning on April 17, 1997 relative to neighbors' complaints, and he noted to Mr. Kahl the appropriateness of Section 500.7 that a special hearing might be needed to ultimately determine the use of the property. AT that time the building was roughly 45 percent complete. He was also notified that the Petitioners had filed for a special hearing on April 25, 1997.

At any point in the process, the Property Owner could have stopped his activities to get a final determination as to the legitimacy of use, but he elected to complete the building which was finished around September 1997. These factors would appear to work contrary to any exercise of estoppel. Additionally, case law fails to grant consideration as to the application of estoppel.

E. 38

Case law defined by the Maryland Court of Appeals as recently as 1993 states that:

> "A permit thus issued without the official power to grant does not, under any principle of estoppel, prevent the permit from being unlawful, nor from being denounced by this municipality because of its illegality...everyone dealing with the officers and agents of the municipality is charged with the knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority."

It is evident to the Board that no rights vest when a permit is illegal and in violation of the zoning regulations. Similarly the case of Cromwell v. Ward, 102 Md.App. 691 (1995), which is quite well-known to this Board, must be referenced: "The mere use of a permit...does not create a vested right, or estop the petitioning party from revoking it." In conclusion, the Board determines that Mr. Kahl's facility is a Class A-1 operation; that security levels are maintained at a maximum degree; and that there is no injury or detriment to the community. In addition, the Board could not determine any negative factors involved in this operation. However, the Board is not empowered or authorized to effect a legalization of a property owner's intentional or unintentional violation of any zoning regulation. Nor is the Board permitted to substitute its judgement for that of the officials elected to legislate the Baltimore County Code and zoning regulations. That is the sole responsibility and prerogative of the Baltimore County Council, following appropriate standards, guidelines, recommended by the Planning Board and Planning Office.

Based on a thorough review of the testimony and evidence, the

Board has concluded that the use of the Property Owner's land cannot be construed as a "farm" within the meaning of the BCZR, is not used primarily for "commercial agriculture," nor do his present activities constitute the practice of "animal husbandry." For the reasons previously stated, the Petition for Special Hearing is to be granted.

O R D E R

IT IS THEREFORE this 30th day of November, 1998 by the County Board of Appeals of Baltimore County

ORDERED that the use of the subject site for the breeding, raising, and selling of reptiles is not permissible in the R.C. 4 zone; and it is therefore

ORDERED that the Petition for Special Hearing filed in Case No. 97-494-SPH be and the same is hereby **GRANTED.**

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

Kristine K. Howanski, Chairman

Charles L. Marks

Harry E. Buchheister, Jr.

E. 40

11/6/98

(K)

PETITION FOR SPECIAL HEARING
FOR 12240 MANOR ROAD
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

MARY PAT MARZULLO
PETITIONER

BEFORE THE BALTIMORE
COUNTY BOARD OF
APPEALS
CASE NO. 97-494-SPH

01 NOV 98

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

This Memorandum of People's Counsel for Baltimore County, Appellants in this de novo appeal, is submitted in lieu of closing argument in the hearing concluded on October 23, 1998.

INTRODUCTION

The facts in this case pertaining to Mr. Kahl's use of 12240 Manor Road, are not, for the most part, in dispute. Thus a separate recital of the facts will not be made in this Memorandum. Reference to the facts may be made in the course of presenting the legal argument.

The **characterization** of the use is in dispute.

The site is zoned RC 4. The issue is whether the use as described by Mr. Kahl is *commercial agriculture* permitted by right in this zone. People's Counsel's position is the use is not permitted in the RC 4 zone, but may be permitted by right or special exception as an animal breeding facility in other zones in Baltimore County.

WHAT AUTHORITY IN THE COUNTY DETERMINES THE LEGALITY OF THE USE

1. The decision on the Petition for Special Hearing falls squarely on the County Board of Appeals (CBA) - not on Building Permits, Zoning Administration and Development Management (ZADM), nor the Baltimore County Agricultural Land Preservation "Advisory" Board. (See generally Baltimore County Code and County Charter).

(i) The fact that Mr. Kahl constructed a building is not determinative. In other words, the building may be legal, but the **use** is not. Any number of uses permitted in the zone may be conducted within this generic building. It is not unique to the use. Mr. Kahl admitted his desire to expand prompted moving the business from his home. The testimony and evidence presented by Mr. Kahl and his witnesses pertaining to the building only serve to describe a structure that meets the bulk (height, setback, area, location) regulations in the zone. People's Counsel never claimed a variance is needed for the structure.

If a property owner builds without authorization of the use, he does so at his own peril. The CBA is not restricted in its decision because the building exists or a permit was issued. (Many CBA decisions deny a use in an existing structure, whether owned or leased). The building permits department cannot usurp the CBA's jurisdiction of compliance with the zoning regulations. Moreover, Mr Kahl's application for a "reptile barn" is self-serving and misleading, which negates the whole permit process.

There are numerous Maryland cases that assert if a building permit is issued erroneously for an illegal use, the applicant cannot rely on the permit. (See attached excerpt from

Cromwell v. Ward, 102 Md. App. 691 (1995) on building permits issued in violation of the law).

If Mr. Kahl chose to proceed on a building permit without zoning authority, he did so at his own risk. He cannot be rewarded for reckless judgment.

Additionally, the Maryland Court of Appeals has refused to adopt the doctrine of "zoning estoppel". Sycamore Realty v. People's Counsel, 344 Md. 57 (1996).

Nor does "vested rights" apply. Vested rights protects legal uses which become illegal after a zoning change: "a vested right in the existing zoning use which will be constitutionally protected against a subsequent change in the zoning ordinance prohibiting or limiting that use. . ." Id at 67. First, there is no zoning change here. Second, it is undisputed that this use is not listed in the RC 4 zone. Simply stated, Mr. Kahl never received zoning approval under the existing zone. This is the issue for the Board.

Vested rights cannot apply to this case. Mr. Kahl's preferred interpretation of the zoning regulations, without authority, is no substitute for approval.

(ii) Secondly, the Agricultural Advisory Board decision is not a substitute for zoning approval. The agricultural advisory board was created in Bill 51-1993 (attached hereto) to aid in the violations process. (See BCZR 404.11). It is not a component of the Special Hearing/Special Exception/Variance process. The CBA's authority to decide issue in the RC zones is not dependent on

advisory opinions from the Agricultural Board.

People's Counsel is unaware of its input in any prior zoning decision in the RC zones.

Additionally, the Advisory Board's own form states, "In the judgment of the Director and/or the Zoning Commissioner, in consideration of your findings, **a special hearing may be required before the Zoning Commissioner prior to any zoning approvals.**" (emphasis added). (See Kahl's Exhibit #6, page 5).

WHAT IS MEANT BY "COMMERCIAL AGRICULTURE" IN THE ZONING REGULATIONS

2. Mr. Kahl claims his operation is permitted by BCZR 1A03.3 A.2., which permits in the RC 4, "Farms and limited-acerage wholesale flower farms . . . " There is no other applicable permitted or special exception use in this zone. People's Counsel does not believe his operation is a "farm" as that term was contemplated and used in the zoning regulations.

3. The legal decision in this case involves a review of pertinent definitions:

"farm" :

"Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and

associated agricultural uses. The term does not include the following uses as defined in these regulations: limited acreage wholesale flower farms, riding stables, landscape service, firewood operations, and horticultural nursery businesses."

"Agriculture, Commercial":

The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the tax-property article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquacultural, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, mananging, marketing or distributing provided that any such activity shall be secondary to the principal agricultural operations."

4. Mr. Kahl contends his operation falls within the use "animal and poultry husbandry". It is undisputed that no other use listed could apply to Mr. Kahl. Animal Husbandry is not defined in BCZR. Section 101 requires reference to Webster's Third New International Dictionary of the English Language, Unabridged, which sets forth:

"Animal Husbandry":

a branch of agriculture concerned with the production and care of domestic animals; specif: scientific study of the problems of animal production (as breeding and feeding)

"Animal Husbandman":

1. a specialist in animal husbandry 2. one that keeps or tends livestock

"Domestic Animal":

any of various animals (as the horse, ox, or sheep) which have been domesticated by man so as to live and breed in a tame condition - compare ferae naturae

5. The Baltimore County Code is helpful in further defining the terms used in animal husbandry. See attached for definition of **domestic animal, farm animal, and wild animal.** Mr. Kahl readily agreed his snakes are dangerous because they constrict to the point of death. Anyone or anything is prey. At the very least, a handler can minimize, but not preclude, an attack by the snake. Moreover, Mr. Kahl keeps these snakes into adulthood, for sale or breeding. He has between 350-400 adults. Adults of these species can grow to 40 pounds and 13 feet. We propose these snakes (boa constrictors and pythons) are wild animals.

In other jurisdictions, python snakes were found to be life-threatening, and certainly not "domestic animals". See People v. Fabing, 570 N.E.2d. 329 (Ill. 1991).

6. Mr. Kahl admitted his property is zoned "residential" by the Maryland Department of Assessments and Taxation. (See attached

printout). It fails to satisfy the definition of "commercial agriculture" requiring farm or agricultural use assessment.

7. The building where the snakes are kept and bred is not ancillary to the use of the land. The building is the primary component of the operation - the land is superfluous.

8. The term "animal" is further defined in 4 Am Jur 2d Animals, Sec. 1. attached hereto. Note that the terms "wild" or "domestic" are to be construed according to the common and approved usage of the language.

9. "Agriculture" is defined in 3 A. Jur 2d Agriculture Section 1. attached hereto. Note the reference to agricultural products. It is noteworthy than in all the examples, raising snakes is nowhere included, although this is certainly not a new concept.

On a related issue, a Kansas case held raising and keeping of greyhounds was not "agriculture". See Weber v. Board of County Com'rs, 884 P.2d 1159 (Kan. App. 1994).

DO THE BALTIMORE COUNTY ZONING REGULATIONS PROVIDE FOR THIS USE

10. People's Counsel submits that Mr. Kahl's business, as he himself describes it, falls within the definition of **Animal Boarding Place** as defined in BCZR, Section 101:

> **"Animal Boarding Place -**
>
> **Any building, other structure or land, or any portion thereof, which is used, intended to be used or arranged for the boarding, breeding or other care of animals for**

profit, but excluding a farm, kennel, pet shop, veterinarian's office or veterinarium. [Bill No. 85-1967]

11. An **Animal Boarding Place, Class A** provides for "dogs, cats, birds and/or other household pets. An **Animal Boarding Place, Class B** provides for "any other animal boarding place" not excluded under the general definition. Mr. Kahl's breeding and caring of snakes for profit fits exactly the Animal Boarding Place, Class B.

12. Petitioner's expert planner and former Baltimore County Director of Planning, **Norman Gerber**, stated Mr. Kahl's snake breeding business, as described by the Zoning Commissioner's Opinion from Mr. Kahl's testimony, fits into the animal boarding place use. **Paul Solomon**, the Petitoner's expert is rural land use, agreed.

13. BCZR Section 270 (attached) sets forth the zones where Animal Boarding Places, Class A & Class B are permitted. It is not a permitted or special exception use in RC 4. (Animal Boarding Places are permitted in the RC 2 zone by special exception under Bill 178-1979. This Bill followed and refined the Resource Conservation Zones, including RC 4, established in 1975). If the County Council intended to include the animal boarding place use in RC 4, it could certainly have done so in 1979.

14. The zoning regulations also provide specifically for breeding dogs. A "**kennel**" is defined in Section 101 as:

> "Any building, other structure or land, or any portion thereof, which is used, intended to be used or arranged for the housing of more than three dogs, not counting

puppies less than four months old, for purposes of show, hunting, breeding or sale, or as pets, **excluding a farm** or pet shop."

Kennels are permitted by right in BR, DR 1 and by special exception in RC 2, RC 3, DR 2, DR 3.5, DR 5.5, ML, MH.

15. "Pet Shop" is defined as:

"A store for the sale of dogs, cats, birds, tropical fish and/or other domesticated pets, and related supplies and equipment."

Pet Shops are permitted by right in BL,BM, BR.

16. As Paul Solomon pointed out in his testimony, when all the zoning regulations pertaining to animals are read in conjunction, there is a place for the breeding, boarding or sale of every animal. The County Council's detailed selectivity of the zones for these uses, and the comprehensiveness of this subject matter is significant. By contrast, Mr. Kahl's position distorts the blueprint so aptly set forth in the Regulations.

17. Two recent Court of Appeals cases discuss statutory interpretation. Additionally, the Board of Appeals faced a similar interpretation in Club 101/Ramparts.

18. In Porter v. Bayliner, 349 Md. 609, 617 (1998), the Court reaffirmed prior cases when quoting. "When interpreting any statute, we must look to the entire statutory scheme, and not any one provision in isolation, to effect the statute's general policies and purposes." "Where the statute to be construed is part of a statutory scheme, the legislative intention is determined by

considering it in light of the statutory scheme."

19. In Edgewater Liquors, Inc. et al. v. Liston, 349 Md.803,808-809 (1998), the Court reaffirmed prior cases and stated, "The 'meaning of the plainest language' is controlled by the context in which it appears." "In analyzing a statute, we approach statutory construction from a common sense perspective.. . Accordingly, we avoid construing a statute so as to lead to results that are unreasonable, illogical, or inconsistent with common sense."

20. People's Counsel suggests there is no need for the Board of Appeals to strain the definition of agriculture to include Mr. Kahl's business, when the County Council has provided pointedly for this breeding operation as an **animal boarding place.** Moreover, it would be inappropriate for this Board to stretch the definition of "agriculture" under the guidelines for interpreting statutes in these cases.

21. In interpreting zoning regulations, the specific, or more restrictive, controls over the general. (BCZR Sec.600)

22. Generally under the Regulations each activity is defined as a use. This avoids confusion as to the proper location; to describe this activity as several uses (agriculture, animal boarding place, pet shop) creates an unnecessary ambiguity and defies common sense.

MUST THE BUSINESS AS DESCRIBED BY THE OWNER BE CONDUCTED ON A FARM

23. If common sense must be applied, is there any reason that this business must operate on a "farm", other than it is a permitted use

in the zone in which the owner lives?

24. People's Counsel suggests that if Mr. Kahl operated in a commercial zone, he would declare it to be an animal boarding place or a pet shop.

25. All the agriculture activites described in BCZR relate to food production or pasturage. This dovetails with Paul Solomon's depiction, based on first hand knowledge, of agriculture zones as "land oriented" and for land preservation. On the other hand, Mr. Kahl can operate his business anywhere where the use and building is permitted, including the commercial and manufacturing zones. He does not need to be in a farm zone. Even the food for the snakes can be purchased or raised within the building as Mr. Kahl described.

26. Although Mr. Kahl described occasionally letting a snake into the yard, he admitted he built a sizeable deck on the building which provides an adequate place if out-of-doors is needed. Also, Mr. Kahl was unaware of how to dispose of snake carcasses, nor, unlike farm animals, was there a suggestion of their use in the life cycle.

27. Mr. Kahl acknowledged snakes are not a food source, with the limited exception of the rare albino snakes believed to have a mystic quality in some cultures; clearly this is not the purpose to raise snakes in Baltimore County, and certainly not for this property owner who sells as pets only.

28. Is this business any different than a home occupation simply because live animals are involved? If proposed as a home

occupation, it would be denied. Here, Mr. Kahl keeps inventory on site and utilizes nonhousehold equipment in a separate structure, all prohibited by the home occupation statute. People's Counsel suggests Mr. Kahl should not be given a preference over other proposed home occupations because he chose to call it a "farm".

29. Mr. Kahl presented no witnesses to rebut Petitioner's expert testimony: (i) the use is **not explicitly listed** as an agriculture use under BCZR and Bill 51-93; (ii) the use is **not an implied agriculture use** under the zoning regulations or Bill 51-93; (iii) the use was never **contemplated nor intended** as an agriculture use when the legislation was created under Bill 98-1975, and as amended from time to time thereafter.

30. Mr. Kahl business approximates a breeding and sales operation on site, which is unlike the sale of farm animals offsite.

31. Mr. Kahl's facility appears well managed and productive. There is no doubt he is knowledgeable and proficient in this business. However, these attributes do not make him lawful at this site. The decision is not a personal referendum on Mr. Kahl's business acumen or expertise. The use of the site is still the key.

WHAT IS THE SIGNIFICANCE OF THE LEGISLATIVE INTENT AND HISTORY OF AGRICULTURAL USE IN THE ZONING REGULATIONS

32. The Court of Appeals has stated: "In construing any statute, our principal mission is to effectuate the intent of the

Legislature." Polomski v. Baltimore, 344 Md. 70,75 (1996). In the event the Board may view these issues as ambiguous, the experts, Paul Solomon and Norman Gerber, testified as to the history and context of the pertinent zoning regulations. "Where the legislative will is not immediately apparent from the language of the statute, we employ the canons of statutory construction to guide our inquiry." Id.

33. Mr. Solomon participated, if not directed, the creation of the rural zones. He amplified the language in BCZR with his employment experiences. He believed the meaning is clear - breeding snakes in a building for sale as pets was never contemplated as an agricultural use, nor discussed as a facet of animal husbandry. Agricultural operations required land and preserved land. Mr. Kahl's facility does neither.

Mr, Kahl's attorney suggested poultry do not graze, and breed in a structure. However, "poultry husbandry" is specifically listed in BCZR as commercial agriculture.

34. It is significant that the County Council revisited agriculture as recently as 1993. The purpose, as stated in Bill 51-93, was to amend the zoning regulations "to define terms relating to agricultural uses; . . . and generally relating to farm and commercial agriculture activities in Baltimore County." There was no expansion into snake breeding.

35. The Planning Board Report, which proceeded this legislation (People's Counsel's Exhibit) acknowledged the need to expand the definition of agriculture to include current activities. All the

additions are land based. Breeding of reptiles was not included and, thus, excluded under Kowalski v. Lamar, 25 Md. App. 493 (1975).

36. The language of the 1993 statute makes no provision for the Zoning Commissioner or the CBA to expand the term "commercial agriculture" beyond the language in the statute. Even if the Board believes breeding reptiles is an appropriate expansion, it is incumbent on the County Council to do so, following the appropriate preliminary review by the Planning Office and Planning Board.

37. On the contrary, Mr. Kahl is asking the Board to make new law.

CONCLUSION

For all the above reasons, it is respectfully submitted that the Petition for Special Hearing should be granted, and the breeding, maintaining, boarding and selling of reptiles at this site shall be prohibited.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of November, 1998, a copy of Memorandum of People's Counsel for Baltimore County was mailed to John B. Gontrum, Esq., Romadka, Gontrum & McLaughlin, 814 Eastern Blvd., Baltimore, MD 21221, to J. Carroll Holzer, Esq., Holzer and Lee, 508 Fairmount Avenue, Towson, MD 21286, and to Michael J. Moran, Esq., 401 Allegheny Avenue, Towson, MD 21204.

CAROLE S. DEMILIO

11/5/98

IN THE MATTER OF:	*	BEFORE THE
PETITION FOR SPECIAL HEARING,	*	COUNTY BOARD OF APPEALS
MARY PAT MARZULLO,	*	OF BALTIMORE COUNTY
PETITIONER	*	CASE NO. 97-494-SPH
	*	
W/S MANOR RD, 450 FEET S OF THE C/L OF MANOR VIEW RD (12240 MANOR RD) 11th ELECTION DISTRICT, 6th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

MEMORANDUM OF PETITIONERS

Mary Pat Marzullo, Petitioner 12244 Manor Road, Long Green Valley Assoc., Manor View Committee, et al, hereby submit this Memorandum in Lieu of Final Argument as requested by the County Board of Appeals, by their attorney J. Carroll Holzer, Holzer &Lee.

STATEMENT OF CASE

Mary Pat Marzullo, 12244 Manor Road, an adjoining property owner to the subject site, filed a Petition for a Special Hearing on April 29, 1997 before the Zoning Commissioner of Baltimore County for the subject property known as 12240 Manor Road, currently zoned RC 4 and owned by Peter Kahl. The Petition for Special Hearing requested the Zoning Commissioner to determine whether or not the use of the site for the breeding, raising and selling of reptiles is permitted in an RC 4 zone. The case was heard before the Zoning Commissioner who ruled on October 21, 1997 that the subject site was approved for the breeding, raising and selling of reptiles and then denied the Petition for Special Hearing. The Petitioner/Appellant timely filed an appeal to

the County Board of Appeals where the case was heard de novo on September 9, 1998 and October 23, 1998.

STATEMENT OF FACTS

Use of the Land

The facts are relatively undisputed concerning the substantive question of the use by Respondent, Peter Kahl, of the subject site for the breeding, raising and sale of reptiles within an enclosed facility constructed by Kahl on the site. A review by the CBA of Petitioner's Exhibit No. 5 and 6, pictures and a videotape, will acquaint the Board with the subject site and the surrounding area. A review of Petitioner's Exhibit No. 7, the advertising by Peter Kahl Reptiles, Inc. on the Internet, will provide the Board with all of the facts that it needs to determine the zoning issue. Exhibit No. 7 includes a description of the 10,000 square foot facility, internal and external views, and the breeding facilities available. An extensive inventory of various boas and pythons are depicted in color in the Exhibit. Visits to the site by prospective purchasers are encouraged on the Internet. Visitors are welcomed to the new 10,000 square foot facility and encouraged to call for an appointment. The current inventory as of March 3, 1998 was documented along with the pricing. Later, the testimony of Mr. Peter Kahl verified that the physical operation of the breeding of snakes on the subject site for sale was extensive. The sale of the reptiles by Mr. Kahl was extensive, ranging in the vicinity of $400,000 to $500,000 per year. The size of the facility permitted a maximum of 200 boas and 5,000 pythons. Some of these animals are aggressive and potentially dangerous as explained by Kahl.

All of the activity of Peter Kahl Reptiles, Inc. is conducted within the parameters of the facility constructed by Kahl. While the Kahl property contains 4.1 acres zoned RC 4, there is no use of the remaining property in any way for agricultural purposes, nor is the breeding, raising and sale of the various snakes related to or dependent upon the 4.1 acres of RC 4 zoned property, but rather the entire breeding, display and sale operation is housed within the facility.

While there is little dispute about the activity and operation by Peter Kahl Reptiles, Inc., there is confusion in regard to the timing and the appropriateness of the construction of the facility.

Construction and Estoppel

Reviewing Respondent's Exhibit 6, it is clear that on April 12, 1995 the Baltimore County Agricultural Land Preservation Advisory Board met to review Peter Kahl's request for approval as a farm. Attached to the Exhibit submitted by Kahl, the applicant submitted a Rural Accessory Uses Form which gave the proposed lot map and parcel number for his property along with the tax account number. This document was submitted as an exhibit to indicate that the Agricultural Board approved the legitimacy of the property as a farm use. Obviously the approval by the Agricultural Board was advisory only in regard to the zoning . Secondly, Kahl was put on notice in April of 1995 that " in the judgement of the Director and/or the zoning commissioner, in consideration of your findings, a Special Hearing may be required before the Zoning Commissioner prior to any zoning approval" (See Exhibit 6). It is clear as early as April, 1995, Kahl was on notice that zoning approval might be necessary. He ignored that warning and, as a consequence, never obtained zoning approval by way of a Special Hearing. The Petitioner Mary Pat Marzullo, a neighbor, in the absence of such approval through a Special Hearing filed her own request in April of 1997. Testimony and documents submitted before the Board (Respondent's Exhibit 2 and 3) reflect that in February of 1997 a

building permit was requested for a 5,000 square foot building and was issued. It was subsequently determined that the permit was issued in error, in that the basement 5,000 square feet of the building should have been included in the permit application. As a result, on March 27, 1997 a second permit was applied for and issued for a 10,000 square feet structure. The Petitioner and others filed an appeal from the issuance of that building permit within 30 days on April 27, 1997. In addition, the instant Petition for Special Hearing was filed on April 29, 1998.

Mr. William Yost, the project manager for the Van Building Structures Company testified that materials were delivered to the site on February 26, 1997; that on March 4th, concrete footings were poured; that by April 29, 1997 the walls were up but there was no roof on the facility and that in Yost's opinion, the building was 45% completed at the time that he left the site on April 29, 1997. On April 29, 1997 the building was a shell and it could have been completed in any fashion for any use. The plans from which Mr. Yost constructed the facility did not include the inside of the building. At that point, clearly the building could have been utilized for any lawful use as it could be today.

It should be noted that the second building permit application by Kahl for the 10,000 square foot facility was in error when the application and the resulting permit indicated that public water and public sewer existed when clearly they do not. Both the 5,000 and 10,000 square foot building permit were defective as a result of errors in the application submitted by Mr. Kahl.

QUESTIONS PRESENTED

1. Is the operation described by Peter Kahl Reptiles Inc., a permitted use within the RC 4 zone?

2. Is the Petitioner, or the County estopped from asserting the applicable law in this case, based upon an illegal use under the County Zoning Law?

LEGAL ARGUMENT

I. The use by Peter Kahl Reptiles, Inc., is not permitted in an RC 4 zone.

A. History- Paul Solomon qualified as an expert land planner, with a Bachelor's degree from Georgetown University in planning, and an Agricultural Master's degree in planning from Pennsylvania State University. As a former Baltimore County employee in the Office of Planning and Zoning from 1970 to 1992; administrator for the Agricultural Land Program; head of Environmental Planning Section; and planner and chief in charge of RC zone classification and North Baltimore County planner; planner for historical sites and environmental planning, Solomon testified on behalf of Petitioner. His testimony was presented by People's Counsel, and he opined that the activity of Peter Kahl Reptiles, Inc., was not permitted in the RC 4 zone in that such activity was not to be considered as a "farm." To summarize his testimony, he basically analyzed Section 101B.C.Z.R. - Commercial, Agricultural "definition." He testified that this activity of Kahl was not land based, that is it did not utilize the fields, forest, nor was it for production of food or fiber for the benefit of Agriculture. He testified that the breeding of dogs for instance is not land based, it is not for food or fiber and that other zones other than the RC 4 permit kennels for the breeding of dogs. He testified that Baltimore County does not prohibit breeding of other animals but they have established a separate classification, "animal boarding place where it is permitted." He also likened the activity of Kahl to a "pet shop" under definition Section 101, which is a nonagricultural use- the selling of pets and retailing or wholesaling establishment. He testified concerning the 1993 Planning Board Report submitted in

evidence and found it significant that there was no indication the Board considered permitting a snake farm. He testified there was no use of land for agricultural purposes by Mr. Kahl and that Kahl's totality of activities consisted entirely within the building constructed and not the land.

Solomon testified that he reviewed the Baltimore County Code, Title 6, Article 9 dealing with animals and wild animals.

B. Present Zoning Provisions - Norman Gerber, testified as an expert on behalf of the Petitioner to more specific application of the Baltimore County Zoning Regulations in the instant case. Gerber is a former Baltimore County Planning Director, who qualified as an expert in land use and planning. Gerber testified specifically that:

> Section 101 of Baltimore County zoning regulations (definitions) requires that a farm must among other things, be primarily for "commercial agriculture" as defined in the BCZR.
>
> Secondly, he testified that Section 101 of the BCZR (definitions) defines "commercial agriculture" as both the "use of the land, including ancillary structures and buildings. . .".
>
> Thirdly that the raising of exotic animals does not require the use of the land. These pets can and are often raised in basements. They could be located in a building in almost any setting including a pier or raft. They do not graze on, roam on, or otherwise use the land on which the facility is located.

Fourth, Baltimore County Zoning Regulations do recognize these types of facilities and provide several zoning classifications in which they can be located.

Fifth, "animal boarding place, class B" is a building or other structure or portion thereof which is used, intended to be used, or arrange for the boarding, breeding, or other care of animals for profit (Section 101).

Sixth, specifically, the use by Kahl is a classic "animal boarding place, class B".

Seventh, "animal boarding place, class B" is permitted by Special Exception in RC 2, DR 1, DR 2, DR 3.5, and BM zones.

Eight, "animal boarding place, class B" is permitted as a right in BR, ML, and MH zones.

Ninth, "animal boarding place, class B" is not permitted in RC 4, RC 5, RC 20, RC 50, RA, RAE 1 and 2, BL, and MLR zones.

In conclusion, Gerber opined that the critical test is the farm animal in question has to use the land in some manner, i.e. grazing, roaming, etc. There is no relationship between exotic snakes and the land other than the ground that is needed to place, or construct a building. That building can be located anywhere there is access in supporting utilities for heat and air. That is why the BCZR makes provisions for the breeding and selling of animals, other than farm animals and household animals - animal boarding place, class B.

In sum, Petitioners believe that it is clear that the Peter Kahl Reptile, Inc., is an illegal use in the RC 4 zone on the subject site.

II. Estoppel

The law on this issue has been settled by the Court of Appeals in Long Meadow Shopping Center , 264 Md. App. 494-495, quoting Lipsitz vs. Parr 164 Md. 222, 227-228 (1993):

> A permit thus issued without the official power to grant does not, under any principle of estoppel, prevent the permit from being unlawful, nor from being denounced by this municipality because of its illegality...everyone dealing with the officers and agents of the municipality is charged with the knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.

In this case, should it be determined by this Board that the use by Peter Kahl Reptiles, Inc. is not allowed, then any permit issued is void ab initio and Maryland courts have consistently held that permits issued in violation of an existing law or zoning ordinance, do not create any vested rights in the permittee. City of Hagerstown vs. Longmeadow Shopping Center 264 Md. 481 (1972) and Berwyn Heights vs. Rogers 228 Md. 271 (1962); Permanent Finance Corporation vs. Montgomery County 308 Md. 239 (1986).

It is clear as a matter of law that regardless of the status or stage of the Kahl construction of his facility, that no rights vest which would protect the structure. Vesting is not an applicable legal principle where the permit is issued illegally in violation of the County Zoning Regulations. Nor has the theory of zoning estoppel been embraced by the Court of Appeals. See Sycamore v. People's Counsel for Balto. Co. 344 MD 57 (1996);

Board of Co. Comm. v. Snyder, 186 Md 342 (1946); Cromwell v. Ward, 102 MD App. 691 (1995); Inlet Associates v. Assateague House, 313 Md 413 (1998).

Further, from a factual standpoint, in the instant case, Peter Kahl Reptiles, Inc. was put on notice that it possibly needed zoning approval in view of the questionable character of the operation which they were proposing and the questionable definition of the use of the Kahl facility for snake breeding and sale, as a "farm" operation. Clearly Kahl was aware that the Baltimore County Agricultural Board needed to review this issue which they did in 1995. Clearly, he was also alerted to the fact that a Special Hearing might be necessary from a zoning standpoint. He ignored it and hoped the issue would be overlooked. The Petitioner, a neighbor finally was required to file the Instant Petition for Special Hearing to bring this issue to the attention of the Baltimore County Zoning Authorities. This is a very similar practice to that which this Board is very familiar in the case of Orville Jones in the Long Green Hotel (High's Store) in which this Board was required to interpret the use of RC zones to support a septic system for a commercial building. In this case, as well as in the Long Green Hotel case, the the property owners did not seek to affirmatively establish the respective uses as being permitted and legal under the Zoning Regulations through a Petition for Special Hearing, but chose to assume the risk of an illegal use, hoping that they would not get caught. In both cases, neighbors were required to bring the action to obtain the appropriate definition of the applicable zoning regulations. See, opinion Judge James Smith, Circuit Court, CBA Case No. 93-93-SPA.

Further, Peter Kahl Reptiles, Inc. ignored the warning it received in 1995. Secondly, it is clear that while the Petitioner and her neighbors appealed the second building permit issued in March of 1997 and filed a Petition for Special Hearing in April of 1997, that the building at best was only partially constructed through the testimony of Mr. Yost, 45% completed, but without a roof, existing essentially as a shell. It was clear that at that time in April of 1997, the building could have been put to any use, as it still may be put to any use that is not unlawful under the RC legislation today. It is clear that this is not a building permit appeal case because there would be no need to tear this building down. The question involved is the use of the building and the use to which it is put. Clearly this facility can be used for any purpose that is lawful in the RC4 zoning designation. It is interesting to note that on the operative building permit which was the second permit issued for 10,000 square feet, the Applicant misrepresented that there was existing public water and sewer which creates a defect on the face of the permit itself.

The materials for construction were not delivered until February of 1997, the foundation was not finished until March of 1997 and the walls didn't begin to appear until April of 1997. Promptly upon finding out that the intended use was for a snake facility for purposes of breeding, the Petitioners took immediate action by filing an appeal for the building permit (which was dismissed based upon their lack of standing to appeal a building permit); and by filing a Petition of Special Hearing immediately. In any event the, County should not be estopped from enforcing its own zoning regulations, nor should the Petitioner. Neither the theory of vesting of the permit, nor Zoning Estoppel is applicable to this case.

CONCLUSION

For all of the foregoing reasons, the Petitioners request that the Board find that the activities of the Peter Kahl Reptiles, Inc. are not permitted in an RC4 zone and that the County should enforce the Zoning Regulations against this activity and require immediate cessation by Peter Kahl Reptiles Inc.

Respectfully submitted,

J. Carroll Holzer
508 Fairmount Avenue
Towson, MD 21286
(410) 825-6961
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on the 5th day of November, 1998, the foregoing Petition for Special Hearing was mailed first class, postage pre-paid to Peoples' Counsel for Baltimore County, Carole Demilio, 206 Washington Avenue, Towson, MD 21204; John Gontrum, 814 Eastern Avenue, Baltimore, MD 21221, and Mike Moran 400 Allegheny Avenue, Towson, MD 21204 for Peter Kahl.

J. Carroll Holzer

a:\memos9\snake.wpd

10/21/97

IN RE: PETITION FOR SPECIAL HEARING
W/S Manor Road, 450' S of the
c/l of Manor View Road
(12240 Manor Road)
11th Election District
6th Councilmanic District

Mary Pat Marzullo
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 97-494-SPH
*

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

According to the Holy Bible (Book of Genesis, Chapter 3, Verse 14), the serpent was forever condemned by God to crawl on its belly for its misdeeds in beguiling Eve in the Garden of Eden. Moreover, the Good Book teaches us that God relegated the serpent to a rank within the animal kingdom below the cattle and the other beasts of the field (presumably, the lambs, goats, horses, etc.). The above-captioned matter comes before this Zoning Commissioner on a Petition for Special Hearing asking that I reach a similar judgment, pursuant to the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the neighbors of Peter Kahl ask that I conclude that his snakes, unlike the cattle, goats, lambs, and horses which reside elsewhere in this county, cannot be "farmed" in Baltimore County, and thus, hold that his serpents must be relegated to a lower status than that afforded by the B.C.Z.R. to traditional farm animals.

Peter Kahl owns a 4.71 acre parcel of land, zoned R.C.4, on Manor Road in Glen Arm in northern Baltimore County. Mr. Kahl has owned the property for approximately 6 years. Generally, the neighborhood about the property consists of residences and traditional row crop and animal farms. The property is improved with a single family dwelling, in which Mr. Kahl resides. Additionally, to the rear of the dwelling is a building 150 feet by 28 feet in dimension. It was the construction of this building earlier

RECEIVED FOR FILING
10/21/97

this year, and the activity which occurs therein, which has generated the issue before me.

Apparently, Mr. Kahl has long been fascinated with reptiles, more particularly, snakes. He owns a company, known as Peter Kahl Reptiles, Inc., which raises and breeds exotic snakes for sale to other breeders, individuals, and institutions, most of whom are located either out of state or overseas. The business employs two individuals, namely, Mr. Kahl and one other person. Presently, the "stock" of the business is entirely comprised of Boas and Pythons. These species of snakes are nonpoisonous and kill their prey by constriction. Mr. Kahl does not keep poisonous snakes on the premises.

Mr. Kahl is responsible for the care of his animals and decides which of the numerous stock will be used for reproduction. He breeds the animals on the premises, and incubates the eggs until the offspring hatch. His breeding plan is designed to increase the diversity of the population within the species. His business has been highly successful. Mr. Kahl keeps a large number of snakes on the premises (numbering in the hundreds) and the annual gross income of the business is well into six figures.

Apparently, the business was originally operated out of the basement of the dwelling in which Mr. Kahl resides. However, in view of the growth and success of the operation, Mr. Kahl decided to build a "reptile barn" on his property to separate the operation from his residence and accommodate his need for expansion. Mr. Kahl sought the guidance of officials from Baltimore County in order to assure himself that the zoning of the property (R.C.4) permitted the proposed building and use therein. He consulted with various representatives of the County and secured the approval of the Agricultural Advisory Board of the County's Department of

Environmental Protection and Resource Management (DEPRM), the Development Review Committee (DRC) of the Department of Permits and Development Management (DPDM), and the building engineer. After slithering through this maze of the County bureaucracy, Mr. Kahl obtained a building permit from DPDM in early 1997. The building is now substantially completed.

Predictably, many of Mr. Kahl's neighbors are less than happy with his business in their neighborhood and wish to put the squeeze on his operation. An adjoining neighbor, Mary Pat Marzullo, at 12244 Manor Road, helped organize the community and the instant Petition for Special Hearing was filed. The Petition requests the Zoning Commissioner hold that the use of the subject site for the breeding, raising, and selling of reptiles is not permissible in the R.C.4 zone. Pursuant to the County Code, the Petition was accepted and advertised and a public hearing was conducted on September 22, 1997.

At that public hearing, Mr. Kahl appeared and was represented by Counsel, Michael J. Moran, Esquire. Mr. Kahl testified as outlined above and also presented other evidence in support of his position. This additional evidence included the testimony of Dr. Keith Gold, a Veterinarian and Medical Director of the Falls Road Animal Hospital.

Numerous individuals from the surrounding neighborhood appeared. Among those testifying was the Petitioner, Mary Pat Marzullo, who was represented by Counsel, Leslie M. Pittler, Esquire. Moreover, attendance sheets which were circulated at the hearing were signed by those in opposition and have been entered into the case file. The hearing was well-attended as the sign-in sheets reflect. Moreover, this Zoning Commissioner has received numerous letters and Petitions, both in support of and in opposition to the request. Obviously, the somewhat unusual nature of Mr. Kahl's

ORDER RECEIVED FOR FILING
Date 11/24/97
By

business and the issue in question has increased public interest. Although the public interest has been heightened, the public's understanding of the issue at present is less than complete.

The issue simply stated is whether Mr. Kahl's snake business is permitted under the B.C.Z.R. More precisely phrased, the issue is whether the subject use is a farm, as that term is defined under the B.C.Z.R. If the answer to this question is in the affirmative, then the use is permissible. If not, the use cannot continue at this location.

It is to be emphasized that this matter does not come before me as a Petition for Special Exception. Under such a Petition, the impact of the use on the surrounding locale would be a paramount issue. However, for the purposes of deciding this case, it is not relevant if the use is detrimental to the health, safety and general welfare of the surrounding locale. I explain.

The B.C.Z.R. are written in the inclusive. That is, the regulations set out a number of land uses for each of the many zoning classifications and provide that those identified uses, only, are permitted. These uses identified are divided into two classifications; to wit, "Uses permitted by right" or "Uses permitted by special exception", also known as, conditional uses. Uses permitted by right are allowed under any circumstances, whereas, special exception (conditional) uses are permitted only after a public hearing wherein it must be determined that the proposed conditional use will not cause detrimental impact to the neighborhood.

In this case, the relevant Section is 1A03.3.A, which identifies uses permitted by right. Moreover, the Section states that "only" the uses so listed are allowed. Thus, if a use is not set out in the regulations, it is not permitted. The appellate Courts of this State have emphasized

ORDER RECEIVED FOR FILING
Date 11/21/97
By TRO

the inclusive nature of the B.C.Z.R. For example, in Kowalski v. Lamar, 25 Md. App. 493 (1975), the Court of Special Appeals of Maryland emphasized that the regulations must be construed to have been written in the inclusive. Again, only those uses specifically identified are permitted.

Farms are one of the specified uses which are permitted by right in the R.C.4 zone. Thus, anyone who operates a farm may do so legally in an R.C.4 zone, provided they meet the definition of farm as provided in the B.C.Z.R. In many cases, the applicability of this definition is clear. For example, if a landowner of an R.C.4 zoned property wishes to plant row crops or raise cattle or horses, he/she may do so. The potential impact of such an operation is not an issue in this zoning context. The smells, sights, and potential environmental concerns (e.g., fertilizer or pesticide runoff) are not relevant, at least from a zoning perspective. The only issue to be considered is whether the use is a farm.

This same criteria must be applied to the facts presented in the case before me. I am not interested if snakes are considered inappropriate occupants of this property or neighborhood. My only inquiry as Zoning Commissioner is whether Mr. Kahl's operation is a farm. If so, it is allowed to remain; if not, it must be discontinued.

The term "farm" is defined in Section 101 of the B.C.Z.R. Therein it is provided that a "farm" is "Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: Limited acreage, wholesale flower farms, riding stables, landscape service, firewood operations, and horticulture nursery businesses."

As to the area requirement in this definition, Mr. Kahl's operation complies. Clearly, his property encompasses three acres or more of land. The issue presented is whether the property is used primarily for commercial agriculture.

Commercial agriculture is also defined in Section 101 of the B.C.Z.R. Therein, that term is defined as

> "The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animalsfor income, provided that the land also qualifies for farm or agricultural use assessment, pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, As Amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floraculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training, and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing, or distributing, providing that any such activity shall be secondary to the principal agricultural operations." (emphasis added)

It is the role of the Zoning Commissioner to interpret the provisions of the B.C.Z.R. in order to ascertain the legislative intention. Indeed, any quasi-judicial or judicial officer must follow the cardinal rule of statutory construction; to wit, to ascertain and carry out the intent of the legislature. See Howard County, Maryland v. Carroll, 71 Md. App. 635 (1987); Montgomery County v. Buckman, 333 Md. 516 (1994). Moreover, the primary source of determining the County Council's intent is to consider the actual language used in the statute or regulation itself. See Mayor and City Council of Baltimore v. Hackley, 300 Md. 277 (1984).

Therefore, if the language of the statute is plain on its face, there is no need to search elsewhere for the intent. Buckman, supra. Moreover, absent a contrary legislative intention, the words of the statute are entitled to receive their ordinary meaning. Howard County, supra.

ORDER RECEIVED FOR FILING
Date 11/21/97
By

As more fully set forth in their Counsel's respective memoranda, the parties differ as to whether Mr. Kahl's operation falls within the definitions of farm and commercial agriculture as set forth above. For his part, Counsel for Mr. Kahl simply argues that snakes are animals and that Mr. Kahl's business to breed, raise, and sell snakes is no different, from a zoning perspective, than any farmer breeding, raising, and selling cows, horses, goats, or lambs. The neighbors, quite obviously, disagree. They argue that the Boa Constrictors and Pythons raised by Mr. Kahl are exotic animals and that it was not the intent of the County Council to ever include such creatures within the definition of "farm animals". These opponents point out, in essence, that no school child ever added a verse to the song that on his farm, Old MacDonald had some snakes (with, no doubt, a hiss-hiss here and a hiss-hiss there).

To the best of this Zoning Commissioner's knowledge, this issue has never been litigated, either before this Office, the County Board of Appeals, the Circuit Court of Baltimore County, or the Appellate Courts of this State. Mr. Kahl's operation, to say the least, is out of the ordinary and there is little evidence that such an issue as raised herein has been litigated in Maryland. Likewise, this Zoning Commissioner found little case law during the course of his research which was of assistance in considering the issue.

Thus, the plain and ordinary meaning of the words used in the above-referenced definitions must be considered. More specifically, borrowing from the commercial agriculture definition, it must be determined whether Mr. Kahl's snakes can be included among the animals which can be raised or kept on a farm.

In considering this issue, I first observe that the commercial agriculture definition, does not, on its face, limit or restrict the nature of animals which can be raised on a farm. Specifically, that definition does not say that only "traditional farm animals" or "livestock" or "barnyard animals" can be raised and farmed. The definition uses the single word "animals", only, without employing any adjective to describe or limit the species. This is a significant fact, for if the Council had intended to limit the nature of the animals which could be raised on farms, it could have clearly said so. In my judgment, it is inappropriate to narrowly construe the councilmatic intent, when no such limiting language is employed within the regulation.

The regulations also provide that any word or term not defined by the B.C.Z.R. shall have the ordinarily accepted definition as that term or word is set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. In this regard, a review of Webster's indicates that animals are essentially defined as any organism distinguished from plants by the following features; to wit, that the creature sustains itself by digesting nutrients from an internal cavity, that it normally possesses some locomotive ability, that it contains some type of central nervous system, and that it features some sense organ(s). Indeed, this definition is rather broad and surely encompasses Mr. Kahl's snakes. Clearly, under this definition, snakes are animals just as are horses, cows, lambs, etc.

An interesting case uncovered by this Zoning Commissioner in researching this issue comes from Ohio and the Hambleton County Municipal Court. See State v. Kirchner, 483 NE2d, 497 (1984). In that case, the Court was called upon to consider a cruelty to animals statute which pro-

ORDER RECEIVED FOR FILING
Date 10/21/97
By

hibited the abuse of animals. The term "animal" was defined in the relevant statute as "...every living dumb creature". In that case, the Court considered whether the defendant, Mr. Kirchner, could be criminally responsible under that statute, in view of the fact that a 5-foot black snake was found nailed to his front door. Observing the somewhat unusual definition, the Court remarked, with tongue firmly planted in cheek, that a talking parrot might not be considered a "living dumb creature." However, without reservation, the Court further concluded that a snake was. This was the only case that this Zoning Commissioner has been able to locate where any Court anywhere has passed judgment on whether a snake is an animal.

There are two other interesting cases which come from Ohio. In Harris v. Rootstown Township Zoning Board of Appeals, 338 NE2d 763 1965), the Court was called upon to consider whether the raising of dogs constituted animal husbandry. In that case, Mr. Harris had a dog breeding operation which was objected to by his neighbors. After discussing the merits of man's four-legged best friend, the Court concluded that the raising of dogs did indeed fall within the meaning of animal husbandry and was no different than the raising of horses, goats, cows, and the like.

In Davidson v. Abele, 206 NE2d 583 (1965), the Court of Appeals of Ohio was called upon to evaluate a mink farm operation. This case is perhaps more on point with Mr. Kahl's operation, in that clearly minks are not domesticated or barnyard animals. One cannot recall anyone expressing the sentiment that a mink or a snake, as opposed to a dog, is a man's best friend, and it is well known that diamonds, and not mink furs or snake skins, are a girl's best friend. In any event, the Court in Davidson

held that despite the wild nature of the minks, the raising of same fell within the definition of animal husbandry.

These cases, as well as Webster's definition set forth above, support the finding that snakes are indeed animals, and thus, can be farmed in Baltimore County. Further support for this conclusion is also found in other parts of the commercial agriculture definition in the B.C.Z.R. As noted above, the definition of commercial agriculture adopted by the County Council is quite broad. It includes not only the traditional means of agriculture, but a number of other agricultural sciences which are not so traditional or typical. For example, the County Council pointedly made floraculture (the raising and breeding of ornamental or flowering plants) as part of the commercial agriculture. Additionally, viticulture (the raising of vines; e.g. grapes to produce wine) is also expressly provided as part of the commercial agriculture definition.

Most importantly, the Council also designated aquaculture and apiculture as commercial agricultural activities which occur on a farm. Aquaculture is defined as the raising of fish in enclosed ponds, or the cultivating of the natural produce of water, and apiculture is more commonly known as beekeeping. These two endeavors clearly involve wild animals which are not normally considered barnyard/farm animals. An aquaculture operation in Baltimore County raising sharks or barracudas must be considered commercial agriculture, and thus, fall within the farm definition. So too would the amassing of bee hives and the raising of bees for their honey. In terms of humankind's phobia to same, one may argue whether it is worse to confront a snake, shark, or angry honeybee. Whatever the choice, the point to be made is that despite their unpopularity, these creatures are all animals, and thus, can be "farmed."

ORDER RECEIVED FOR FILING
Date 10/21/20
By

Based upon the considerations set forth above and my analysis of the regulations at issue, I must therefore conclude that Mr. Kahl's operation is indeed a farm as that term is defined by the B.C.Z.R. If the Council deems it appropriate to limit the types of animals which may be bred and raised in Baltimore County as commercial agriculture operations, it may do so by specifically limiting farms to cows, sheep, goats, or other barnyard animals. However, until it does so, the definition must be read in the more general sense, to therefore permit the raising and breeding of any animals, including snakes, as a farm operation.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this _____ day of October, 1997 that the use of the subject site for the breeding, raising, and selling of reptiles is permissible in the R.C.4 zone, and as such, the Petition for Special Hearing is hereby DENIED; and,

IT IS FURTHER ORDERED that any aggrieved party shall have thirty (30) days from the date of this Order to file an appeal of this decision.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

RECEIVED
11/21/97

Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

October 21, 1997

Leslie M. Pittler, Esquire
29 W. Susquehanna Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
W/S Manor Road, 450' S of the c/l of Manor View Road
(12240 Manor Road)
11th Election District - 6th Councilmanic District
Mary Pat Marzullo - Petitioner
Case No. 97-494-SPH

Dear Mr. Pittler:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied, 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,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Ms. Mary Pat Marzullo
12244 Manor Road, Glen Arm, Md. 21157

Michael J. Moran, Esquire
401 Allegheny Avenue, Towson, Md. 21204

Mr. Peter Kahl
12240 Manor Road, Glen Arm, Md. 21157

People's Counsel; Case Files

Printed with Soybean Ink
on Recycled Paper

10/14/97

IN THE MATTER OF 12240 MANOR ROAD W/S MANOR ROAD 450' +/- S of c/l Manor View Road 11th Election District-6th Councilmanic	*	BEFORE THE ZONING COMMISSIONER OF
and		BALTIMORE COUNTY
MARY PAT MARZULLO 12244 Manor Road Glen Arm, MD 21157	*	No. 97-494-SPH
Petitioner	*	
v.		
PETER A. KAHL 12240 Manor Road Glen Arm, MD 21157	*	
Respondent	*	

RECEIVED
OCT 14 1997
ZONING COMMISSIONER

* * * * * *

POST HEARING BRIEF OF PROPERTY OWNER AND RESPONDENT

THE STATEMENT OF THE CASE

The Petitioner, Mary Pat Marzullo, filed a Petition for a Special Hearing before the Zoning Commissioner of Baltimore County, Maryland on 29 April 1997. The Petitioner asked the Zoning Commissioner to decide whether the "...breeding raising and selling of reptiles..." on the Respondent's 4.71 acre lot was a permitted use in an RC-4 zone. Respondent is the Petitioner's next door neighbor.

Respondent owns a company which breeds and raises non-venomous reptiles for income. For a number of years, Respondent had conducted the business from the basement of his residence, which is also situate on the lot. Over time, the business thrived, the size of the stock increased, and Respondent decided to build a "reptile barn" to accommodate the success of the enterprise and the increase in the number of animals. Respondent sought guidance from the County and, after having obtained a series of approvals, including the issuance of a building permit, began construction in the late winter and early spring of 1997.

Petitioner, however, noticed the activity on the lot and filed an appeal before the County Board of Appeals, alleging that the County wrongfully issued the permit. Petitioner's appeal, noted more than thirty days after the issuance of the original permit is pending before the County Board of Appeals.

The Zoning Commissioner's Office eventually docketed the case for a hearing on the merits of the Petition. On 22 September 1997 the parties presented evidence in support of their respective positions. In lieu of oral argument, at the close of the testimony, the parties decided to submit written briefs. The Hearing Officer assigned the date of 10 October for submission of the briefs. By stipulation, the parties agreed to extend the time to Tuesday, 14 October 1997.

THE QUESTIONS PRESENTED

1. Is the raising and breeding of reptiles, in an RC-4 Zone, permitted under the Baltimore County Zoning Regulations, as a matter of right, where the testimony before the

Zoning Commissioner established that: (a) the activities conducted by the Respondent constitute "animal husbandry;" (b) the property owner "raises and keeps animals" on his premises; and (c) the property owner derives substantial income from the operation?

THE STATEMENT OF THE FACTS

Respondent, Peter Kahl owns a 4.71 acre of land on Manor Road, in Glen Arm, Baltimore County, Maryland. The land is zoned RC-4. Respondent's neighborhood consists of residences which abut his north and west property line and a 165 acre farm to the south. Respondent's lot is improved with a single family dwelling which Respondent uses as a residence.

Respondent owns a company, Peter Kahl Reptiles, Inc. which raises and breeds exotic reptiles for sale to other breeders and institutions, most of whom are located either out-of-state or overseas. Respondent is responsible for the care of the animals and decides which of the numerous stock will reproduce. Respondent breeds the animals on the premises and incubates the eggs until the offspring hatch. Respondent's breeding plan is designed to increase the diversity of the population within the species. The efforts to increase the diversity within the species have proven successful. Respondent grosses income in the mid six figures on a regular basis. Respondent regularly feeds the animals and cleans the cages, each of which is locked, in order secure the animals and protect Respondent's investment. The risks to Respondent's operation include viruses which, although non-transmittable to humans, can easily spread through Respondent's stock, decimating prime and rare breeders.

Eventually, Respondent decided to build a "reptile barn" on his lot to separate the operation from his residence and accommodate the need for expansion. Respondent initially considered renting additional space but ultimately realized that construction of a new facility would be better financially. Before proceeding with his plans, Respondent sought the guidance of officials from Baltimore County in order to assure himself that the zoning permitted the proposed use. Respondent consulted with various representatives from the County and secured the approval of the Agricultural Advisory Board of the County's Department of Environmental Programs and Resource Management, the Development Review Committee, and the Building Engineer. The Building Engineer issued a building permit in February, 1997 and Respondent began construction of a specially designed concrete structure at a cost of $160,000.00

About two months later, Petitioner served upon Respondent a notice that she had filed a Petition for a Special Hearing before the Zoning Commissioner. By that time, construction was over one-half complete and Respondent had made commitments to suppliers and subcontractors. Respondent continued to construct the building without opposition from the County which issued a use and occupancy permit to Respondent several days prior to the hearing on 22 September.

THE ARGUMENT

I. THE PETITION FOR SPECIAL HEARING MUST BE DISMISSED BECAUSE:

A. THE PROPOSED USE IS ONE WHICH IS A MATTER OF RIGHT.

The Petition for Special Hearing must be dismissed because the proposed use is one which is a matter of right in an RC-4 Zone. The RC-4 zoning permits farms and farming. The definition section of the County Zoning Regulations provides that a "farm" is "three acres or more of land, and any improvements thereon, used primarily for commercial agriculture..." Zon. Reg., Sec. 101. "Commercial agriculture," in turn, is defined as the "...use of land, including ancillary structures and buildings to...raise or keep animals for income..." Commercial agriculture, by definition includes "...animal husbandry..", other forms of "non-traditional" agriculture such as "...floriculture, aquaculture, apiculture, viticulture..." and ancillary activities as "... processing, packing, storing, financing, managing, marketing or distributing..." so long as the ancillary activities are subordinate to the principal activity of "commercial agriculture." Zon. Reg., Sec. 101. Respondent raises and keeps animals for income. This is all that the Zoning Regulations require in order to qualify the activity as a permitted use and, accordingly, the Petition for Special Hearing must be dismissed. The property owner is doing nothing more than that which the law permits.

The express language of the zoning regulation permits the raising and keeping of reptiles for income as a matter of right. The cardinal rule of statutory construction is to ascertain and effect the legislative intention; Reid v. State, 302 Md. 811, 816 (1985); Howard County, Maryland v. Carroll, 71 Md. App. 635 (1987). The primary source of the Council's intent is the language of the statue or ordinance itself; Polanski v. Mayor and City Council of Baltimore, 344 Md. 70 (1997); Mayor and City Council of Baltimore v. Hackley, 300 Md. 277,233 (1984); Howard Co. v. Carroll, id. Thus, if the language of the

statute is plain on its face there is usually no need to search elsewhere for the intent; M. & C.C. v. Polanski, M. & C.C. v. Hackley, Howard Co. v. Carroll, all id. Absent a contrary legislative intention, the words of the statute are entitled to receive their ordinary meaning; Rome v. Lowenthal, 290 Md. 33, 41 (1981); Howard Co. v. Carroll, id. However, the "plain meaning rule" does not prohibit the Court from considering other extrinsic aids to interpretation; Blaine v. Blaine, 336 Md. 49 (1994); Kaczorowski v. Mayor and City Council of Baltimore, 309 Md. 505 (1987).

Here, the Zoning Regulations "...divide [Baltimore County] into zones and districts..." in accordance with Article 1, Sec. 100, Subsection 100.1A. The division of the County into zones "...is intended to provide broad regulation of the use and manner of use of land..." Zon. Reg., 100.1.A. The Zoning Regulations provide "general provisions" for all RC zones; Zon. Reg., 1A00.1. The uses permitted "...as of right..." in an RC-4 zone include "...farms and limited-acreage wholesale flower farms..." Zon. Reg., 1A03.3A.2. Farming is permitted as a matter of right in an RC-3 zone, Zon. Reg., 1A02.2A.3 and in an RC-2 zone; Zon. Reg., 1A01.2B.2. A "farm" is "three acres or more of land, and any improvements thereon, used primaruily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses..." Zon. Reg., 101. "Commercial agriculture" is "... the use of land, including ancillary structures and buildings, to...raise or keep animals for income..." Zon. Reg., Sec. 101. Commercial agriculture, by definition, includes "...animal...husbandry...and...ancillary activities such as processing , packing, storing, financing, managing, marketing, or distributing..." provided that the ancillary activities are "...secondary to the principal agricultural operations..." Zon. Reg., Sec 101.

The County Council did not define the term "animal" in the Zoning Regulations. However, the word animal is ordinarily defined as "...any living being capable of sensation and the power of voluntary motion; distinguished from *plants* by its inability to make its own food by photosynthesis..." (emphasis in original); Webster's New Universal Unabridged Dictionary 2nd ed. An animal generally is "...any such organism other than man..." Id. Any reptile, including a snake, is capable of sensation and voluntary motion. Thus, the term "animal" includes, in common usage, a reptile.

The testimony before the Zoning Commissioner is clear that the Respondent raises and keeps animals for income. By definition, a "reptile" is an animal. The Respondent selects which of his stock will breed and then mates male and female boas and pythons to produce eggs which Respondent incubates on his premises. When the eggs hatch, Respondent then raises the offspring until the offspring are mature enough to be sold. Respondent derives income from this operation. Therefore, Respondent "...raises and keeps animals for income..." which the Zoning Regulations permit as a matter of right. The Zoning Commissioner must dismiss the Petition for Special Hearing because Respondent falls squarely within the statutory language.

The plain language of the statutory text is clear that raising and keeping boas and pythons for profit is a rightful use. Resort to extrinsic aids to interpretation of the statutory text is unnecessary because the language clearly expresses the Council's intention. However, the plain meaning rule does not preclude the examination of extrinsic evidence of the Council's intent; Blaine v. Blaine, id. Examination of the Council Notes to Council Bill No. 51-93 reveals that Bill No. 51-93 "...adds a definition of 'commercial agriculture' which has a broader meaning than the term 'farm'..." in order to

"...accommodate operations which might be agricultural in nature but do not fit into the narrower, traditional farm definition..." The standard that "...sets agricultural uses apart is that land or structures and buildings are utilized to...raise or keep animals for income..." The extrinsic evidence of the Council's intent supports the Respondent's construction of the language of the Zoning Regulation. The Council intended to enlarge the meaning of the term "animal" to include non-traditional, as well as traditional, farming. Absent from the Zoning Regulation is any language which restricts the meaning of the term "animal" and, as a corollary, the concept of that which will constitute a "farm." The "plain meaning" of the language and the extrinsic evidence to aid the construction of that same language support the conclusion that "reptile farming" is nevertheless "farming" and "farming" is a rightful use in an RC-4 zone.

Case law supports the Respondent's construction of the statutory language. For example, the Court of Special Appeals adopted the farmer's construction of the term "cultivate" over the County's "colloquial" interpretation of that word in Howard Co., Md. v. Carroll, 71 Md. App. 635 (1987). There, the County contended that the local soil conservation ordinance required Carroll to obtain a grading permit before filling a ravine and cutting the slope of the gully on his property. Carroll contended that the exemption provision in the ordinance was applicable because the purpose of the filling and grading was to create additional arable land. The creation of additional land, Carroll argued, constituted the "cultivation of land" which the ordinance exempted from the permit requirement.

The Court of Special Appeals agreed with Carroll. The Court observed that "...to a large degree...the terms 'agriculture,' 'farming,' 'cultivation,' and the legislative

definition of 'agricultural land management practices' are synonymous. The inter-relationship supports the conclusion that the exclusion at issue has a broad meaning..." The Court observed that it was constrained to afford the term "cultivate" its "full meaning", id. at 647, in view of the fact that there was no language in the statutory text which restricted the construction of that term ("...The above-quoted definitions of 'cultivate' draw no distinctions between acts or procedures preparatory to the tilling or seeding of ground and the actual tilling or seeding of ground...").

The approach utilized by the Court of Special Appeals in Carroll is applicable here. There, the issue before the Court was whether the term "cultivate" included non-conventional activities such as grading and filling a 4 acre ravine on the property as opposed to merely tilling soil. Here, the issue is whether the raising and keeping of non-conventional stock, such as boa constrictors and pythons, constitutes "commercial agriculture." In this case, the County Council placed no restriction on the term "animal" and that term, as the word "cultivate" in Carroll, must be afforded its "full meaning". The full meaning of the term "animal" includes a "reptile." Raising and keeping animals qualifies as "commercial agriculture" which, in turn, is "farming." Farming is a rightful, permitted use of land in an RC-4 zone. Respondent is doing exactly that which the law allows.

Finally, the constitutional dimensions of the case must not be overlooked. The Fifth Amendment and the Fourteenth Amendment to the United States Constitution protect property. The Maryland Declaration of Rights contains similar provisions; see, Art. 24, Md. Decl. Of Rights. At common law, a property owner possessed the absolute right to put his property to the highest use possible. Zoning regulations restrict the rights

which the federal and state constitutions otherwise guarantee to the citizens of the state. Because the zoning regulations derogate from common law one must not, absent a clearly expressed intention of the County Council to the contrary, construe the Zoning Regulations to prohibit that which the Constitution of the United States guarantees; Landay v. MacWilliams, 173 Md. 460 (1938) ("...such ordinances are in derogation of the common law right to use private property as to realize its highest utility, and while they should be liberally construed to accomplish their plain purpose and intent, they should not be extended by implication to cases not clearly within their scope of purpose and intent manifest in their language..." citing to Monument Garage Corp. v. Levy, 194 NE 848 (NY, 1936)) See also, Anderson, American Law of Zoning, 4th ed., Sec. 18.04 at n. 24 (zoning statues are in derogation of common law and should be strictly construed in favor of the property owner); and Appeal of Ethken Corp., 493 A.2d 787 (Pa. Cmwwlth., 1985) ("...we must afford permitted uses the broadest interpretation so that the landowner may have the 'benefit of the least restrictive use of his land..."")

The contest here arises over a permitted use. The uses permitted are described in the language of the zoning regulation but not limited. To construe the zoning regulation consistently with the Constitution one must afford the language of the zoning regulations its full meaning. To do otherwise would be to: (1) create a restriction quasi-judicially, where none was intended, thus usurping the legislative prerogative of the County Council; and (2) violate a right secured to the property owner by the federal and state constitutions.

THE SUMMARY AND CONCLUSION

The plain meaning of the zoning regulations permit the activity under consideration here. When one examines the Council Notes that accompanied the passage of the legislation, one finds that the County Council intended to include non-conventional as well as traditional forms of agriculture within the definition of farming. There is no legislatively imposed restraint upon the meaning of the term "animal" and, if the County Council had chosen to do so, it could have easily limited either the nature or class of animals that one could raise and keep for income as a commercial agriculture operation. The Council chose not to do so, and, in fact, the legislative history indicates that the Council chose to expand the nature of the activities that would constitute "commercial agriculture." Decisional law of this State indicates that absent a legislatively imposed restriction upon broad language which encompasses a wide spectrum of activities, one must construe the language to include the spectrum. Such a construction is particularly appropriate in the context of a zoning case where the language used to describe the use permitted as a right encompasses diverse classifications and sub-classifications. To eliminate a particular sub-classification otherwise encompassed within the ambit of the general term rewrites the statute and violates the province of the County Council. The language of this zoning regulation permits the property owner to raise and keep reptiles for income by its express terms. The Petition for Special Hearing must be dismissed.

CONCLUSION

For all of the foregoing reasons, the Respondent requests that the Zoning Commissioner pass an Order:

1. Dismissing the Petition for Special Hearing.

Michael J. Moran, Esquire
Attorney for Respondent
401 Allegheny Avenue
Towson, MD 21204
410/828-4800

Council

Bill 51-93 - Mr. Ruppersberger - Agriculture

This bill proposes amending the Baltimore County Zoning Regulations in order to clarify regulations dealing with agricultural uses.

A final report of the Planning Board dated October 17, 1991 recommended amendments to the Baltimore County Zoning Regulations regarding traditional agricultural operations including definitions of agriculture, farm and the activities permissible at these operations. The Council held a public hearing on the report on March 10, 1992. This bill is the third in a series of bills implementing Planning Board recommendations dealing with farming and agricultural-related operations. The reports were responsive to Resolution 29-90. The Council has previously passed Bills 41-92 and 151-92 in response to the earlier reports.

The bill deletes the definition of "farm", as that definition appears twice, "farm satellite" and "farmette" which are outdated or unnecessary. It adds a definition of "agriculture, commercial" which has a broader meaning than the term "farm" and accommodates operations which might be agricultural in nature but do not fit into the narrower, traditional farm definition. The standard that sets agricultural uses apart is that land or structures and buildings are utilized to cultivate plants or raise or keep animals for income. The bill also adds a new definition of "farm" which includes three acres or more of land and any improvements used primarily for commercial agriculture or for residential and associated agricultural uses. It does not include limited acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery business.

The bill eliminates the definition of "farmette" which included a livestock ratio table. However, proposed Section 100.6 establishes a livestock

ratio table for any tract of land used for the stabling and pasturing of animals which is not a commercial agricultural operation.

Proposed Section 1A03.3.B.15. adds a winery as a use permitted by special exception in R.C. 4 zones. Proposed Section 404.9 sets out performance standards for farms located in R.C. 5 and D.R. zones including the location of internal permanent roadways and environmentally controlled structures. Section 404.10 requires all zoning violation cases concerning commercial agricultural operations be forwarded to the Baltimore County Agricultural and Land Preservation Advisory Board for review.

Amendments to Sections 1A01.2.B.2, 1A02.2.A.3, 1A03.3.A.2 and 1A04.2.A.3 eliminate the terms "satellite farms" and "farmettes". Amendments to Section 1A01.2.C.24 add winery and bottled water plant to the list of "agricultural-support" uses and clarify that a special exception is required for "agricultural-support" uses only if they are performed as a principal commercial use.

Amendments to Section 1A05.2 eliminate the terms "satellite farms" and "farmettes" and allow aquaculture as a use permitted by right rather than special exception in R.C. 20 zones.

An amendment to Section 300.1.a exempts grain elevators and other accessory agriculture buildings from height limitations.

10/14/97 ?

IN THE MATTER OF 12240 MANOR ROAD W/S MANOR ROAD 450' +/-S of c/l Manor View Road 11th Election District-6th Councilmanic	*	BEFORE THE ZONING COMMISSIONER OF
and		BALTIMORE COUNTY
MARY PAT MARZULLO 12244 Manor Road Glen Arm, MD 21057	*	No. 97-494-SPH
Petitioner	*	
v.		
PETER A. KAHL 12240 Manor Road Glen Arm, MD 21057	*	
Respondent	*	

* * * * * *

MOTION TO DISMISS

Respondent, Peter A. Kahl, by his undersigned counsel, moves that the Zoning Commissioner pass an Order dismissing the captioned case.

In support of his Motion Respondent states that:

1. The Petitioner is without standing to maintain this action. Section 500.7 of the Zoning Regulations provides that "...The power given hereunder [to conduct such other hearings] shall include the right of any interested person to petition the zoning commissioner for a public hearing...to determine the existence of any purported non-conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations..."

2. Petitioner has no legal right or interest in the property of the Respondent. Petitioner is therefore without standing to maintain the present action and the Petition for Special Hearing must be dismissed.

Michael J. Moran, Esquire
Attorney for Respondent
401 Allegheny Avenue
Towson, MD 21204
410/828-4800

D. 14

IN THE MATTER OF 12240 MANIOR ROAD W/S MANOR ROAD 450' +/- S of c/l Manor View Road 11th Election District-6th Councilmanic	*	BEFORE THE ZONING COMMMISSIONER OF
and		BALTIMORE COUNTY
MARY PAT MARZULLO 12244 Manor Road Glen Arm, MD 21057	*	No. 97-494-SPH
Petitioner	*	

v.

PETER A. KAHL 12240 Manor Road Glen Arm, MD 21057	*
Respondent	*

* * * * * *

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of October, 1997, a copy of the foregoing Post Hearing Brief of Property Owner and Respondent and a copy of the Motion To Dismiss was mailed, first class mail, postage prepaid, to Leslie Pittler, Esquire, 29 Susquehanna Avenue, Towson, Maryland 21204.

Michael J. Moran, Esquire
Attorney for Respondent
401 Allegheny Avenue
Towson, MD 21204
410/828-4800

10/14/97

RECEIVED
OCT 14 1997
ZONING COMMISSIONER

Before the	*	Case No. 97-494-SPH
Zoning Commissioner	*	Petitioner:
of	*	Mary Pat Marzullo
Baltimore County	*	Location:
	*	12240 Manor Road

* * * * * * * * * * * *

MEMORANDUM

This case arises out of a Petition for Special Hearing filed by Mary Pat Marzullo on behalf of various citizens from the Glen Arm area of Baltimore County raising the question of whether the use of land in on R.C.4 zone allows for the use of "breeding, raising and selling of reptiles." Should it be determined that this is not a proper use, then the permit issued to Mr. Kahl for this use in a building he has constructed for same cannot be allowed.

I. Estoppel

At the hearing, the property owner through counsel indicated that they would argue that as a result of the county's issuance of the permit it cannot be revoked and in fact the county is estopped from so doing.

The law on this issue is clear. As was stated in the Long Meadow Shopping Center case 264 Md.at 494-495, quoting

Lipsitz v. Pam 164 Md. 222, 227-228; 164A. 743 (1993):

> "A permit thus issued without the official power to grant does not, under any principle of estoppel prevent the permit from being unlawful nor from being denounced by this Municipality because of its illegality ... Everyone dealing with the officers and agents of a municipality is charged with the knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority."

In this case, should it be determined that this particular use would not and is not allowed, then any permit issued is void abinitio and Maryland Courts have consistently held that permits issued in violation of an existing law or zoning ordinance do not create any vested rights in the permittee. City of Hagerstown vs. Long Meadow Shopping Center 264 Md. 481, 495. 287 A2d. 242(1972) and Berwyn Heights vs. Rogers 228 Md. 271, 280 179 A2d. 712(1962) Permanent Financial Corp. vs. Montgomery County 308 Md. 239, 249, 519 A2d. 123(1986).

Thus the estoppel issue does not apply under the circumstances of this case.

II. Is the raising, breeding, selling of reptitles and

proper use in an RC-4 zone under the BCZR. We believe, clearly, such use is not permitted. BCZR Section 102.1 provides:

> "no land shall be used or occupied and no building or structure shall be erected, altered, located, or used <u>except in conformity with these regulations</u> ..." (emphasis added) See <u>Kowalski vs. Lamar</u> 25 Md. App. 493, 496 (1975)

The introductory language of BCZR Section 1A03.3A and 1A03.3B emphasizes that the enumerated uses only are permitted by right and by special exception in R.C.4 zones. These sections establish that the only uses permitted in the R.C.4 zone are those designated as uses permitted as of right and uses permitted by special exception. Any use other than those permitted and being carried on as of right or by special exception is prohibited. See Kowalski, Supra 25 Md. App., at 498.

The operative definitions under the BCZR are the following:

> <u>Farm</u>: Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as

defined in these regulations: limited acreage wholesale flower farms, riding stables, landscape service, firewood operations, and horticultural nursery businesses.

Agriculture, Commercial: The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the tax-property article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing, or distributing provided that any such activity shall be secondary to the principal agricultural operations.

Upon reviewing these definitions one has to determine whether or not "exotic animals" as the property owner's own witness described snakes fits within this definition and whether Mr. Kahl's operations fit within these definitions. Again, we think not.

One way to determine what the County Council intended as to these definitions can be gleamed from other definitions

similar in nature. For example, under the Critical Area definition in Sec. 101A of the BCZR one finds a definition of "agriculture" as follows:

> "All methods of production processing, storage and management of livestock, crops, vegetation and soil."

This includes but is not limited to:

> the related activities of tillage, fertilization, pest control, harvesting and marketing. It also includes but is not limited to, the activities of feeding, housing and maintaining of animals such as dairy cows, sheep, goats, hogs, horses and poultry and handling their by-products."

Specific types of animals are listed here but nowhere do you find exotic animals such as boa constrictors and pythons. It is clear that it was not the intent of the County Council to ever include snakes within the definition of "farm animals."

Another element which defines the County Council's intent that it never intended snakes/reptitles to be within the definition of a farm animal is the term "Animal Boarding Place" and how that definition is used within the BCZR.

The County Council has defined Animal Boarding Place as "any building, other structure, or land or any portion

thereof, which is used, intended to be used, or, arranged for the boarding, breeding or other case of animals for profit, but excluding a farm, kennel, pet shop, veterinarian office or veterinarium."

The County went on to define Animal Boarding Place, Class A as: "an animal boarding place exclusively for dogs, cats, birds, and/or other household pets", and an Animal Boarding Place Class B as "any other animal boarding place not excluded under the general definition or "Animal Boarding Place" above.

What Mr. Kahl seeks to do on his R.C.4 land is to use his land/buildings for the boarding and breeding for profit of snakes. However, his problem is that such use is not allowed and thus prohibited in an R.C.4 zone but is allowed in R.C.3 as a special exception which of course does him no good in this case.

Thus, the property owner strikes out on all occasions. First he does not fit within the definition of a farm and second R.C.4 does not provide for an "Animal Boarding Place."

One must bear in mind that we are dealing with a proposed use in an R.C.4 (Watershed Protection) zone. One needs to go no further than the Findings and Legislative Policy found in

Sec.1A03.1 wherein it is stated that "... continuing development in the critical watersheds of those water-supply sources is causing increased pollution and sedimentation in the impoundments...". The R.C.4 zoning classification and its regulations are established to provide for this protection of the water supplies... by preventing contamination through unsuitable types or levels of development in their watersheds."

It is clear that commercial uses, such as Mr. Kahl's does not come within the parameters of the R.C.4 classification.

Nowhere in the BCZR do we find provision for snakes/reptiles within the definitions for a farm. In addition it is abundantly clear that Mr. Kahl is using his land solely for purposes of breeding, raising and selling for profit; no crops, no livestock, but snakes which can be a distinct danger to any residential community.

Another example of why Mr. Kahl does not have a legally permissible use can be gleamed from the definition in the BCZR of a "warehouse", wherein it is stated that a warehouse is " a building, or a part of a building used or intended to be used primarily for the storage of goods or chattels that are

to be sold retail or wholesale from other premises or sold wholesale from the same premises, for the storage of goods or chattels to be shipped or mail order...".

Mr. Kahl is using his improperly named "barn" as a warehouse for snakes to be shipped elsewhere by mail order. Such warehouse use is inconsistent with uses as of right in the R.C. 4 zone.

Mr. Kahl has made it clear that he ships his snakes by air to various purchasers. If snakes are true livestock this method of sale is foreign to the normal, ordinary, farm animals envisioned by the County Council when it adopted the definition of a farm.

Furthermore, let us look at some definitions from various dictionaries. When Black's Law Dictionary defines animals it makes a clear distinction between domestic and wild animals as follows:

> "Domestic animals are tame as distinguished from wild; living in or near the habitations of man or by habit or special training in association with man."

Then as to wild animals:

> "... those which still retain their wild nature."

Thus, there is a clear distinction .

Furthermore Black's Law Dictionary points out that a farming operation is defined: "Term includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry or livestock products in an unmanufactured state"; and then goes on to define "farming products" as all things are considered as farming products or agricultural products" which have a situs of their production upon the farm and which are brought into condition for uses of society by labor of those engaged in agricultural pursuits as contradistinguished from manufacturing or other industrial pursuits."

It is clear that Mr. Kahl does not fit within these definitions because his snakes are imports and then sold by mail order, hardly a use contemplated by the County Council.

Last but not least is Black's definition of "farm" which says:

> " a tract of land devoted to agriculture, pasturage, stock raising, or some allied industry. Includes dairy, stock and poultry farms."

Note, it doesn't include snake/reptile type operations.

In looking at the Random House Dictionary of the English

Language, "farm" is defined as follows: a tract of land, usually with a house, barn, etc., on which crops and often livestock are raised for livelihood." Then it considers the word "Farmer": a person who farms, one who operates a farm or cultivates land." Then lets look at the word "livestock" and that is defined as: "the horses, cattle, sheep and other useful animals kept or raised on a farm or ranch." Then look at the definition of "agriculture": 1. the science or art of cultivating land in the raising of crops; tillage; husbandry; farming; 2. the production of crops, livestock or poultry."

Now lets look at the definition of "husbandry": the cultivation and production of edible crops or of animals for food; agriculture; farming. 2. the science of raising crops or food animals. 4. the management of domestic affairs or of resources generally.

In Webster's II New College Dictionary, we find the following definitions:

(a) farm: 1. Land cultivated for agricultural production. 2. Land devoted to the raising and breeding of domestic animals."

(b) domestic: "Domesticated or tame. - Used of animals."

(c) domesticate: "To train or adapt (an animal or

plant) to live in a human environment and be of use to human beings."

(d) barn: 1. "a farm building used for storing farm products and sheltering livestock."

(e) agriculture: The science, art and business of cultivating the soil, producing crops, and raising livestock.

Once again all of the definitions lend support to the proposition that snakes are and never have been considered as element of livestock or animal husbandry under the BCZR.

In closing I would point out that in looking at all of the various definitions both within the BCZR and without, there is nothing to indicate that the County Council had the remotest intent of including an import/export business of raising, breeding and selling of snakes as a farm use. Quite the contrary, if anything we are talking about an animal breeding place that is not permitted within the R.C.4 either as a use of right or by Special Exception.

Leslie M. Pittler
Suite 610
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 823-4455

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 12240 Manor Road

97-494-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 in an RC-4 Zone, the use of the site for the breeding, raising and selling of reptiles.

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

Legal Owner(s): of Adjoining Property:

Mary Pat Marzullo

(Type or Print Name)

Mary Pat Marzullo

Signature

Mary Pat Marzullo

(Type or Print Name)

Signature

12244 Manor Road 410-592-3576

Address Phone No.

Glen Arm, MD 21057

City State Zipcode

Name, Address and phone number of representative to be contacted.

ATTORNEY

Name

Address Phone No.

Attorney for Petitioner:

Leslie M. Pittler

(Type or Print Name)

Signature

29 W. Susquehanna Avenue

Address Phone No.

Towson, MD 21204

City State Zipcode

(410) 823-4455

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

Zoning Administration & Development Management

ZONING DESCRIPTION FOR:

12240 MANOR RD.

97-494-SPH

BEGINING ON THE WEST SIDE of MANOR RD., WHICH IS 40ft. WIDE AT THE DISTANCE OF 450'+/- SOUTH OF THE CENTER-LINE OF THE NEAREST IMPROVED INTERSECTING STREET MANOR VIEW RD., WHICH IS 40ft.+/- IN WIDTH. CONTAINING 4.7 AC.+/-. ALSO KNOWN AS 12240 MANOR RD.

ED.: 11TH Council: 6TH

CERTIFICATE OF POSTING

RE: Case No.: 97-494-SPH

Petitioner /Developer:

JOSEPH & GRACE CAMPBELL

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at MANOR RD.

The sign(s) were posted on 5/1/98
(Month, Day, Year)

Sincerely,

Gary C Freund 5/1/98
Signature of Sign Poster and Date

GARY C. FREUND
Printed Name

Address

City, State, Zip Code

Telephone Number

5/1/98
1ST request SIGN REPLACED

2ND request 7-8-98 - T/C FROM PROTESTANT "LOOKS AS THOUGH IT WAS UNSCREWED AND TAKEN DOWN
8/98 - SIGN REPLACED (FURTHER FROM RD)

8-05-98. T/C TO INSPECTOR TO POST SIGN (1) LAST TIME UNDER LOCAL ADMIN'S NEW POLICY (15 DAYS BEFORE HEARING - 9-9-98)

CERTIFICATE OF POSTING

RE: Case No.: 97-494-SPH

Petitioner/Developer:
(Mary Pat Marzullo)
Date of Hearing/Closing:
(Sept. 22, 1997)

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

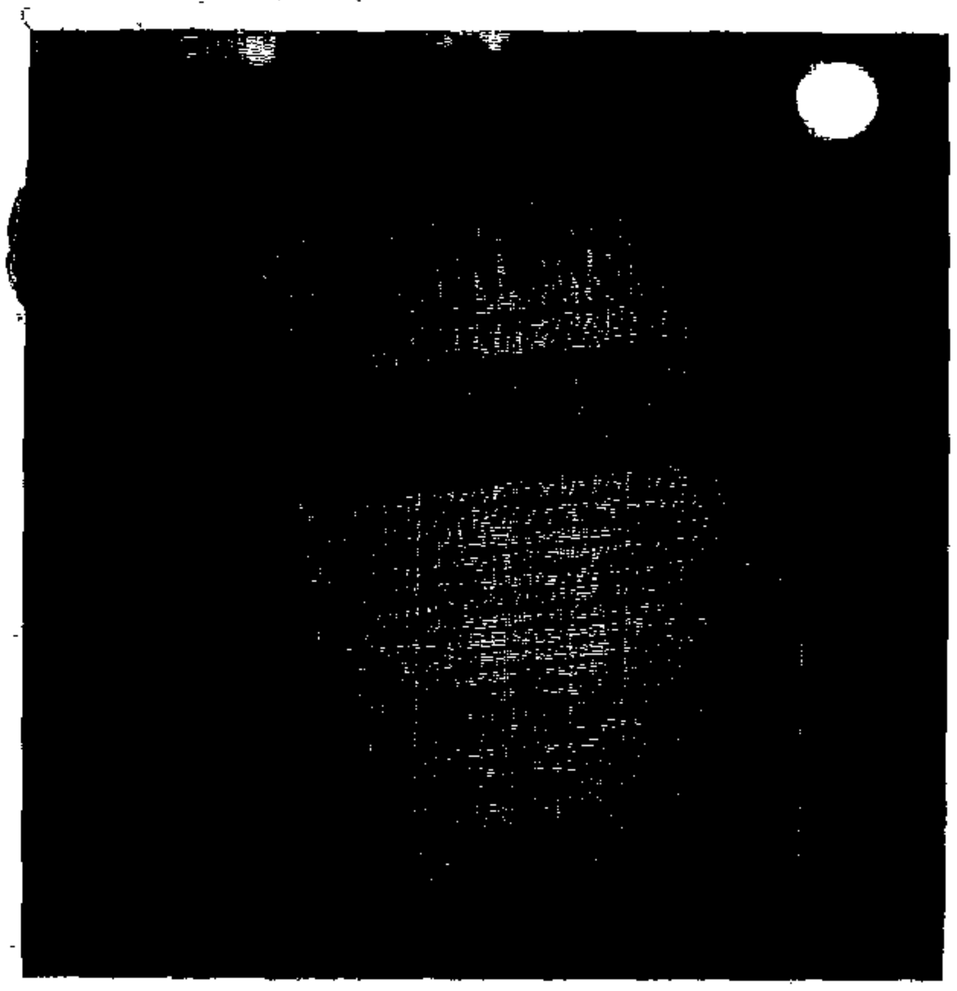
Attention : Ms. Gwendolyn Stephens

Ladies and Gentleman:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at

_12240 Manor Road Glen Arm, Maryland 21057

The sign(s) were posted on Sept 6, 1997
(Month, Day, Year)



Sincerely,

9/6/97
(Signature of Sign Poster & Date)

Thomas P. Ogle, Sr.

325 Nicholson Road

Baltimore, Maryland 21221

(410)-687-8405
(Telephone Number)

97-494-SPH

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 in Towson, Maryland on the property identified herein as follows:

Case: #97-494-SPH
12240 Manor Road
W/S Manor Road, 450 +/- S of c/l Manor View Road
11th Election District
6th Councilmanic
Petitioner:
Legal Owner of Adjoining Property, Mary Pat Marzullo

Special Hearing: to determine whether the subject property, in an R.C.-4 zone, may be utilized for the breeding, raising and selling of reptiles.

Hearing: Tuesday, June 10, 1997 at 9:00 a.m., 4th floor hearing room Court Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.
(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

5/412 May 22 C145277

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 22, 1997

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 May 22 1997.

THE JEFFERSONIAN,

A. Henriksen

LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 04695

DATE 11/19/97 ACCOUNT R-001-6150

AMOUNT $ 210.00

RECEIVED FROM: Leslie M. Pittler, Esq.

FOR: Appeal - Case 97-494-SPH

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

R45

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTUAL TIME
11/20/1997 11/20/1997 09:46:15
REG W802 CASHIER JRIC JNR DRAWER 2
5 MISCELLANEOUS CASH RECEIPT
Receipt # 022702 UFIN
CR NO. 046903
210.00 CHECK
Baltimore County, Maryland

BALTIMORE COUNTY, MARYLAND 494
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 036538

DATE 4-29-97 ACCOUNT R001-6150

AMOUNT $ 50.00

RECEIVED FROM: Leslie Pittler 12240 Manor Rd.

FOR: SPH. (030)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

JCM

CASHIER'S VALIDATION

PAID RECEIPT
04/29/97 04 7:LBS R 4764
Dept 5 513 ZONING VERIFICATION
CR NO. 036538
$50.00 CK P-A-I-D
Baltimore County Maryland
Office Of Budget & Finance

Exhibit B

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.:_____

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: A SPECIAL HEARING TO DETERMINE WHETHER THE SUBJECT PROPERTY MAY BE UTILIZED FOR THE BREEDING, RAISING AND SELLING OF REPTILES.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

9/96
post.4.doc

TO: PUTUXENT PUBLISHING COMPANY
May 22, 1997 Issue - Jeffersonian

Please foward billing to:

Leslie Pittler, Esq.
29 W. Susquehanna Avenue
Towson, MD 21204
410-823-4455

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-494-SPH
12240 Manor Road
W/S Manor Road, 450'+/- S of c/l Manor View Road
11th Election District - 6th Councilmanic
Petitioner: Legal Owner of Adjoining Property, Mary Pat Marzullo

Special Hearing to determine whether the subject property, in an R.C.-4 zone, may be utilized for the breeding, raising and selling of reptiles.

HEARING: TUESDAY, JUNE 10, 1997 at 9:00 a.m., 4th floor hearing room Court Bldg., 401 Bosley Avenue.

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

May 13, 1997

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-494-SPH
12240 Manor Road
W/S Manor Road, 450'+/- S of c/l Manor View Road
11th Election District - 6th Councilmanic
Petitioner: Legal Owner of Adjoining Property, Mary Pat Marzullo

Special Hearing to determine whether the subject property, in an R.C.-4 zone, may be utilized for the breeding, raising and selling of reptiles.

HEARING: TUESDAY, JUNE 10, 1997 at 9:00 a.m., 4th floor hearing room Court Bldg., 401 Bosley Avenue.

Arnold Jablon
Director

cc: Mary Marzullo
Leslie Pittler, Esq.

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY MAY 26, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

July 2, 1997

NOTICE OF REASSIGNMENT

Rescheduled from 6/10/97
CASE NUMBER: 97-494-SPH
12240 Manor Road
W/S Manor Road, 450'+/- S of c/l Manor View Road
11th Election District - 6th Councilmanic
Petitioner: Legal Owner of Adjoining Property, Mary Pat Marzullo
Legal Owner: Peter Kahl

Special Hearing to determine whether the subject property, in an R.C.-4 zone, may be utilized for the breeding, raising and selling of reptiles.

HEARING: FRIDAY, AUGUST 1, 1997 at 2:00 p.m., Room 407 Courts Building, 401 Bosley Avenue.

ARNOLD JABLON
DIRECTOR

cc: Michael J. Moran, Esq.
Leslie M. Pittler, Esq.

PLEASE NOTE THAT THE ZONING SIGN ON THE PROPERTY MUST BE ALTERED TO GIVE NOTICE OF THE ABOVE HEARING ON OR BEFORE JULY 18, 1997 AND CERTIFICATION OF SAME FILED WITH THIS OFFICE. PLEASE CONTACT THE SIGN VENDOR USED FOR THE ORIGINAL POSTING.

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

August 8, 1997

NOTICE OF REASSIGNMENT, AS AGREED BY ATTORNEYS

Postponed from 6/10/97 and 8/1/97
CASE NUMBER: 97-494-SPH
12240 Manor Road
W/S Manor Road, 450'+/- S of c/l Manor View Road
11th Election District - 6th Councilmanic
Petitioner: Legal Owner of Adjoining Property, Mary Pat Marzullo
Legal Owner: Peter Kahl

Special Hearing to determine whether the subject property, in an R.C.-4 zone, may be utilized for the breeding, raising and selling of reptiles.

HEARING MONDAY, SEPTEMBER 22, 1997 at 9:00 a.m., Room 407 Courts Building, 401 Bosley Avenue.

ARNOLD JABLON
DIRECTOR

cc: Michael J. Moran, Esq.
Leslie M. Pittler, Esq.

PLEASE NOTE THAT THE ZONING SIGN ON THE PROPERTY MUST BE ALTERED TO GIVE NOTICE OF THE ABOVE HEARING ON OR BEFORE SEPTEMBER 7, 1997 AND CERTIFICATION OF SAME FILED WITH THIS OFFICE. PLEASE CONTACT THE SIGN VENDOR USED FOR THE ORIGINAL POSTING.

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

October 23, 1998

NOTICE OF DELIBERATION

IN THE MATTER OF:
MARY PAT MARZULLO -PETITIONER (KAHL PROPERTY)
CASE NO. 97-494-SPH

Having concluded this matter after two days of hearing (namely, 9/09/98 and 10/23/98), the following date/time has been scheduled for deliberation of Case No. 97-494-SPH:

DATE AND TIME : TUESDAY, NOVEMBER 10, 1998 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

NOTE: CLOSING BRIEFS ARE DUE FROM COUNSEL ON FRIDAY, NOVEMBER 6, 1998 (Original and three [3] copies)

PLEASE NOTE: Deliberation is scheduled to begin at 9:30 a.m.

Kathleen C. Bianco
Administrator

cc: Appellant (Office of People's Counsel): Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire

Counsel for Appellant /Protestant : J. Carroll Holzer, Esquire
Appellant /Protestant (Petitioner) : Mary Pat Marzullo

Counsel for Property Owner : Michael J. Moran, Esquire
Property Owner : Peter Kahl
John B. Gontrum, Esquire

Phillip Mearig /Tally-Hi Farm

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

Copies to: K.C.B.

Printed with Soybean Ink on Recycled Paper

RE: PETITION FOR SPECIAL HEARING 12240 Manor Road, W/S Manor Road, 450'+/- S of c/l Manor View Road 11th Election District, 6th Councilmanic	*	BEFORE THE ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
Petitioner: Legal Owner of Adjoining Property, Mary Pat Marzullo	*	CASE NO. 97-494-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 30th day of May, 1997, a copy of the foregoing Entry of Appearance was mailed to Leslie M. Pittler, Esq., 29 W. Susquehanna Avenue, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

5/9/97 97-2230

. T

Y L

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

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

RE: Baltimore County 5.9.97
Item No. 494 J.C.M.

Dear Ms. Eubanks:

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 Larry Gredlein at 410-545-5606 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

LG

My telephone number is _____

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

Baltimore County Government
Fire Department

RECEIVED
MAY 13 1997
PDM

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

May 12, 1997

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 May 12, 1997
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.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

488, 489, 490, 491, 492, 493, 494, 495, 496, 497, and 499

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

cc: File

Printed on Recycled Paper

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

INTEROFFICE CORRESPONDENCE

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

Date: May 27, 1997

FROM: Robert W. Bowling, Chief RWB/DAK
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for May 19, 1997
Item No. 494

The Development Plans Review Division has received no plan for the subject zoning item.

RWB:HJO:jrb

cc: File

ZONE519.494

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: April 29, 1997

TO: Hearing Officer

FROM: Joseph C. Merrey
Planner I
Zoning Review, PDM

SUBJECT: Item #494
12240 Manor Road

This is a Protestant's Special Hearing. Certain documents were not available to include with the zoning file, e.g., site plan.

JCM:scj

Baltimore County
Department of Permits and
Development Management

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

May 29, 1997

Leslie M. Pittler, Esq.
29 W. Susquehanna Avenue, #610
Towson, MD 21204

Re: CASE NUMBER: 97-494-SPH
PETITIONER(S): Mary Pat Marzullo
LOCATION: 12240 Manor Road

Dear Mr. Pittler

The above matter, previously assigned to be hearing on June 10, 1997 has been postponed at your request.

Please be advised that as the individual requesting and receiving the postponement, the responsibility and costs associated with the appropriate posting of the property now lies with you. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. Enclosed you will find a listing of those vendors.

If the property has been posted with notice of the hearing date, as quickly as possible a notice of postponement should be affixed to the sign(s). Then, upon notification of the new hearing date, such sign (s) must be changed to give notice of the new hearing date.

Arnold Jablon
Director

cc: Mary Marzullo

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

November 26, 1997

Michael J. Moran, Esquire
401 Allegheny Avenue
Towson, MD 21204

RE: Petition for Special Hearing
W/S Manor Road, 450' S of the c/l of Manor View Road
(12240 Manor Road)
11th Election District
6th Councilmanic District
Mary Pat Marzullo - Petitioner
Case No. 97-494-SPH

Dear Mr. Moran:

Please be advised that an appeal of the above-referenced case was filed in this office on November 6, 1997 by Peter Max Zimmerman and Carole S. Demilio on behalf of the People's Counsel and on November 19, 1997 by Leslie M. Pittler, Esquire on behalf Mary Pat Marzullo. 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 410-887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:rye

c: People's Counsel

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

December 31, 1998

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

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: Civil Action No. 3-C-98-012834
MARY PAT MARZULLO

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on December 29, 1998, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-98-012834.

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,
Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

c: Mary Pat Marzullo
Phillip Mearig /Tally-Hi Farm
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co. Atty

Printed with Soybean Ink
on Recycled Paper

APPEAL

Petition for Special Hearing
W/S Manor Road, 450' S of the c/l of Manor View Road
(12240 Manor Road)
11th Election District - 6th Councilmanic District
Mary Pat Marzullo - Petitioner
Case No. 97-494-SPH

Petition for Special Hearing

Description of Property

No Certificate of Posting Found

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Protestants and Citizens Sign-In Sheets

Petitioners' Exhibits:
1 - Affidavit from Long Green Valley Association dated September 17, 1997
2A-G - Seven Photographs

Kahls' Exhibits:
1 - Plat of a Survey of Part of the Property of Joseph and Grace Campbell
2 - No Exhibit Found
3 - Holding Facility/Kennel/Wild Animal License #W-26
4 - Approved Rural Accessory Uses Farm Qualification Form
5 - Letter from Baltimore County Government to Peter Kahl dated November 25, 1996
6 - Copy of Building Permit #B-297790
7A-J - Ten Photographs
8 - Site Plan

Motion to Dismiss from Michael J. Moran, Esquire, on behalf of Peter A. Kahl to Zoning Commissioner of Baltimore County

Memorandum from Leslie M. Pittler, Esquire to the Zoning Commissioner of Baltimore County

Copy of Bill 51-93 - Mr. Ruppersberger - Agriculture dated May 17, 1993

Post Hearing Brief of Property Owner and Respondent Statement of the Case from Michael J. Moran, Esquire

Letter from Harold Spencer to Lawrence Schmidt, Zoning Commissioner, dated September 18, 1997

Letter from Edward W. Stuebing to Lawrence Schmidt, Zoning Commissioner dated September 23, 1997

Letter from Tammy Baran to Mr. Larry Carson dated September 24, 1997

Letter from George and Kimberly Stanton to Lawrence Schmidt, Zoning Commissioner, dated September 29, 1997

Letter from Sally M. Dugan to Arnold Jablon, Director, dated September 3, 1997

Letter from Michael P. McAdam, received September 30, 1997

Numerous Petitions Against the Building of a 10,000 Square Foot Warehouse for Raising and Selling Reptiles/Snakes

Zoning Commissioner's Order dated October 1997 (Denied)

Notice of Appeal received on November 6, 1997 from Peter Max Zimmerman and Carole S. Demilio on behalf of the People's Counsel

Notice of Appeal received on November 19, 1997 from Leslie M. Pittler, Esquire on behalf of Mary Pat Marzullo

c: Leslie M. Pittler, Esq., 29 W. Susquehanna Ave., Towson, MD 21204
Ms. Mary Pat Marzullo, 12244 Manor Road, Glen Arm, MD 21057
Michael J. Moran, Esquire, 401 Allegheny Avenue, Towson, MD 21204
Mr. Peter Kahl, 12240 Manor Road, Glen Arm, MD 21057
People's Counsel of Baltimore County, M.S. 2010
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM

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

November 5, 1997

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

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
12240 Manor Road, W/S Manor Road,
450'+/- S of c/l Manor View Road
11th Election Dist, 6th Councilmanic
Legal Owner: Peter Kahl
Petitioner: MARY PAT MARZULLO
Legal Owner of Adjoining Property
Case No. 97-494-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 October 21, 1997 of the Baltimore County Zoning Commissioner in the above-entitled case.

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

RECEIVED
[redacted]
PDM

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: Leslie M. Pittler, Esq., attorney for Petitioner Mary P. Marzullo

Michael J. Moran, Esq., attorney for Legal Owner Peter Kahl

Case No. 97-494-SPH

SPH -To determine if use of property to breed, raise and sell reptiles is permissible in R.C. 4 zone.

10/21/97 -Z.C.'s Order in which Petition for Special Hearing was DENIED; use of property to breed, raise and sell reptiles is permissible in R.C. 4 zone.

2/05/98 -Letter from J. Carroll Holzer, Counsel for Petitioner /Protestant, Mary Pat Marzullo, entering appearance on behalf of Petitioner. (Case not yet scheduled for hearing.)

4/10/98 - Notice of Assignment for hearing scheduled for Wednesday, June 17, 1998 at 10:00 a.m. sent to following:

Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
J. Carroll Holzer, Esquire
Mary Pat Marzullo
Michael J. Moran, Esquire
Peter Kahl
Phillip Mearig /Tally-Hi Farm
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

6/2/98 -Request for Postponement from J. Carroll Holzer, Esq. on behalf of Mary Pat Marzullo, Appellant /Protestant.

6/08/98 -Upon telephone conversations with M. Moran and S. Leese for C. Holzer, and verbal communication with the Office of People's Counsel, the above postponement request has been granted; matter to be reassigned to Wednesday, September 9, 1998, upon verification of availability of counsel; Notice of PP and Reassignment sent this date; case rescheduled to Wednesday, September 9, 1998 at 10:00 a.m.

9/09/98 -Hearing Day #1 (K.B.C.); continued for hearing day #2 to Friday, 10/23/98 (availability of all parties /witnesses confirmed this date); notice to be sent.

9/10/98 -Notice of Assignment /Day #2 sent to parties; assigned for Friday, October 23, 1998 at 9:30 a.m.

10/23/98 -Hearing concluded; closing memos due from counsel Friday, November 6, 1998; Notice of Deliberation sent to parties; deliberation scheduled for Tuesday, November 10, 1998 at 9:30 a.m. K.C.B.

11/05/98 -Memorandum of Petitioners filed by J. Carroll Holzer, Esquire, on behalf of Mary Pat Marzullo, et al.

11/06/98 -Memorandum of People's Counsel for Baltimore County filed.
Memo filed by Moran and Gontrum.
Board members advised that copies are here; B to pick up on Monday; C picked up two of three this date; K to pick up Monday since filing was late in afternoon.

11/10/98 -Deliberation concluded; Petition for Special Hearing GRANTED; operation is not a farm per definition of BCZR. Order to be issued. KCB

Mary Pat Marzullo 97-494-SPH
Civil Action No. 3-C-98-12834

April 27, 1997	Petition for Special Hearing filed by Leslie M. Pittler, Esquire, on behalf of adjoining property owner - Mary Pat Marzullo; to determine whether or not the Z.C. should approve in an R.C.-4 zone, the use of the site for the breeding, raising and selling of reptiles.
October 21	Order issued by the Zoning Commissioner in which the Petition for Special Hearing was DENIED; use of the site for the breeding, raising, and selling of reptiles is permissible in the R.C.4 zone.
November 6	Notice of Appeal filed by People's Counsel for Baltimore County.
November 19	2nd Notice of Appeal filed by L. Pittler, on behalf of Marzullo.
February 5, 1998	Entry of Appearance of Holzer on behalf of Mary Pat Marzullo.
September 9 October 23	Hearing Day #1 held by the Board of Appeals. Hearing Day #2 concluded by the Board of Appeals.
November 5	Memorandum of Petitioners filed by Holzer for Marzullo.
November 6	Memorandum of People's Counsel for Baltimore County filed.
November 6	Post Trial Brief of Property Owner and Respondent Peter A. Kahl, by Michael J. Moran, Esquire and John B. Gontrum, Esquire.
November 10	Public deliberation conducted by the Board of Appeals.
November 30, 1998	Opinion and Order issued by the Board; Petition for Special Hearing is GRANTED.
December 28	Petition for Judicial Review filed in the CCt for by Mike Moran, Esquire and John B. Gontrum, Esquire, on behalf of Peter A. Kahl.
February 24	Order issued by the Circuit Court granting Motion to Extend filed by Peter A. Kahl; record due March 31, 1999.
March 31, 1999	Record of Proceedings and transcript of testimony filed in the Circuit Court for Baltimore County.
Nov. 16, 1999	Opinion issued by Judge Turnbull; decision of the CBA is REVERSED
Dec., 1999	Appeal filed in the Court of Special Appeal by Holzer for Marzullo.
Dec. 26, 2000	Reported Opinion issued by the Court of Special Appeals; decision of the CCt is REVERSED with instruction to REMAND case to the CBA for further proceedings consistant with CSA's order.
Feb. 8, 2001	Order issued by the CCt (John G. Turnbull, II); case is REMANDED to the CBA for further proceedings consistant with CSA Order. -See 4/20/01 entry - a Writ of Certiorari was filed in the Court of Appeals per Angel Julio /CCt Appeals Dept.
March 27	Record of Proceedings returned by the CCt (contained in two brown wallets) to the Board for further proceedings as ordered by CSA.
April, 2001	Writ of Certiorari filed in the Court of Appeals (T/C from Angel Julio /CCt Appeals Dept.; she is to transmit the record by 4/27/01; she requests the CBA record be returned to the CCt.) CBA's Record of Proceedings hand-delivered to the CCt Appeals Dept. (see attached receipt signed by Frank DiGiacomo /CCt Appeals Dept.)
October 12 ✓E	Order issued by the Court of Appeals; Judgment of CSA REVERSED; case remanded to that court with instructions to reverse the judgment of the CCt for Balto Co and to remand case to the CCt with directions to AFFIRM the decision of the Board of Appeals.

Editing Csa table with form F: Record 36 of 66 Edit ▲=▼

Csa # 36

NAME: Marzullo, Mary Pat (Kahl Property)
CSA APPEAL: 12/15/99
BY WHOM: Holzer for Marzullo
DECISION: REVERSED/REMANDED
DATE: 12/26/2001
UP: X ◄

4/20/01 - T/C from Angel Julio / CCt - she is preparing the record to transmit same to the Court of Appeals.
-cer advised that the CBA record had been returned to the Board on 3/27/01 for further proceedings pursuant to the REMAND by the Ct. of Special Appeals.
-since we now know that a Writ of Certiorari was filed in the Court of Appeals; the record should be returned to the CCt to be included in the complete upper court record to be filed on 4/27/01.

PLEASE SIGN BELOW AS HAVING RECEIVED THE BOARD OF APPEALS RECORD IN THE MATTER OF

MARY PAT MARZULLO (KAHL PROPERTY)
CCt Civil Action No. 3-C-98-012834

Frank Di Giacomo

Circuit Court for Baltimore County
Appeals Dept.

ok
BJS

THE L.G.V.A. MANORVIEW COMMITTEE

October 22, 1997

Mr. Lawrence Schmidt
Zoning Commissioner
Court Building
401 Bosley Avenue
Towson, Maryland 21204

RE: Case Number 97-494-SPH
12240 Manor Road

Dear Mr. Schmidt:

Would you please see that the following people receive copies of your ruling concerning the boa constrictors and pythons. On the day of the hearing, they had to leave before having an opportunity to check their names on the list of protestants.

Patricia Salvo
5421 Sweet Air Road
Baldwin, MD 21013

Rosina Capizzi
5423 Sweet Air Road
Baldwin, MD 21013

Thank you,

The L.G.V.A. Manorview Committee

Bette -
Please
Send
to them

The L.G.V.A. MANORVIEW COMMITTEE

12244 Manor Road
Glen Arm, MD 21057

Telephone 410-592-3576

MEMO TO: **ALL BALTIMORE COUNTY RESIDENTS**

FROM: **The Long Green Valley Association Manorview Committee**

RE: **Boa Constrictors, Pythons and Other Reptiles**

Recently Baltimore County Zoning granted a zoning exception to a Glen Arm resident allowing this individual to build a 10,000 square foot warehouse for the purposes of breeding, raising and selling boa constrictors, pythons and possibly other reptiles. The problem is that this owner's property is zoned residential, and a zoning notice was never posted alerting residents about this commercial intrusion into our neighborhood. We feel very strongly that this was wrong and are asking for your support. How? By signing our petition and attending the zoning hearing.

Any help you can give us in dispersing this information, gathering signatures from people who live in Baltimore County, or rounding up people to come to the hearing would be **immensely appreciated!** We are told that **what really makes an impression on the zoning commissioners is a large community turnout at the zoning hearing** which is scheduled at 9:00 AM, September 22, 1997, Room 407 in the Courts Building at 401 Bosley Avenue, Towson, MD. If you are unable to stay for the hearing, you can stop by Room 407 in the Courts Building on the morning of September 22, 1997, to sign the record book. We can't emphasize enough how important a large turnout is.

While our petition is community specific, we feel very strongly that if the Zoning Administration allows this to take place in our community, then it could possibly happen in your community. The Zoning Administration and the Agricultural Land Preservation Board are supposedly trying to justify this decision by calling boa constrictors and pythons "farm animals," by calling this 10,000 square foot warehouse a "barn," and by issuing an exception that calls the property a "Reduced Acreage Farm." When the owner of this reptile business, purchased his home and land, 4.72 acres, approximately six years ago, the home and land were zoned residential. On this amount of land, Baltimore County regulations prohibit the building of another house, yet the Zoning Administration seems to be sanctioning the building of a 10,000 square foot **warehouse** on the 4.72 acres. Even though the owner of the reptile business received notice that a zoning hearing had been scheduled to protest the building of this structure, he continued to erect the warehouse. It has been erected as close as possible to neighbors' property lines. Neighbors, some who have lived in their homes for over 40 years, now have this potentially dangerous snake business at the end of their backyards. This operation is purely commercial as opposed to farming. The owner also advertises on the internet and says, "Visitors are welcome at his

new 10,000 square foot facility." This type of invitation can only increase traffic on Manor Road and increase traffic down a private residential lane in a residential neighborhood.

The owner breeds, raises, and sells these constrictors to pet stores, some zoos, and individual owners. Right now he has approximately 200 of these creatures confined in small cages in the basement of his house. It's hard to imagine how many a 10,000 square foot warehouse will hold.

There are also waste management and environmental issues. We believe natural springs run a few feet underneath the surface of his property, and the water from these springs flow directly into the Loch Raven watershed. If this is true, then when the cages of these cold-blooded creatures are washed out, the waste excreted by these reptiles, as well as any chemical that may be used to clean the cages, would have to go into the ground and eventually into Loch Raven watershed.

There is the issue of diseases. Some of these snakes are imported from foreign countries and can carry viruses and possibly strange diseases.

Just as important, this is a **commercial** business not a farming operation that has been placed in a **residential** community.

If this is something that you would not want to see in your neighborhood, would you please support us in our efforts to stop this from happening in our neighborhood? We need to send a strong message to the folks who work for Baltimore County that in order to sanction such a fundamental change to the fabric of any neighborhood in Baltimore County, the community's input is an absolute prerequisite and the well-being of all Baltimore County residents must be taken into consideration.

Won't you please support and help us by signing and returning the petition and, just as important, come to the zoning hearing?

Sincerely,

The L.G.V.A. Manorview Committee

P.S. Please sign, place in an envelope and return the petition to: The L.G.V.A. Manorview Committee, 12244 Manor Road, Glen Arm, MD 21057. We need the petition returned to us by September 20, 1997. Thanks for your help!

The L.G.V.A. MANORVIEW COMMITTEE

12244 Manor Road
Glen Arm, MD 21057

Telephone 410-592-3576

MEMO TO: **ALL BALTIMORE COUNTY RESIDENTS**

FROM: **The Long Green Valley Association Manorview Committee**

RE: **Boa Constrictors, Pythons and Other Reptiles**

Recently Baltimore County Zoning granted a zoning exception to a Glen Arm resident allowing this individual to build a 10,000 square foot warehouse for the purposes of breeding, raising and selling boa constrictors, pythons and possibly other reptiles. The problem is that this owner's property is zoned residential, and a zoning notice was never posted alerting residents about this commercial intrusion into our neighborhood. We feel very strongly that this was wrong and are asking for your support. How? By signing our petition and attending the zoning hearing.

Any help you can give us in dispersing this information, gathering signatures from people who live in Baltimore County, or rounding up people to come to the hearing would be **immensely appreciated!** We are told that **what really makes an impression on the zoning commissioners is a large community turnout at the zoning hearing** which is scheduled at 9:00 AM, September 22, 1997, Room 407 in the Courts Building at 401 Bosley Avenue, Towson, MD. If you are unable to stay for the hearing, you can stop by Room 407 in the Courts Building on the morning of September 22, 1997, to sign the record book. We can't emphasize enough how important a large turnout is.

While our petition is community specific, we feel very strongly that if the Zoning Administration allows this to take place in our community, then it could possibly happen in your community. The Zoning Administration and the Agricultural Land Preservation Board are supposedly trying to justify this decision by calling boa constrictors and pythons "farm animals," by calling this 10,000 square foot warehouse a "barn," and by issuing an exception that calls the property a "Reduced Acreage Farm." When the owner of this reptile business, purchased his home and land, 4.72 acres, approximately six years ago, the home and land were zoned residential. On this amount of land, Baltimore County regulations prohibit the building of another house, yet the Zoning Administration seems to be sanctioning the building of a 10,000 square foot **warehouse** on the 4.72 acres. Even though the owner of the reptile business received notice that a zoning hearing had been scheduled to protest the building of this structure, he continued to erect the warehouse. It has been erected as close as possible to neighbors' property lines. Neighbors, some who have lived in their homes for over 40 years, now have this potentially dangerous snake business at the end of their backyards. This operation is purely commercial as opposed to farming. The owner also advertises on the internet and says, "Visitors are welcome at his

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that *this is not a proper use of the land in an RC-4 (watershed) zoned area.*

Name	Address	Zip Code
1. Frome T Willen	11535 Falls Road	21093
2. [illegible]	11855 Falls Rd	21093
3. Emmett Cullen	4213 Manor Rd	21057
4. [illegible]	4213 Manor Rd	Glen Arm 21057
5.		
6.		
7.		
8.		
9.		

L.G.V.A. Manorview Committee
12244 Manor Road
Glen Arm, MD 21057

Tractor Trailer
Additional Presort 1930s
Postage Paid



USA 10

Emmett & Ida Collins

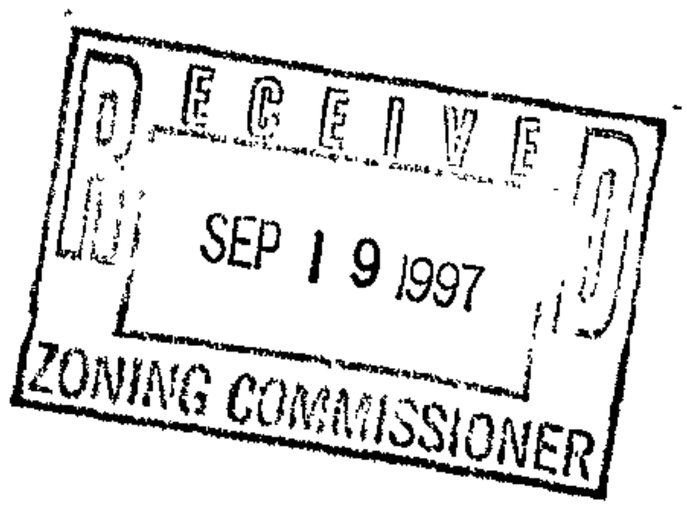
4213 Manorview Rd.

Glen Arm, MD 21057

SPENCER AND ASSOCIATES, INC.

To Service Your Complete Insurance Needs

9/18/97



Mr. Lawrence Schmidt
Commissioner
Baltimore County Zoning Board
New Court House
401 Bosley Avenue
Towson Md 21204

Dear Sir:

It was brought to my attention,a zoning exception was granted by your Department,permiting a 10,000 square foot building to be constructed,for the purpose of breeding and selling snakes, some of which are of a poisonous nature.

How your department saw fit to pass such an exception,is beyond me.Apparently there was little if any notification given to the local residents of this request for the change.

If this is the case,I feel those responsible in your department for sanctioning such an exception,should have their jobs terminated immediately.

If this sort of exception is passed in such a cavalier manner, what protection do we residents have for future decisions made by your Department.

I certain hope you and your Department will look long and hard,at the wisdom of this exception.The residents of Baltimore County,will long remember the outcome.

Yours truly

Harold Spencer

Harold Spencer

CC:
Mr. Ruppersberger
County Executive
Old Court House Mez Level
400 Washington Avenue
Towson Md 21204

1210 E. Joppa Road • Towson, Maryland 21286
410-321-9550 • FAX 410-321-9598

5/19/97
CB
TOG
OK

LESLIE M. PITTLER

ATTORNEY-AT-LAW

SUITE 610
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 823-4455

FACSIMILE
(410) 583-2437

May 19, 1997

Mr. Arnold Jablon
Director
Baltimore County Department of Permits
and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 97-494-SPH
12240 Manor Road

Dear Mr. Jablon:

The above captioned case is scheduled for a hearing before the zoning commissioner on Tuesday, June 10, 1997 at 9:00 a.m. I would respectfully request a postponement in this case. The reason for the postponement is due to the inability of several residents to attend on that date.

If your office could call me I would be willing to set an agreed upon date and will seek no further postponements. Thank you for your consideration in this matter.

Very truly yours,

Leslie M. Pittler

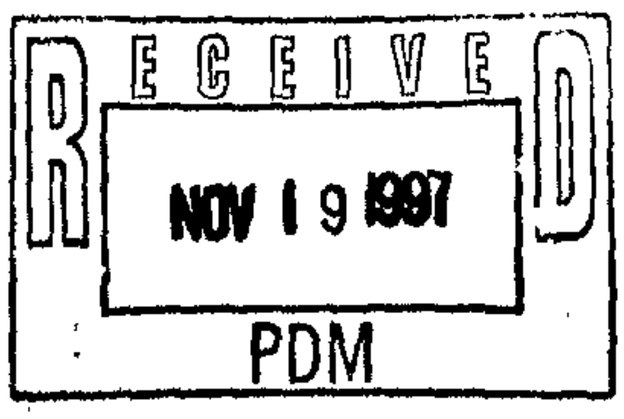
LMP/pgb

LESLIE M. PITTLER

ATTORNEY-AT-LAW

SUITE 610
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 823-4455

FACSIMILE
(410) 583-2437



November 17, 1997

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

Re: PETITION FOR SPECIAL HEARING
12240 Manor Road, W/S Manor Road,
450'+/- S of c/1 Manor View Road
11th Election Dist, 6th Councilmanic
Legal Owner: Peter Kahl
Petitioner: MARY PAT MARZULLO
Legal Owner of Adjoining Property
Case No. 97-494-SPH

Dear Mr. Jablon:

Please enter an appeal of Mary Pat Marzullo to the County Board of Appeals from the Order dated October 21, 1997 of the Baltimore County Zoning Commissioner in the above-entitled case.

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

Very truly yours,

Leslie M. Pittler

Mary Pat Marzullo
Petitioner Mary Pat Marzullo

cc: Peter Max Zimmerman, Esquire
Michael J. Moran, Esquire

97-2713

Michael J. Moran
Attorney at Law
401 Allegheny Avenue
Towson, Maryland 21204
(410) 828-4800
FAX (410) 337-0916

6/10/97
8
605

June 4, 1997

Department of Permits and Development Managment
Attn: Gwendolyn Stephens, Docket Clerk
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing: Peter Kahl
12240 Manor Road
Glen Arm, Maryland 21057

97-494-SPH

Dear Ms. Stephens:

Please enter the appearance of Michael J. Moran, Esquire on behalf of Peter Kahl in the above captioned matter.

I understand that Mr. Pittler, who represents the Petitioners, has requested a continuance in this matter to which we have no objection.

Very truly yours,

Michael J. Moran

MJM/tlk
cc: Zoning Commission of Baltimore County

RECEIVED
JUN - 6 1997
PDM

97-3586

Michael J. Moran
Attorney at Law
401 Allegheny Avenue
Towson, Maryland 21204
(410) 828-4800
FAX (410) 337-0916

7/21/97

July 16, 1997

Ms. Gwendolyn Stephens
Baltimore County Department of Permits
and Development Management
Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 97-494-SPH

Dear Gwen:

I have your notice of reassignment dated July 2, 1997. That notice reached me on July 9, 1997.

Based upon the prior representation that another case had been scheduled for the reassigned date in place of ours, both I and my client (as well as his witnesses) have made other arrangements which conflict with that date and time. I have spoke with Mr. Pittler about this conflict and he has authorized me to state that he does not oppose my motion for continuance. By the time you receive this, I should have already contacted you by phone and obtained several possible dates on which to reassign this case.

Very truly yours,

Michael J. Moran

MJM/tlk
cc: Leslie M. Pittler, Esquire

RECEIVED
JUL 18 [redacted]

Michael J. Moran
Attorney at Law
401 Allegheny Avenue
Towson, Maryland 21204
(410) 828-4800
FAX (410) 337-0916

7/25/97
0065
9

July 17, 1997

25 1997

Ms. Gwendolyn Stephens
Baltimore County Department of Permits
and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Peter Kahl Property
Case No. 97-494-SPH

Dear Gwen:

I just wanted to take a moment to confirm the fact that the referenced case has been pulled out of the August 1, 1997 date. Mr. Pittler has agreed to this request.

Also, Mr. Kahl as well as the witnesses he plans to call in his behalf have long standing business engagements during August which will take them out of the state. I have attempted to contact Mr. Pittler and explain the practical difficulties that our involved, from our stand point in scheduling a hearing at this time and I will continue to try to find a date for the hearing which will be agreeable to all parties. It would seem to me that due to the nature of the property owner's case that the case should be assigned for a full day as opposed to an afternoon. I am rather certain that the property owner's case will probably take at least one half day.

I appreciate your office bearing with us while we attempt to coordinate this matter.

Very truly yours,

Michael J. Moran

MJM/tlk
cc: Leslie M. Pittler, Esquire

Michael J. Moran
Attorney at Law
401 Allegheny Avenue
Towson, Maryland 21204
(410) 828-4800
FAX (410) 337-0916

RECEIVED
OCT 20 1997
ZONING COMMISSIONER

15 October 1997

Lawrence Schmidt
Zoning Commissioner of Baltimore County, Maryland
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: Peter Kahl Reptiles, Inc.

Dear Mr. Schmidt:

I enclose an exhibit referenced in the Property Owner and Respondent's Brief which was inadvertently omitted.

I regret any inconvenience.

Very Truly Yours,

Michael J. Moran

cc: Leslie M. Pittler, Esquire
Suite 610
29 Susquehanna Avenue
Towson, MD 21204

Enclosure

HOLDING FACILITY/KENNEL/STABLE/WILD ANIMAL LICENSE
BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
(410) 887-3630

BALTIMORE COUNTY LICENSE NO. 24-W VALID JULY 1, 2001 THRU JUNE 30, 2002

FEDERAL PERMIT NO. _____ EXPIRATION DATE _____

STATE PERMIT NO. _____ EXPIRATION DATE _____

****

OWNER INFORMATION:

PETER KAHL
12240 MANOR RD
GLEN ARM MD 21057

FACILITY INFORMATION:

same

TYPE OF FACILITY Wild Animal AVERAGE NUMBER OF ANIMALS AT THIS FACILITY 500

TYPES OF ANIMALS Boas & Pythons

****

WILD ANIMAL INFORMATION

COMMON NAME _____ ZOOLOGICAL NAME _____

PURPOSE FOR KEEPING WILD ANIMAL _____

IN CASE OF EMERGENCY NOTIFY: NAME _____ TELEPHONE NO. _____

ADDRESS _____ ZIP CODE _____

****

APPROVED [redacted] Charlotte Crenson-Turrow
DEPARTMENT OF HEALTH BUREAU OF ANIMAL CONTROL

DIRECTOR

July 12, 2001
DATE ISSUED

REV 3/97

THIS LICENSE MUST BE PUBLICLY DISPLAYED

WILD ANIMAL
ANNUAL PERMIT APPLICATION
LICENSE YEAR: JULY 1 THROUGH JUNE 30

DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 101
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3630

CHECKS PAYABLE TO "BALTIMORE COUNTY, MARYLAND"

Permit Fee:
May 1 to July 30- $ 80.00
After July 30- $140.00

Baltimore County Code, Title 6, Section 6-256

"No person shall keep or permit to be on his/her premises any wild animal {Defined as: "Any animal of a species that in their natural life are wild, dangerous or ferocious."} for any purposes whatsoever without the approval of the Bureau of Animal Control. Any application for a permit to keep a wild animal shall be accompanied by the appropriate state and federal permits where required. Upon approval, the licensing agent for the animal control agency shall issue said permit. This section shall not be construed to apply to zoological parks or research facilities.

Owner Name PETER KAHL **Phone No.** 410 592-9625

Owner Address 12240 MANOR ROAD GLEN ARM **Zip Code** MD 21057

Location Name SAME **Phone No.** SAME
(where animal(s) are kept, if different from owner's address.)

Location Address SAME **Zip Code** _____
(If different from owner's address.)

Mailing Name _____ **Phone No.** _____
(If different from owner's address.)

Mailing Address _____ **Zip Code** _____
(If different from owner's address.)

In Case of an Emergency Please Notify: Contact Name LUCY KAHL

Home phone No. 410 252-8663 Day Phone No. SAME

Address 36 SALT HILL CT TIMONIUM Zip Code 21093

Animal Species and Average Number of each Type Maintained at this Location: (be specific)

BOAS & PYTHONS 500

Where Animal(s) are/is kept: Owner's Dwelling___ Pet Shop___ Other BUILDING ON PROPERTY
(be specific)

Federal Permit No. _____ (If applicable) Exp. Date __/__/__ **State Permit No.** _____ (If applicable) Exp. Date __/__/__

Signature of Owner Peter Kahl **Date** _____

Animal Control Review (410-887-5961)

APPROVAL / DISAPPROVAL (Circle) C Creason Murray (Reviewer's Signature) 6-15-01 (Date Signed)

If disapproved, why? _____

Office Use Only

Permit No. 24-W **Date Received** 6/25/01 **Fee Received** 80.00

Cash Rcpt. No. B053793 **Cash Rcpt. Date** B053293 **Penalty Received** _____

Date Issued _____ **Date Entered** NOV 14 2001 **Initials** _____

REV 4/00

County Executive
Dennis F. Rasmussen
and the
Baltimore County Council

HOLDING FACILITY/KENNEL/WILD ANIMAL LICENSE

DEPARTMENT OF PERMITS & LICENSES
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
887-3630

STATE LICENSE # _____ FEDERAL LICENSE #PRT 747878

BALTIMORE COUNTY LICENSE # 118 DATE ISSUED: 11/20/91

OWNER	FACILITY
Peter Antony Kahl 12240 Manor Road Glen Arm, Maryland 21057	T/A MARYLAND REPTILE Peter Antony Kahl 12240 Manor Road Glen Arm, MD 21057

TYPE OF FACILITY: WILD ANIMAL

WILD ANIMAL INFORMATION

TYPE OF ANIMAL (Snakes)
Pythons & Boas

COMMON NAME:

ZOOLOGICAL NAME: Boidae

PURPOSE FOR KEEPING WILD ANIMAL:
breeding & research

IN CASE OF EMERGENCY NOTIFY: NAME Mike Kahl PHONE 937-4758

ADDRESS 616 Stone Wheel Court, 21108

APPROVED BY: _____ ISSUED BY: _____

VALID: JULY 1, 1991 thru JUNE 30, 1992

*** THIS LICENSE MUST BE PUBLICLY DISPLAYED ***

1454

WILD ANIMAL APPLICATION
BALTIMORE COUNTY ANIMAL LICENSING AGENCY
111 WEST CHESAPEAKE AVENUE · TOWSON, MARYLAND 21204
887-3630
July 1 to June 30

Baltimore County Code, Title 3- section 34 states: "No person shall keep or permit to be kept on his premises any wild animal (Defined as: Any animal of a species that in their natural life are wild, dangerous or ferocious.) for any purposes whatsoever without the approval of the bureau of Animal Control. Any application for a permit to keep a wild animal shall be accompanied by the appropriate state and federal permits where required. Upon approval, the licensing agent for the animal control agency shall issue said permit. This section shall not be construed to apply to zoological parks or research facilities."

OWNER NAME Peter Antony Kahl TELEPHONE # 592-9675.

ADDRESS 12240 MANOR RD ZIPCODE 21057.

TYPE OF ANIMAL Pythons & Boas NUMBER OF ANIMALS 20-30 Pythons 20-30 Boas.

COMMON NAME ZOOLOGICAL NAME Boidae.

PURPOSE FOR KEEPING A WILD ANIMAL: PET OTHER (specify) Breeding & Research

FEDERAL PERMIT # PRT 753298 PRT 747878 STATE PERMIT #

FEDERAL EXPIRATION DATE 4/30/92 9/28/92 STATE EXPIRATION DATE

IN CASE OF AN EMERGENCY PLEASE NOTIFY:

NAME MIKE KAHL TELEPHONE # 987-4758

ADDRESS 616 Stonewheel Ct. ZIPCODE 21108.

Please make check or money order payable to "BALTIMORE COUNTY, MARYLAND" and mail to the above address by July 30 , to avoid penalty fees.

FEE AMOUNT DUE: $50.00
ADDITIONAL PENALTY FEE DUE; (if renewed after July 31) $25.00

SIGNATURE OF APPLICANT Peter Kahl DATE 11/3/91.

BELOW LINE FOR OFFICE USE ONLY

DATE RECEIVED

AMOUNT RECEIVED $ 75.00 Cash slip receipt # DATE 11/20/91.

AMOUNT REFUNDED $ Direct payment # DATE

APPROVED ✓ NOT APPROVED
BY ANIMAL CONTROL: (Authorized Signature)

PERMIT # 118 DATE ISSUED

Dear Animal Control,

11-3-91

I am Applying for a wild animal permit for my business called Maryland Reptile. You issued me a wild animal permit on 9-14-88 and 89 for the breeding of pythons and boas when I lived at 28 Bristow Ct. Baltimore, MD 21234. I recently move here on Manor Rd. and would like to get a new permit. I currently hold a federal CBW permit # PRT 747878 and a federal designated port exception permit # PRT 753288.

I have been handling and breeding snakes for over fifteen years and feel the snakes get the best of care and are in a totally controlled environment. If you have any questions please call me at 592-9675.

Thank you,

Peter Kahl

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND LICENSES
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204
CASH SLIP RECEIPT

CK# 1601

No. A 125632

DATE Nov. 20, 1991

APPLICANT: Peter A. Kahl

APPLICANT'S ADDRESS: 12240 Manor Rd. 21057

CHECK ITEM	ITEMS	CODE #	FEE
	Abandoned Water Meter Applications	031-2874	
	Amusement Devices	001-2010	
✓	Animal Licenses (Wild Animal)	001-2540	75.00
	Animal License Penalties	001-3050	
	Bingo Applications	001-6070	
	Bingo Licenses	014-2012	
	Building Permit Applications	001-2510	
	Change of Occupancy	001-2520	
	County Financing Application	031-7120	
	Electrical Adm. Board Examination Fees	001-6090	
	Electrical Adm. Board Licenses	001-2210	
	Electrical Permits	001-2600	
	Fire Hydrant Meter	031-2869	
	Food Service Facility Permits	001-6770	
	Gas Permit Applications	001-2420	
	Mini Bike Registration	001-2670	
	Motel/Hotel Permits	001-6730	
	Parade Permits	001-2660	
	Percolation Tests	001-6750	
	Plumbing Board Licenses	001-2220	
	Plumbing Permit Application	001-6220	
	Public Swimming Pool & Bathing Beach	001-2410	
	Refuse Collectors' & Disposers' Permits	001-2350	
	Residential Parking Permits	001-2530	
	Septic Tank Permits	001-2430	
	Sewer Property Connection Applications	031-6051	
	Sewer Service Charge Pro-rated	030-6012	
	Sewer System Charge	031-6141	
	Storm Drain Connection	001-2440	
	Sub-soil Drain Installation	001-6220	
	Taxicabs	001-2040	
	Towing Vehicles License	001-2230	
	Trailer Camps	001-6710	
	Trailer Permits	001-2580	
	Wastewater Discharge	030-2630	
	Water Disbribution	032-6043	
	Water Meter Applications	031-6060	
	Water Meter Fee	031-2874	
	Water Surcharge	031-6151	
	Water System Charge	031-6151	
	TOTAL (Make check payable to Baltimore County, MD.)		75.00

04A04#0052AMJM
BA 001 19AM11-20-91

Description #118

DEPT OF PERMITS & LICENSES

BY: Karen Riley

White-Permits & Licenses
Yellow-Applicant
Pink-Collection & Receipts

Rev. -88

THIS IS NOT A PERMIT OR LICENSE AND
DOES NOT AUTHORIZE CONSTRUCTION OF ANY KIND
NO BUILDING OR PLUMBING PERMIT FEES REFUNDED

- If Peter Kahl Reptile has done everything that was required of him to build this building, then who is responsible for this error?

I feel that Peter Kahl's entreneurship is commendable. Another pitfall with his farm will have devastating consequences both emotional and financial. Please allow Peter Kahl Reptile to continue operations in the new building!

Thank you for your time!

Sincerely,

Michael P. McAdam

RECEIVED
SEP 30 1997
ZONING COMMISSIONER

LONG GREEN VALLEY ASSOCIATION

RESOLVED: That the position of the Long Green Valley Association as adopted by the Board of Directors on the zoning matter known as:

SPECIAL HEARING TO DETERMINE WHETHER THE SUBJECT PROPERTY IN AN R.C.4 ZONE MAY BE UTILIZED FOR BREEDING, RAISING & SELLING OF REPTILES. CASE NO. 97-494-SPH

is that:

The Association is Opposed to the granting of useage of said property for breeding, raising and selling of reptiles.

AS WITNESS OUR HANDS AND SEAL THIS 17th day of September, 1997.

ATTEST:

LONG GREEN VALLEY ASSOCIATION

Elizabeth W Pine
President

Carol L Gale
Secretary

Packet #34

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1993, LEGISLATIVE DAY NO. 8

BILL NO. 51-93

MR. C. A. DUTCH RUPPERSBERGER, III, COUNCILMAN

BY THE COUNTY COUNCIL, APRIL 19, 1993

A BILL ENTITLED

AN ACT concerning

Agriculture

FOR the purpose of amending the Zoning Regulations in order to define terms relating to agricultural uses; placing limitations on the stabling and pasturing of animals; providing certain height exceptions; providing requirements for farms in D.R. and R.C. 5 zones; repealing provisions dealing with satellite farms and farmettes; permitting a winery or bottled water plant by Special Exception in certain zones; and generally relating to farm and commercial agriculture activities in Baltimore County.

BY repealing

Section 101 - Definitions, the definitions of "farm", as that definition appears twice, "farm, satellite" and "farmette" and

Sections 1A02.2.A.4 and 1A04.2.A.4

Baltimore County Zoning Regulations, as amended

BY adding

Section 101 - Definitions, the definitions, alphabetically, of "Agriculture, Commercial" and "Farm" and Sections 100.6, 1A03.3.B.15 and 404.9 and 404.10

Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY repealing and re-enacting, with amendments

Sections 1A01.2.B.2., 1A01.2.C.24., 1A02.2.A.3., 1A03.3.A.2., 1A04.2.A.3., 1A05.2.A.4 and 7., and 300.1.a.

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final report, dated October 17, 1991, from the Planning Board concerning the subject legislation and held a public hearing thereon on March 10, 1992, now, therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 101 - Definitions, the definitions of "farm", as that definition appears twice, "farm, satellite" and "farmette", and Sections 1A02.2.A.4. and 1A04.2.A.4. of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed.

SECTION 2. AND BE IT FURTHER ENACTED, that Section 101 - Definitions, the definitions, alphabetically, of "Agriculture, Commercial" and "Farm" and Sections 100.6, 1A03.3.B.15 and 404.9 and 404.10 be and they are hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101 - Definitions

AGRICULTURE, COMMERCIAL: THE USE OF LAND, INCLUDING ANCILLARY STRUCTURES AND BUILDINGS, TO CULTIVATE PLANTS OR RAISE OR KEEP ANIMALS FOR INCOME, PROVIDED THAT THE LAND ALSO QUALIFIES FOR FARM OR AGRICULTURAL USE ASSESSMENT PURSUANT TO SECTION 8-209 OF THE TAX - PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED. COMMERCIAL AGRICULTURE INCLUDES THE PRODUCTION OF FIELD CROPS,

DAIRYING, PASTURAGE AGRICULTURE, HORTICULTURE, FLORICULTURE, AQUACULTURE, APICULTURE, VITICULTURE, FORESTRY, ANIMAL AND POULTRY HUSBANDRY, HORSEBREEDING AND HORSETRAINING AND ALSO INCLUDES ANCILLARY ACTIVITIES SUCH AS PROCESSING, PACKING, STORING, FINANCING, MANAGING, MARKETING OR DISTRIBUTING PROVIDED THAT ANY SUCH ACTIVITY SHALL BE SECONDARY TO THE PRINCIPAL AGRICULTURAL OPERATIONS.

FARM: THREE ACRES OR MORE OF LAND AND ANY IMPROVEMENTS THEREON, USED PRIMARILY FOR COMMERCIAL AGRICULTURE, AS DEFINED IN THESE REGULATIONS, OR FOR RESIDENTIAL AND ASSOCIATED AGRICULTURAL USES. THE TERM DOES NOT INCLUDE THE FOLLOWING USES AS DEFINED IN THESE REGULATIONS: LIMITED ACREAGE WHOLESALE FLOWER FARMS, RIDING STABLES, LANDSCAPE SERVICE, FIREWOOD OPERATIONS AND HORTICULTURAL NURSERY BUSINESSES.

Section 100 - ZONES AND DISTRICTS: BOUNDARIES

100.6 - A TRACT OF LAND USED FOR THE ACCESSORY STABLING AND PASTURING OF ANIMALS AND WHICH IS NOT A COMMERCIAL AGRICULTURAL OPERATION IS SUBJECT TO THE FOLLOWING PROVISIONS:

	LIMITATION:	MINIMUM ACREAGE
LARGE-LIVESTOCK: HORSES, BURROS AND CATTLE	1 ANIMAL FOR EACH ACRE OF GRAZING OR PASTURE LAND*	3
SMALL LIVESTOCK: SHEEP, GOATS AND PIGS, EXCEPT ASIAN POT BELLIED PIG (SEE SECTION 400) PONIES AND MINIATURE HORSES	2 ANIMALS FOR EACH ACRE OF GRAZING OR PASTURE LAND*	3
FOWL OR POULTRY: CHICKENS, DUCKS, TURKEY, GEESE	NO NUMERICAL LIMIT PROVIDED A NUISANCE IS NOT CREATED OR ALLOWED TO EXIST ON THE PROPERTY	1

*SUCKLING AND WEANLINGS UNDER 12 MONTHS OF AGE WILL NOT BE COUNTED.

SECTION 1A03 - R.C. 4 ZONES

SECTION 1A03.3.B. USES PERMITTED BY SPECIAL EXCEPTION.

15. WINERY AS AN AGRICULTURAL SUPPORT USE, INCLUDING ACCESSORY RETAIL AND WHOLESALE DISTRIBUTION OF WINE PRODUCED ON-PREMISES. TEMPORARY PROMOTIONAL EVENTS, SUCH AS WINE TASTING OR PUBLIC GATHERINGS ASSOCIATED WITH THE WINERY, ARE PERMITTED, WITHIN ANY LIMITS SET BY THE SPECIAL EXCEPTION.

SECTION 404 - FARM AND AGRICULTURAL OPERATIONS

404.9 FARMS LOCATED IN R.C. 5 AND D.R. ZONES ARE SUBJECT TO THE FOLLOWING REQUIREMENTS:

A. INTERNAL PERMANENT ROADWAYS WHICH PROVIDE ACCESS TO AND FROM FARM STRUCTURES SHALL BE LOCATED AT LEAST 25 FEET FROM ANY PROPERTY LINE OTHER THAN A STREET RIGHT-OF-WAY LINE;

B. ENVIRONMENTALLY CONTROLLED STRUCTURES SUCH AS GREENHOUSES, POTTING SHEDS, AND ACCESSORY AGRICULTURAL STRUCTURES SHALL BE LOCATED AT LEAST 50 FEET FROM ANY NEIGHBORING PROPERTY LINE, INCLUDING ANY RIGHT-OF-WAY LINE;

404.10 ALL ZONING VIOLATION CASES CONCERNING COMMERCIAL AGRICULTURAL OPERATIONS SHALL BE FORWARDED TO THE BALTIMORE COUNTY AGRICULTURAL LAND PRESERVATION ADVISORY BOARD FOR REVIEW. THE DIRECTOR OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT SHALL ALLOW THE BOARD A MAXIMUM OF 30 DAYS, BEFORE TAKING ACTION, TO COMMENT ON AN ALLEGED VIOLATION.

SECTION 3. AND BE IT FURTHER ENACTED, that Sections 1A01.2.B.2., 1A01.2.C.24., 1A02.2.A.3., 1A03.3.A.2., 1A04.2.A.3., 1A05.2.A.4 and 7., and 300.1.a. of the Baltimore County Zoning

Regulations, as amended, be and they are hereby repealed and re-enacted, with amendments, to read as follows:

Section 1A01-R.C. 2. (Agricultural) Zones

1A01.2.B. Uses Permitted as of Right.

2. Farms {, satellite farms, farmettes} and limited-acreage wholesale flower farms (see Section 404)

1A01.2.C. Uses Permitted by Special Exception.

24. The following "agricultural-support" uses AS PRINCIPAL COMMERCIAL USES:

a. Farm-machinery sales, storage, or service; blacksmithing

b. Feed or grain mills or driers

c. Fertilizer sales or storage

d. Sawmills

e. Slaughter houses or manufacture, processing, or packing of fruit, vegetables, animal, or meat products, or by-products

f. {Wine or} Spirits manufacture, including the manufacture of alcohol to be used in gasoline-alcohol mixtures, but excluding the production of these mixtures {(as a principal use)}

G. WINERY, INCLUDING ACCESSORY RETAIL AND WHOLESALE DISTRIBUTION OF WINE PRODUCED ON-PREMISES. TEMPORARY PROMOTIONAL EVENTS, SUCH AS WINE TASTINGS OR PUBLIC GATHERINGS ASSOCIATED WITH THE WINERY, ARE PERMITTED, WITHIN ANY LIMITS SET BY THE SPECIAL EXCEPTION.

H. BOTTLED WATER PLANT, IF THE SOURCE OF THE WATER IS LOCATED ON THE SAME SITE AS THE PLANT, AND PROVIDED THAT THE DIRECTOR OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT MAKES A RECOMMENDATION THAT THE PROPOSED FACILITY WILL NOT ADVERSELY AFFECT THE QUALITY OR CAPACITY OF SURFACE WATER OR GROUND WATER.

Section 1A02-R.C. 3 Zones

1A02.2.A. Uses Permitted as of Right

3. Farms {,} or {,} limited-acreage wholesale flower farms {,satellite farms}

Section 1A03 - R.C. 4 Zones

1A03.3.A. Uses Permitted as of Right

2. Farms {,} AND limited-{,}acreage wholesale flower farms {, satellite farms, and farmettes} (SEE SECTION 404)

Section 1A04 - R.C. 5 Zone

1A04.2.A. Uses Permitted as of Right

3. Farms {,} AND limited-acreage wholesale flower farms {,satellite farms}

Section 1A05 - R.C. 20 and R.C. 50 Zones

1A05.2 - Table of Land Use Regulations

	Zone	
	R.C. 20	R.C. 50
A. Natural Resources and Agricultural Uses		
4. Agriculture and agricultural uses including farms{, satellite farms, farmettes,} and limited-acreage wholesale flower farms, produce stands, farmers' roadside stands, subject to the provisions of Section 38-23 of the Baltimore County Code.	p	P
7. Aquaculture, including the construction and maintenance of necessary equipment, buildings and growing areas for the hatching, cultivating, planting, feeding, raising and harvesting of finfish, shellfish and other aquatic plants and animals.	{SE} P	P

Section 300--Height Exceptions

300.1.a.--The height limitations of these regulations shall not apply to barns and silos, GRAIN ELEVATORS OR OTHER ACCESSORY

AGRICULTURAL BUILDINGS, nor to church spires, belfries, cupolas, domes, radio or television aerials, drive-in theatre screens, observation, transmission or radio towers, or poles, flagstaffs, chimneys, parapet walls which extend not more than four feet above the limiting height, bulkheads, water tanks and towers, elevator shafts, penthouses and similar structures provided that any such structures shall not have a horizontal area greater than 25 per cent of the roof area of the building. A satellite receiving dish is subject to the height limitations of the zone in which the dish is located. However, in residential zones, the height of an accessory satellite dish may not exceed 15 feet, unless it is located on the roof of a building.

Section 4. And be it further enacted, that this Act shall take effect forty-five days after its enactment.

B05193/BILLS93

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF PETER A. KAHL *
12240 Manor Road *
Glen Arm, Maryland 21057 *

FOR JUDICIAL REVIEW OF THE DECISION OF * CIVIL
THE COUNTY BOARD OF APPEALS * ACTION
OF BALTIMORE COUNTY * No. 3-C-98-12834
Room 49, Old Courthouse, 400 Washing- *
ton Avenue, Towson, MD 21204 *

IN THE CASE OF: IN THE MATTER OF *
THE APPLICATION OF *
MARY PAT MARZULLO - Petitioner *
FOR A SPECIAL HEARING ON PROPERTY *
LOCATED ON THE WEST SIDE OF MANOR
ROAD, 450' SOUTH OF THE CENTERLINE *
MANOR VIEW ROAD (12240 MANOR ROAD)
11TH ELECTION DISTRICT *
6TH COUNCILMANIC DISTRICT *

CASE NO. 97-494-SPH *

* * * * * * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Kristine K. Howanski, Charles L. Marks, and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

No. 97-494-SPH

April 27, 1997	Petition for Special Hearing filed by Leslie M. Pittler, Esquire, on behalf of adjoining property owner - Mary Pat Marzullo; to determine whether or not the Zoning Commissioner should approve in an R.C.-4 zone, the use of the site for the breeding, raising and selling of reptiles.

FILED MAR 31 1999

	Certificate of Posting (not found)
May 22, 1997	Publication in newspaper.
May 30	Entry of Appearance filed by People's Counsel for Baltimore County.
June 6	ZAC Comments.
June 10	Hearing held on Petition for Special Hearing by the Zoning Commissioner.
October 14	Memorandum filed Leslie M. Pittler, Esquire, on behalf of Mary Pat Marzullo.
	Post Hearing Brief of Property Owner and Respondent and Motion to Dismiss filed by Michael J. Moran, Esquire, on behalf of Peter A. Kahl.
October 21	Order issued by the Zoning Commissioner in which the Petition for Special Hearing was DENIED; use of the site for the breeding, raising, and selling of reptiles is permissible in the R.C.4 zone.
November 6	Notice of Appeal filed by People's Counsel for Baltimore County.
November 19	2nd Notice of Appeal filed by Leslie M. Pittler, Esquire, on behalf of Mary Pat Marzullo.
February 5, 1998	Entry of Appearance of J. Carroll Holzer, Esquire, on behalf of Mary Pat Marzullo.
September 9	Hearing Day #1 held by the Board of Appeals.
October 23	Hearing Day #2 concluded by the Board of Appeals.
November 5	Memorandum of Petitioners filed by J. Carroll Holzer, Esquire, on behalf of Mary Pat Marzullo, et al.
November 6	Memorandum of People's Counsel for Baltimore County filed.
November 6	Post Trial Brief of Property Owner and Respondent Peter A. Kahl, by Michael J. Moran, Esquire and John B. Gontrum, Esquire.
November 10	Public deliberation conducted by the Board of Appeals.

November 30, 1998	Opinion and Order issued by the Board; Petition for Special Hearing is GRANTED; use of site for breeding, raising, and selling of reptiles is not permissible in the R.C.4 zone.
December 28	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Michael J. Moran, Esquire and John B. Gontrum, Esquire, on behalf of Peter A. Kahl.
December 30	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
December 31	Certificate of Notice sent to interested parties.
February 24	Order issued by the Circuit Court for Baltimore County granting Motion to Extend filed by Peter A. Kahl; record due to be transmitted no later than March 31, 1999.

Petitioner's Exhibit Nos.

1-Plat of Property (Previous Owner)
2-Permit for 5,000 sq. ft. 2/14/97
3-Permit for 10,000 sq. ft. 3/27/97
4-Photo of Bldg. under construction
5A-5L ~ Photos
A-Completed bldg. (Sept. 97)
B-Bldg. from house (6/98)
C-Office (8/98)
D-Office (8/98)
E-Office (8/98)
F-Hallway & rooms (8/98)
G-L -Misc. rooms in bldg.
6-Certification & Ag. Advisory Bd. 4/12/95
7-Ltr from Jablon to Kahl 11/25/96
8-Letter from C. Richards 4/16/97
9-Letter from Jablon to Kahl 4/25/97
10-Inspection receipts on bldg.
11-Letter to Kahl from L. Pittler 4/30/97 re Special Hearing
12-Certification of Authenticity of P.W. (2pgs); Application for Permit; Letter to Kahl from Jablon 11/25/96
12A-Plat of site of previous owner.
13-Bill 51-93 4/19/93
14-Profit or Loss from Farming (p. 2)

People's Counsel Exhibit Nos.

1-Definition of Commercial Agriculture & Farm (1991)
2-Md. Dept. of Assess & Tax. - Kahl Property

Protestant's Exhibit Nos. 1-Resolution -Manorview Com. (3 pgs)
2-Map of Balto. Co. - Location marked in red
3-Map of Manor View Rd. & subject properties.
4-Aerial map of B.Co vicinity
5A-F Photo of Kahl
G-H Photo of Kahl & S P
I-Z Photo of Kahl
5AA-5KK - Photos
6-Video of subject site & community
7-Internet Compilation of Kahl, Inc. (~~colored copy~~)
8-Photo of snake on ground

March 31, 1999 Transcript of testimony filed.

March 31, 1999 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Charlotte E. Radcliffe

Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Michael J. Moran, Esquire
John B. Gontrum, Esquire
J. Carroll Holzer, Esquire
People's Counsel for Baltimore County
Virginia W. Barnhart, County Attorney

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Mary Pat Marzullo -Petitioner (Kahl Property)
Case No. 97-494-SPH

DATE : Tuesday, November 10, 1998 @ 9:50 a.m.

BOARD /PANEL : Kristine K. Howanski, Chairman (KKH)
Charles L. Marks (CLM)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Bianco
Administrator

PURPOSE: To deliberate Case No. 97-494-SPH /In the Matter of Mary Pat Marzullo, Petitioner /Protestant; Peter Kahl - Property Owner. Hearing held on 9/09/98 and 10/23/98.

Those present at this deliberation included Michael Moran, Esquire, and John Gontrum, Esquire, on behalf of Property Owner; J. Carroll Holzer, Esquire, on behalf of Petitioners; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

KKH: We are here to deliberate Case No. 97-494-SPH, Mary Pat Marzullo, Petitioner; Kahl Property. Mr. Buchheister, will you start us off?

HEB: In this case Petitioners contend that the use of 4.7 acres of property owned by Peter Kahl was not permitted in an R.C. 4 zone because of the type of animal Mr. Kahl raises and keeps. The Zoning Commissioner disagreed and found that snakes like any other animal could be farmed and husbanded in the R.C. 4 zone; Mr. Kahl contends that he raises and keeps animals for eventual sale and practices animal husbandry on the property which he devotes to commercial agricultural. He asserts that neither the R.C. 4 zoning regulations nor definition of commercial agriculture regulates or restricts animals one may farm on 3 acres or more of land in R.C. 4 zone.

Initially raising the animals in his residence, Mr. Kahl prepared plans for 10,000 sq. ft. in which he could raise, breed and keep his animals in regulated and climatic conditions -- simulated natural conditions. After consultation with the County Department of PDM and a referral to the Agricultural Land Preservation Board as to whether the proposed use fits within the category "farm use" - the Board in April 1995 verified that the use proposed by Mr. Kahl was a legitimate farm use.

In November 1996 the Director of PDM instructed Mr. Kahl to

seek building permit application which was issued to build barn in February 1997. By mid-March, and the construction underway, 11 tons of steel were delivered to the site; by the end of April above ground walls were in place. He received a certificate of use and occupancy without opposition from the County.

There is disagreement as to what is meant by commercial agriculture and what constitutes a farm; what differentiates a domestic animal from a wild animal. Counsel for protestants argues that while the property contains 4.7 acres there is no use for agricultural purposes, nor for the raising of the animals dependent upon the acreage of R.C. 4 property, but solely on the facility itself. The building is not ancillary to the use of the land. Is this then a farm?

People's Counsel asserts that the building Mr. Kahl constructed at great expense may be legal as to bulk regulations, height, setbacks, area and location in the zone, but that the use is not permissible in the R.C. 4 zone. People's Counsel submits that the Kahl business falls within the definition of an animal boarding place as defined in 101 of the BCZR, and the use is not listed as agricultural use implied under zoning regulations and Bill 51-93.

Counsel for Mr. Kahl argues that they do not board any animals. That all of his animals are his own property. Testimony by Norman Gerber indicated that breeding and caring of snakes does not fit Class A boarding place for dogs, cats, etc., but a Class B for any other animals in a boarding place.

BCZR 270 sets forth that Class A and B animal boarding places are not a permitted or special exception use in the R.C. 4 zone. Paul Solomon testified that zoning regulations provide a place for boarding, breeding and selling of every animal. People's Counsel stresses that the County Council provided for Mr. Kahl's breeding operation as an animal boarding place. There is no reason that the Peter Kahl Reptiles, Inc. must operate on a farm; farm is permitted use in the R.C. 4 zone in which he lives. Agricultural activities in the BCZR relate to food production and pastures, Agricultural zones are land oriented for land preservation. As asserted by People's Counsel, Mr. Kahl could operate his business anywhere that the use and building is permitted, including in a commercial and manufacturing zone. Mr. Solomon believed that language of BCZR was as to breeding snakes; never contemplated as agricultural use.

In 1993, 51-93 was to define terms related to agricultural

uses; no expansion into snake breeding. The Planning Board reports preceding Bill 51-93 acknowledged the need to expand the definition of agriculture to include current activities. If breeding reptiles is appropriate expansion, the County Council should legislate addition under term "commercial agriculture" and not the Board of Appeals.

My inclination is that the Petition for Special Hearing should be granted and the breeding, boarding and selling of reptiles should be prohibited. My inclination is that. However, I sense some confusion in this discussion on the part of the County in giving tentative approval in 1995 and 1996 when Mr. Kahl first sought approval for his business.

Not clearly understanding, I have to admit, the application of all case law cited by counsel for Mr. Kahl, and my comprehension of the doctrine of estoppel to this case, as well as vested rights under the Constitution in this time of public deliberation, I shall reserve judgement until I have heard from my colleagues in this deliberation.

KKH: Before going forward, your inclination -- before you got to the part that the County was confused -- I want to hear that again --

HEB: My inclination is that the Petition for Special Hearing should be granted and the breeding, boarding and sale should be prohibited.

KKH: So you are saying, it should be prohibited?

HEB: Correct.

CLM: Before I read the briefs, I read my notes and I reviewed all exhibits and evidence and applicable statutes that come into reference in this case, and re-read them several times -- basically because this is a very important case -- primarily because we have a property owner, Mr. Kahl, who has spent a great deal, a great amount of time and finances and developed a first-class facility. He pursued a hobby, which most of us have, but the hobby is to make a livelihood -- not only locally but worldwide. Limited to boas and pythons.

Conversely, nearby residents have raised legitimate questions concerning zoning -- coupled with fear of snakes escaping, causing damage or harm.

Factually, it's not a difficult case; is one without argument in which Mr. Kahl purchases boas and pythons; none are

venomous; breeds them; marketed worldwide. Based on photos and operation, is a Class A-1 operation. Frankly, from what I saw, the care and attention given to the animals is probably better than most medical facilities available.

The real problem is property usage relative to the zone -- 4.7 acres owned by property owner is R.C. 4; R.C. 4 zones are tightly regulated to protect watershed and agricultural integrity of the land.

Mr. Kahl owns residence on the property; at one time he had operation that came out in testimony -- was raising and breeding snakes in his residence and because he had expertise -- was told to construct building which is the source of this hearing. The photos admitted into evidence by Mrs. Marzullo and the video tapes clearly represented the Kahl residence and building -- borders single-family houses -- all of a higher priced commodity surrounded by animal farms.

Evidence that no one knew of the use as a business until Mr. Kahl began construction of the reptile building. Mrs. Marzullo acknowledged she had no awareness of what did take place in the building until it started to go up; unnamed neighbor visited Baltimore County, saw permit, and called her. We have in evidence two permits given by Baltimore County -- Respondent's #2 February 14 calling for 5,000 sq. ft. and the second on March 27 which called for same footprint but 10,000 sq. ft. as to construction of building.

We need to assume the community first had knowledge from time around March 27th -- as Mrs. Marzullo acknowledged; no knowledge factually of what went on in the building prior thereto when he used his residence.

Reviewed testimony of Mr. York who began work in February 1997 and finished his portion in April 1997; excellent witness; work accurately documented.

Reviewed actions taken by Mr. Kahl in pursuit of permits; applied to PDM in 1994 while in the residence for holding facility wild life license. In 1995 requested farm qualification of the Manor Road property; prompted inquiry from Arnold Jablon to Wally Lippencott as to verifying farm use of property. Usage approved April 12th meeting by Ag Land Pres Board and verified to A Jablon; 7 months later property owner requested from PDM an exemption under 26-171(a)(7) and was granted by DRC letter dated November 26th from Arnold Jablon to Mr. Kahl; no Hearing Officer hearing; no community input meetings required. In February 1997 first permit was

issued to construct reptile barn, 5,000 sq. ft. Discrepancy as to water and sewer between license and application - no attempt was made by the property owner to deliberately lie about public water and sewer -- someone made a mistake; do not think it was Mr. Kahl.

Two permits issued to construct reptile barn on the property. First indication of problems was on April 19, 1996 when Carl Richards of PDM wrote to Mr. Kahl and noted complaints about the snake farm; acknowledged that PDM accepted recommendations from Ag Pres Board; issued permit accordingly; indicated in letter 500.7 concerning special hearing which might be required to determined ultimate use of property.

At that time building was 45 percent complete; building permit was appealed by Mrs. Marzullo; this Board determined that only applicant may appeal under statute and dismissed appeal.

Reviewed application in July 1994 when permit was issued for holding facility followed by 1995 request re farm statute; limited exemption by DRC that precluded Hearing Officer hearing; first knowledge of community.

In my opinion this is a case where the best interests of all parties would best have been served by CIM - had it been held and suspicions of residents could have been heard and Mr. Kahl advised of need for special hearing. Facts remain he was put on notice for special hearing in 1997; property owner went forward at his own peril.

Question -- is property used as a farm pursuant to zoning regulations and as defined in Section 101. Reviewed testimony of two expert witnesses: Paul Solomon and Norman Gerber. Mr. Holzer and People's Counsel offered number of witnesses; testimony all the same. Safety issue; described property and business; all interesting but I was almost knocked off my chair when Mr. Emmett said he had been a resident for 32 years; in proximity to another property which had snakes; no one had raised this and I wonder why.

While I believe the Zoning Commissioner's opinion and Order to be quite convincing and scholarly, elements heard here were missing from Zoning Commissioner's hearing. Based on this hearing which was de novo, I have mixed reactions.

Obviously business was growing; cited differences in 1994 license and request in 1995 as to farm use. Application filed indicates that a special hearing might be required before the Zoning Commissioner. I believe a reasonable and prudent man

would have consulted an attorney had he seen the terminology on that form. Maybe the letter should have been written more clearly, but the fact remains it was there and cautions should have been exercised.

Cited granting of limited exemption; neighbors had no knowledge; permits issued; concerns raised after issuance of second permit.

Reviewed definitions in Webster's and as to farm and domestic animals; wild animal definition; defined pet shop.

In my view, Zoning Commissioner adopted narrow view; not criteria this Board heard. Must be land based; present usage does not depend on the land. Nowhere is it dependent upon food in conjunction with the land; Webster's definition relates to domestic animals; in my view, it appears to disqualify snakes.

While property owner has adopted utmost security, I have to conclude that Boas and Pythons are still wild animals and would revert to wild nature if not adequately fed. Would react if provoked or felt that prey was a good meal. I agree with the plain meaning of statutory construction; agree with People's Counsel's argument that you need to examine the entire statutory scheme and not one provision in isolation.

I take the more narrow road in my interpretation. If the law is to be rewritten, the place is in the County Council chambers; probably is a proper facility in an improper place, and accordingly, I would grant the special hearing.

KKH: I agree with you. What I looked at was basically the commercial agriculture; what that was; and I have to agree when you look at that -- statute in some isolation -- you just see breeding and raising of animals is income. That would seem to me to be a little more ambiguous and nebulous than I was comfortable with. Seemed to include this operation.

Even in context of the definition itself, there's the use of land, including ancillary structures and buildings; raise and keep animals for income. There is the question --if you are using the land by putting a building on it; then every structure in America uses the land.

In that respect, I was persuaded by Mr. Solomon; when he looked at uses and then at expanded uses. Notion was it was primarily providing service to local residents and so forth; business is actually national and perhaps international in

scope.

I share everyone's discomfort in this case; agree with Mr. Marks -- if evaluating the facility, I would give Mr. Kahl's facility an A. It's clear he spend a great deal of time and money; finessing the CIM may have done a disservice to both sides. Regarding equitable estoppel issues, this Board does not have power to make those kinds of decisions in any case; we are not in a position to offer equitable estoppel or anything of that sort; we are confined to simply examining whether or not we can grant in this instance a special hearing.

I though Mr. Marks' comments were instructive in this regard; facts were not heavily disputed; we are not permitted to explore harm to neighbors and so forth. It turns on whether or not this is the kind of use contemplated, and I do share your opinion Mr. Marks at this juncture that when you look at the definition of farm coupled with definition of agricultural /commercial, and in turn to dictionary definition of animal husbandry, you are left with a narrowing of animals in that instance to domestic animals -- and there are lots of animals that people could maintain at home; that does not make them domestic animals at that point. Snakes do remain wild animals; I'm not disparaging of Mr. Kahl's operation; but they do remain wild animals. The fact that he has them under good control is a tribute to the quality of his operation and not the domestic nature of the animals in questions.

With that understanding, I would have to concur with Mr. Marks. I find it regrettable we are here at this stage.

HEB: I concur with you; the special hearing should be granted.

CLM: I have on additional comment -- I was distressed when I heard from a neighbor that there are other snakes in a barn; no protection; no security. I have no idea of the kind of snakes they are; a very unprotected operation. I am concerned why the community has gone after this one individual. Neighbors talk; if snakes are in another barn they must be aware of it. I question why this action against this individual.

During the entire course of the proceeding, if it were left up to me, I do not see a thing wrong with the barn and its location. I am concerned about what type of snakes are in that other barn; are they poisonous; are they truly dangerous. I am upset about that. That's my comment.

KKH: I do understand that. It's not in our province. I was

flabbergasted when I heard the scope of the snakes and other reptiles in that particular barn, but that is not for us to decide today.

I am sure everyone will take solace in the fact that wiser people upstairs will be making further decisions in this case. I believe you did cover estoppel issues adequately for our purposes.

This Board is unanimous in terms of where we are on the special hearing; we will issue an opinion confined to the special hearing and not get into the estoppel issues.

We will be issuing that opinion as quickly as we practically can. Anyone feeling aggrieved will have 30 days from that date to file an appeal.

****

NOTE: These minutes serve as verification that the subject case was publicly deliberated and will be included as part of the subject file; that the Petition for Special Hearing filed by Mary Pat Marzullo was granted.

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco

PROTESTANTS

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Patricia L. Salvo	5421 Sweet Air Rd
Joseph C. Salvo, Sr.	5421 Sweet Air Rd
Charles D. Schaaf Jr	12148 MANOR RD
Edward F. Smetana	13109 MANOR RD
Mildred Smetana	13109 Manor Rd
Albert L Mairs	5001 Sweet Air Rd
Joseph Bowen	3147 Greenwood Ave
Mary Mooney	100 Hyntwood Cir. 21228
[redacted]	[redacted]
Shirley Martin	4210 Manorview Rd 21057
Ida Collins	4213 Manorview Rd Glen Arm 21057
FRANCIA FAUST STEVENS	206 DEERFOOT LANE 21093
Ernest Collins	4213 Manorview Rd Glen Arm
[redacted]	[redacted]
Edward Martin	4210 MANORVIEW Rd 21057
Rowland Ryasheventa	4310 Meadowcliff Rd 2105.
John G. Stevens	206 Deerfoot Lane, TIMONIUM MD
Johanna M Bowers	12302 Woodcrest Lane Glen Arm 21092
Margaret Merci	12402 Woodcrest Lane Glen Arm 21057
John Merci Jr	12407 Woodcrest Lane Glen Arm 21057
Ed Gibbons	13815 Pleasantville Rd. Baldwin 21013
Mary Pat Margulis	12244 Manor Road, Glen Arm, MD
Lisa C. Trask	4217 Manorview Road - Glen Arm, Md 21057
Catherine P. Carter	4809 Long Green Rd. 21057
John & Edwards	531 WYNGATE RD 21093

E935000

E25500

R. C. 4

MANOR

VIEW

ROAD

R. C. 2

R. C. 4

SITE

PRIVATE

POND

ROAD

R. C. 2

R. C. 4

R. C. 5

97-494-
SPH

NE15-E

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

	Name	Address	Zip Code
1.	Matt Mazullo	36 Lyrkle Ave	21236
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

	Name	Address	Zip Code
1.	Clarence W. Clawson Jr.	13400 MANOR RD. BALDWIN, MD. 21013	
2.	Kenneth L. Clawson	13400 Manor Rd Baldwin, MD 21013	
3.	Mary Lou Clawson	13400 MANOR RD. BALDWIN, MD 21013	
4.	Teresa E. Kotelen	46 Dendron Ct. Parkville, MD. 21234	
5.			
6.			
7.			
8.			
9.			

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

Name	Address	Zip Code
1. Bill Wolfe & wife Ingrid		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

	Name	Address	Zip Code
1.	Earl Wagner	4200 Manor Rd Glenarm Md	21057
2.	Beatrice C. Wagner	4200 Manor Rd Glenarm Md	21057
3.			
4.			
5.			
6.			
7.			
8.			
9.			

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

	Name	Address	Zip Code
1.	Regina N. Ferry	5628 Wms Rd, Hydes, Md.	21082
2.	John Ferry	5628 Williams Rd. Hydes, Md.	21082
3.	John P Powell	5700 WILLIAMS Rd HYDES MD	21082
4.	Diane H Powell	5700 Williams Rd Hydes Md	21082
5.			
6.			
7.			
8.			
9.			

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

	Name	Address	Zip Code
1.	Thos F. Griffith	12703 Wilson Ave - Fork, Md	21051
2.	Joan A. Griffith	12703 Wilson Ave - Fork, Md	21051
3.			
4.			
5.			
6.			
7.			
8.			
9.			

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

Name	Address	Zip Code
1. [illegible]	13558 Ink Rd Baldwin	21013
2. [illegible]	13558 Ink Rd. Baldwin Md	21013
3.		
4.		
5.		
6.		
7.		
8.		
9.		

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

Name	Address	Zip Code
Milton C. Brundage, & A. Betty A. Pippin	13009 Fork Rd, Baldwin, Md.	21013

1. Harry F. Pippin 13009 Fork Rd. Baldwin, Md. 21013
2. Betty A. Pippin 13009 Fork Rd, Baldwin, Md. 21013
3. _____ _____
4. _____ _____
5. _____ _____
6. _____ _____
7. _____ _____
8. _____ _____
9. _____ _____

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

	Name	Address	Zip Code
1.	[illegible]	13103 MANOR RD.	21057
2.	[illegible]	13101 Manor Rd	21057
3.			
4.			
5.			
6.			
7.			
8.			
9.			

PETITION AGAINST THE BUILDING OF A 10,000 SQUARE FOOT WAREHOUSE FOR RAISING & SELLING REPTILES/SNAKES

We the Undersigned are opposed to the issuance of a building permit and granting of an exception to the owner of 4.7 acres of land in Glen Arm, Maryland to build a 10,000 square foot warehouse for the raising and selling of boa constrictors and pythons and other snakes. To allow commercial interests of this type could supplant neighborhood safety, water quality of the community and watershed area, and the protection of our property values, thus we believe such use should not be allowed. The fact that this was done without notice to the community makes this all the more egregious. We also believe this type of commercial venture will detract from and deteriorate the rural character of Manor Road. We strongly believe that this is not a proper use of the land in an RC-4 (watershed) zoned area.

	Name	Address	Zip Code
1.	Mimi Y. Bosley	13111 MANOR ROAD GLEN ARM	21057
2.	Barbara Schubach	4814 Horse Hill Rd, Baldwin	21013
3.	Fred Schubach	4814 Horse Hill Rd Baldwin	21013
4.			
5.			
6.			
7.			
8.			
9.			

Petitioner No 1

LONG GREEN VALLEY ASSOCIATION

P.O. Box 91 Baldwin, Maryland 21013

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 of the Long Green Valley Association.

Sept 17, 1997 — Katherine A Gabriel
Date — **LONG GREEN VALLEY ASSOCIATION**

ATTEST:

Charlotte W Lowe
President

Carol J Gabriel
Secretary

DATE: Sept 17, 1997

Baltimore County
Department of Permits and
Development Management

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

10 Reg. Sch #8

April 16, 1997

Mr. Peter Kahl
12240 Manor Road
Glen Arm, MD 21057

RE: Reptile Barn on Farm
12240 Manor Road
Permit #B-294783; Issued 3/27/97

Dear Mr. Kahl:

Please be advised that this office has received a number of complaints about the permit issued for your barn in which you have established your snake business.

As you know, it is the policy of this office to accept the recommendation of the Agricultural Preservation Board, which has the expertise and knowledge where proposed uses fit within the category of "farm use". Your permit was approved pursuant to its recommendation.

However, the zoning regulations provide by Section 500.7 for any citizen to file a petition for special hearing for an interpretation whether a particular property is being used appropriately. While no such petition has yet to be filed, the purpose of this letter is to notify you of the complaints and the possibility of a petition being filed. The special hearing would be held before the Zoning Commissioner of Baltimore County, who would conduct a public hearing, notice of which would be posted on your property (as required by law) and advertised. The hearing is quasi-judicial, at which you and those who filed the petition would testify and present evidence. At the conclusion of the hearing, the zoning commissioner would render a decision. An appeal to the County Board of Appeals could ensue if there is disagreement with the decision, subject to further appeal to the courts.

If a petition is filed, the community would have the opportunity to voice their objections and you will be notified by this office. If you have any questions, please feel free to call me at 410-887-3391.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

AJ:WCR:scj

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Department of Permits and
Development Management

Permits and Licenses
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3900
Fax: (410) 887-2824

Respondent Exh #9

April 25, 1997

Mr. Peter Kahl
12240 Manor Road
Glen Arm, MD 21057

Re: Building Permit
No. B297790
12240 Manor Road
11th Election District

Dear Mr. Kahl:

Please be advised that an appeal of the above-referenced building permit was filed in this office on April 25, 1997 by Leslie M. Pittler, Esquire, on behalf of J. Gary Bowers and Mary Pat Marzullo, and other interested members of the community. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:nmn

Printed with Soybean Ink on Recycled Paper

Real Property Information

Maryland Department of Assessments and Taxation
Real Property System

[Go Back] **BALTIMORE COUNTY** [Start Over]

District: 11 Acct No: 2200008105

Owner Information

Owner Name: KAHL PETER A
Use: Residential

Mailing Address: 12240 MANOR RD
GLEN ARM, MD 21057-9528
Principal Residence: YES

Transferred From: CAMPBELL JOSEPH L
Date: 04/08/91 Price: $210000

Deed Reference: 1) 0/8752/ 250
2) 0/ /
Potential Tax Liability: * NONE *

Tax Exempt: NO
Class:

Location Information [View Map]

Premise Address: 12240 MANOR RD
00000-0000
Zoning:

Legal Description:
4.716 AC
NWS MANOR RD
300FT S OF MANORVIEW RD

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat Num:
53	15	193					82	Plat Ref: /

Special Tax Areas Town:
Ad Valorem:

Primary Structure Data

Year Built	Enclosed Area	Property Land Area:	County Use
1965	1912 Sq Ft	4.710 acres	04

Value Information

	Base Value	Current Value As Of 01/01/97	Phase-In Value As Of 07/01/99	Phase-in Assessments As Of 07/01/98	Phase-in Assessments As Of 07/01/99
Land:	96010	95970			
Impts:	180020	199250			
Total:	276030	295220	295220	115520	118080
Pref Land:	0	0	0	0	0

Partial Exempt Assessments

	Code	07/01/98	07/01/99
County	000	0	0
State	000	0	0
Municipal	000	0	0

[Go Back] [Start Over]

P.C. Exh #2

Rept # 2

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

DIRECTOR

BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B294783 CONTROL #: MR DIST: 11 PREC: 01
DATE ISSUED: 02/14/97 TAX ACCOUNT #: 2200008108 CLASS: 04

PLANS: CONST 2 PLOT 5 R PLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 12240 MANOR RD
SUBDIVISION: 2100 S GRNSPRG VALEY RD

OWNERS INFORMATION
NAME: KAHL, PETER
ADDR: 12240 MANOR RD

TENANT:
CONTR: ADVANCED BLDG STRUCT
ENGNR:
SELLR:
WORK: CONST REPTILE BARN ON REAR OF PROPERTY.
100'X50'X18'=5,000SF. BLUE MAX CONCRETE
CONSTRUCTION.

BLDG. CODE: 1 AND 2 FAM. CODE
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

ESTIMATED $ PROPOSED USE: SFD + BARN
100,000.00 EXISTING USE: SFD

TYPE OF IMPRV: NEW BULDING CONTRUCTION
USE: OTHER - RESIDENTIAL
FOUNDATION: CONCRETE BASEMENT: NONE
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 4.7165AC
FRONT STREET:
SIDE STREET:
FRONT SETB: 60'
SIDE SETB: 173'/65'
SIDE STR SETB:
REAR SETB: 80'

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

Rcpt #3

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

DIRECTOR

BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B297790 CONTROL #: MR DIST: 11 PREC: 01
DATE ISSUED: 03/27/97 TAX ACCOUNT #: 220000815 CLASS: 04

PLANS: CONST 2 PLOT 5 R PLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 12240 MANOR RD
SUBDIVISION: 2100 S GRNSPRG VALEY RD

OWNERS INFORMATION
NAME: KAHL, PETER
ADDR: 12240 MANOR RD

TENANT:
CONTR: ADVANCED BLDG STRUCT
ENGNR:
SELLR:
WORK: CONST REPTILE BARN ON REAR OF PROPERTY.
100'X50'X28'6"=10,000SF. BLUE MAX CONCRETE.
REVISION - CHANGE IN CONSTRUCTION.
NO CHANGE IN FOOTPRINT OR LOCATION.
EXPIRES 2/14/98

BLDG. CODE: 1 AND 2 FAM. CODE
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

ESTIMATED $ PROPOSED USE: SFD + BARN
200.000.00 EXISTING USE: SFD

TYPE OF IMPRV: NEW BULDING CONTRUCTION
USE: OTHER - RESIDENTIAL
FOUNDATION: CONCRETE BASEMENT: NONE
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 4.7165AC
FRONT STREET:
SIDE STREET:
FRONT SETB: 60'
SIDE SETB: 173'/65'
SIDE STR SETB:
REAR SETB: 80'

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

Kahl # 3

HOLDING FACILITY/KENNEL/WILD ANIMAL LICENSE
DEPARTMENT OF PERMITS & LICENSES
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
887-3630

STATE LICENSE # _____ FEDERAL LICENSE _____

BALTIMORE COUNTY LICENSE # W-26 DATE ISSUED: July 12, 1994

OWNER	FACILITY
Peter Kahl 12240 Manor Road Glen Arm, MD 21057	Peter Kahl Reptiles 12240 Manor Road Glen Arm, MD 21057

TYPE OF FACILITY: wild animal

WILD ANIMAL INFORMATION

TYPE OF ANIMAL snakes COMMON NAME: boas & pythons

ZOOLOGICAL NAME: boidae PURPOSE FOR KEEPING WILD ANIMAL: research & breeding

IN CASE OF EMERGENCY NOTIFY: NAME Mike Kahl PHONE 987-4758

ADDRESS 616 Stone Wheel Court, 21108

APPROVED BY: David DeGrange ISSUED BY: _____

VALID: JULY 1, 19 94 thru JUNE 30, 1995

*** THIS LICENSE MUST BE PUBLICLY DISPLAYED ***

Kahl #4

RURAL ACCESSORY USES

Reference S. 400, 101, 404.2

BALTIMORE COUNTY, MARYLAND

TO BE SUPPLIED BY THE APPLICANT

INTER-OFFICE CORRESPONDENCE

TO Wallace S. Lippincott, Jr.
Program Administrator
Agricultural Preservation Program
Department fo Environmental Protection
and Resource Management (DEPRM)

Date 4-5-95

FROM Mr. Arnold Jablon, Director (WCR/JJS)
Zoning Administration and
Development Management

SUBJECT FARM QUALIFICATION

Election District 11

Owner: PETER KAHL

Phone # 592-9675

Addess: 12240 MANOR RD.
GLEN ARM, MD 21057

Tax Account Number 22 00 00 81 05

This office is officially requesting verification of the legitimacy of a farm use on the referenced property. In the judgement of the Director and/or the Zoning Commissioner, in consideration of your findings, a special hearing may be required before the Zoning Commissioner prior to any zoning approvals. We are submitting a copy of:

the proposed lot
the deed to the property
the state tax map for that area — map ____ block ____ parcel ____

We appreciate your verification and/or recommendations concerning this property.

****

LEGITIMACY OF A FARM USE

☒ Yes ☐ No ☐ Comment _____

Signed: _____ Date: 4/12/95

Representative of the Agricultural Land Preservation Board for Baltimore County

Ex No. 6

~~Granted~~ – copy to Mike Moran

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

DIRECTOR

BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B297790 CONTROL #: MR DIST: 11 PREC: 01
DATE ISSUED: 03/27/97 TAX ACCOUNT #: 220000815 CLASS: 04

PLANS: CONST 2 PLOT 5 R PLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 12240 MANOR RD
SUBDIVISION: 2100 S GRNSPRG VALEY RD

OWNERS INFORMATION
NAME: KAHL, PETER
ADDR: 12240 MANOR RD

TENANT:
CONTR: ADVANCED BLDG STRUCT
ENGNR:
SELLR:
WORK: CONST REPTILE BARN ON REAR OF PROPERTY.
100'X50'X28'6"=10,000SF. BLUE MAX CONCRETE.
REVISION - CHANGE IN CONSTRUCTION.
NO CHANGE IN FOOTPRINT OR LOCATION.
EXPIRES 2/14/98

BLDG. CODE: 1 AND 2 FAM. CODE
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

ESTIMATED $ PROPOSED USE: SFD + BARN
200.000.00 EXISTING USE: SFD

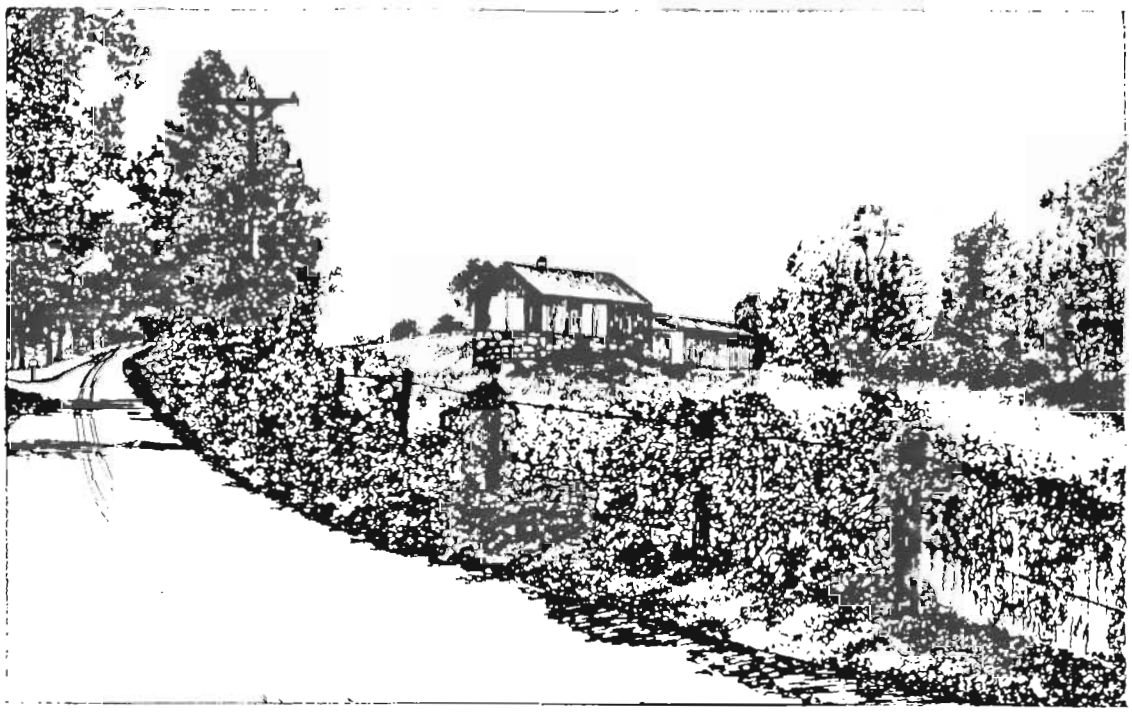
TYPE OF IMPRV: NEW BULDING CONTRUCTION
USE: OTHER - RESIDENTIAL
FOUNDATION: CONCRETE BASEMENT: NONE
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 4.7165AC
FRONT STREET:
SIDE STREET:
FRONT SETB: 60'
SIDE SETB: 173'/65'
SIDE STR SETB:
REAR SETB: 80'

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

Proposed Amendments To
The Baltimore County
Zoning Regulations
Regarding



DEFINITION OF COMMERCIAL AGRICULTURE AND FARM

P.C. Exh #1

A Final Report Of
The Baltimore County
Planning Board

October 17, 1991

SCHEDULE F (Form 1040)

Department of the Treasury Internal Revenue Service (O)

Profit or Loss From Farming

► Attach to Form 1040, Form 1041, or Form 1065.

► See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

1996

Attachment Sequence No. 14

Name of proprietor | Social security number (SSN)

A Principal product. Describe in one or two words your principal crop or activity for the current tax year.

B Enter principal agricultural activity code (from page 2) ►

C Accounting method: (1) ☐ Cash (2) ☐ Accrual

D Employer ID number (EIN), if any

E Did you "materially participate" in the operation of this business during 1996? If "No," see page F-2 for limit on passive losses. ☐ Yes ☐ No

Part I Farm Income—Cash Method. Complete Parts I and II (Accrual method taxpayers complete Parts II and III, and line 11 of Part I.)
Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale	1			
2	Cost or other basis of livestock and other items reported on line 1	2			
3	Subtract line 2 from line 1			3	
4	Sales of livestock, produce, grains, and other products you raised			4	
5a	Total cooperative distributions (Form(s) 1099-PATR)	5a		5b Taxable amount	5b
6a	Agricultural program payments (see page F-2)	6a		6b Taxable amount	6b
7	Commodity Credit Corporation (CCC) loans (see page F-2):				
a	CCC loans reported under election				7a
b	CCC loans forfeited	7b		7c Taxable amount	7c
8	Crop insurance proceeds and certain disaster payments (see page F-2):				
a	Amount received in 1996	8a		8b Taxable amount	8b
c	If election to defer to 1997 is attached, check here ► ☐			8d Amount deferred from 1995	8d
9	Custom hire (machine work) income				9
10	Other income, including Federal and state gasoline or fuel tax credit or refund (see page F-2)				10
11	**Gross income.** Add amounts in the right column for lines 3 through 10. If accrual method taxpayer, enter the amount from page 2, line 51 ►				11

Part II Farm Expenses—Cash and Accrual Method. Do not include personal or living expenses such as taxes, insurance, repairs, etc., on your home.

12	Car and truck expenses (see page F-3—also attach Form 4562)	12		25 Pension and profit-sharing plans	25
13	Chemicals	13		26 Rent or lease (see page F-4):	
14	Conservation expenses (see page F-3)	14		a Vehicles, machinery, and equipment	26a
15	Custom hire (machine work)	15		b Other (land, animals, etc.)	26b
16	Depreciation and section 179 expense deduction not claimed elsewhere (see page F-4)	16		27 Repairs and maintenance	27
17	Employee benefit programs other than on line 25	17		28 Seeds and plants purchased	28
18	Feed purchased	18		29 Storage and warehousing	29
19	Fertilizers and lime	19		30 Supplies purchased	30
20	Freight and trucking	20		31 Taxes	31
21	Gasoline, fuel, and oil	21		32 Utilities	32
22	Insurance (other than health)	22		33 Veterinary, breeding, and medicine	33
23	Interest:			34 Other expenses (specify):	
a	Mortgage (paid to banks, etc.)	23a		a	34a
b	Other	23b		b	34b
24	Labor hired (less employment credits)	24		c	34c
				d	34d
				e	34e
				f	34f

35	Total expenses. Add lines 12 through 34f ►		35
36	Net farm profit or (loss). Subtract line 35 from line 11. If a profit, enter on Form 1040, line 18, and ALSO on Schedule SE, line 1. If a loss, you MUST go on to line 37 (estates, trusts, and partnerships, see page F-5)		36
37	If you have a loss, you MUST check the box that describes your investment in this activity (see page F-5). If you checked 37a, enter the loss on Form 1040, line 18, and ALSO on Schedule SE, line 1. If you checked 37b, you MUST attach Form 6198.	37a ☐ All investment is at risk 37b ☐ Some investment is not at risk	

BEFORE THE BOARD OF APPEALS
OF BALTIMORE COUNTY, MARYLAND

Request Exh #13

In the Matter of
12240 Manor Road, etc. *

* No.: 97-494-SPH

* * *

CERTIFICATION OF AUTHENTICITY OF PUBLIC RECORDS

1. The undersigned is Christina L. Hewitt, Legislative Asst

2. I am over 18 years of age and not a party to this action.

3. I am employed by the Office of the County Council of Baltimore County, Maryland.

4. My duties and responsibilities include the record keeping and maintenance of certain records, including the County Council files and files in which copies of legislation that is enacted by the Council are maintained.

5. I have inspected the copies of the documents that are attached to this Certification and am able to state and certify that they are accurate copies and authentic reproductions of the County Council Bill that is attached and the Council Notes. Each document is maintained as part of the permanent records of this Office and I am the custodian of those records.

I DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT.

COUNTY COUNCIL OF BALTIMORE COUNTY
2nd FLOOR, COURTHOUSE
TOWSON, MD 21204

Give to Mike Moran

LESLIE M. PITTLER

ATTORNEY-AT-LAW
SUITE 610
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 823-4455

FACSIMILE
(410) 583-2437

Gwen Stephens
Dist. Court
3391
617
30/45 =
week of June

April 30, 1997

By Certified Mail P404203186
Return Receipt Requested

Mr. Peter Kahl
12240 Manor Road
Glen Arm, Maryland 21057

Re: Petition For Special Hearing

Dear Mr. Kahl:

The Department of Permits and Development Management of Baltimore County has asked that I send to you a copy of the Petition For Special Hearing, a copy of which is enclosed, which was filed on April 29, 1997.

Should you have any questions feel free to call me or I am sure the Department can answer any question you may have. The Department's telephone number is 887-3353.

Very truly yours,

Leslie M. Pittler

Leslie M. Pittler

LMP/pgb
Enclosure

Respond Ex # 11

BEFORE THE BOARD OF APPEALS
OF BALTIMORE COUNTY, MARYLAND

In the Matter of * 12240 Manor Road, etc.

* No.: 97-494-SPH

* * *

CERTIFICATION OF AUTHENTICITY OF PUBLIC RECORDS

1. The undersigned is John Altmeyer.

2. I am over 18 years of age and not a party to this action.

3. I am employed by the Office of Permits and Development Management of Baltimore County, Maryland.

4. My duties and responsibilities include the record keeping and maintenance of certain building permit records, including applications and documents that accompany those applications.

5. I have inspected the copies of the documents that are attached to this Certification and am able to state and certify that they are accurate copies and authentic reproductions of the application for a building permit and the plan that accompanied that particular building permit application to construct a structure on 12240 Manor Road. The original prints from which these copies are made are maintained as part of the permanent records of this Office and I am the custodian of those records.

BALTIMORE COUNTY, MARYLAND
BUILDING INSPECTION

TELEPHONE NO.: 887-3953

Part of Building Inspected: DECK FOOTERS

Approved ( ) Disapproved ( )

REMARKS:

7-7-97 Robert
DATE BUILDING INSPECTOR

BUILDING PERMIT NO. _____

COMMERCIAL OCCUPANCY
INSPECTION RECORD

	PARTIAL	FINAL
BUILDING		
ELECTRICAL	9-12-97	RCS
FIRE PREVENT.		
MECHANICAL		
PLUMBING		
PUBLIC WORKS		
SEDIMENT CONT.		
SPRINKLER SYS.		

NOTICE

ALL ABOVE INSPECTIONS MUST BE MADE AND SIGNED BEFORE THE CERTIFICATE OF USE AND OCCUPANCY CAN BE ISSUED.

FINAL OK

DISREGARD

Ron Blenny

TO Bldg. Ins. #10

297590

BALTIMORE COUNTY, MARYLAND
BUILDING INSPECTION

TELEPHONE NO.: 887-3953

Part of Building Inspected: Wall

Approved (✓) Disapproved ( )

REMARKS:

3-14-97 Kemp
DATE BUILDING INSPECTOR

294783

BALTIMORE COUNTY, MARYLAND
BUILDING INSPECTION

TELEPHONE NO.: 887-3953

Part of Building Inspected: Footer

Approved (✓) Disapproved ( )

REMARKS: GW/SS

3-25-97 Kemp
DATE BUILDING INSPECTOR

BALTIMORE COUNTY, MARYLAND
Plumbing Inspection Division
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

Telephone 887-3620

Part Of Building Inspected: Septic

Approved (✓) Disapproved ( )

Remarks:

5.21.97 AW
Date Plumbing Inspector

BALTIMORE COUNTY, MARYLAND
Plumbing Inspection Division
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

Telephone 887-3620

Part Of Building Inspected: GW/SS

Approved (✓) Disapproved ( )

Remarks:

5/21/97 Jim Kimble
Date Plumbing Inspector

Baltimore County Government
Department of Permits and
Development Management

Respondent Exh #7

111 West Chesapeake Ave.
Towson, Md. 21204

(410) 887-3335

November 25, 1996

Mr. Peter Kahl
12240 Manor Road
Glen Arm, MD 21057

RE: Peter Kahl Reptiles, Inc.
12240 Manor Road
DRC Number 11186L, Dist11C6

Dear Sir:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland and as provided in Section 602 (d) of the Baltimore County Charter and Section 26-132 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal or modification of a license, permit, approval, exemption, waiver or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to insure compliance with Section 26-171 and Section 26-211 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management.

The DRC has in fact met in an open meeting on November 18, 1996, and made the following recommendations:

The DRC has determined that your project meets the requirements of a limited exemption under Section 26-171 (A) (7).

Now that you have received an A-7 limited exemption, please proceed with your building permit application.

Pet. Ex. #1

RESOLUTION

Long Green Valley Association Manorview Committee ASSOCIATION

RESOLVED: That at the April 4, 1998 meeting of the Long Green Valley Assoc. Manorview Committee Association held on April 4, 1998 now, it was decided by the Association that the responsibility for review and action on all zoning matters for the period January 1995 through December 1999 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members: Mary Pat Mazzullo
Ann Simmons
Emmett Collins
Charlene Volk
Ron Myers

AS WITNESS our hands and seal this 8th day of September, 1998.

ATTEST:

SECRETARY

Mary Pat Mazzullo
~~PRESIDENT~~ Chairperson

IN THE MATTER OF: * BEFORE THE

MARY PAT MARZULLO - Petitioner * COUNTY BOARD OF APPEALS

Protestant; Property of * OF BALTIMORE COUNTY

Peter Kahl located at 12240 * Case No. 97-494-SPH

Manor Road * September 9, 1998

11th Election District *

6th Councilmanic District *

ORIGINAL

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at 401 Washington Avenue, Towson, Maryland 21204 at 10 o'clock a.m., September 9, 1998.

* * * * *

Remember! On bound items, like this book, just scan the first page

Reported by:

C. E. Peatt

TOWSON REPORTING COMPANY
600 Baltimore Avenue, Suite 201, Towson, Maryland 21204
410-828-4148 • 800-734-5292
Affiliated With Gore Brothers Reporting & Video Company, Inc.

IN THE MATTER OF: * BEFORE THE

MARY PAT MARZULLO - Petitioner * COUNTY BOARD OF APPEALS

Protestant; Property of * OF BALTIMORE COUNTY

Peter Kahl located at 12240 * Case No. 97-494-SPH

Manor Road * October 23, 1998

11th Election District *

6th Councilmanic District *

ORIGINAL

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at 401 Washington Avenue, Towson, Maryland 21204 at 10 o'clock a.m., October 23, 1998.

* * * * *

Reported by:

C. E. Peatt

TOWSON REPORTING COMPANY
600 Baltimore Avenue, Suite 201, Towson, Maryland 21204
410-828-4148 • 800-734-5292
Affiliated With Gore Brothers Reporting & Video Company, Inc.

PETITION OF PETER A. KAHL 12240 MANOR ROAD GLEN ARM, MARYLAND 21057	*	IN THE CIRCUIT COURT	
PETITION FOR JUDICIAL REVIEW OF THE DECISION OF THE BOARD OF APPEALS OF BALTIMORE COUNTY	*	FOR BALTIMORE COUNTY	
	*	Case No. 03-C-98-12834	
IN THE CASE OF: THE MATTER OF THE APPLICATION OF MARY PAT MARZULLO Case No. 97-494-SPH	*		

_ /

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
(Motions Hearing)

Towson, Maryland
November 10, 1999

BEFORE:
HONORABLE JOHN GRASON TURNBULL, II, Judge

REPORTED BY:
Barbara Longo Ely
Official Court Reporter

FEB 22 2000

Peter Kahl Reptiles, Inc.

Petitioner's Ex #7

Here at Peter Kahl Reptiles, we specialize in breeding the finest quality captive born boas & pythons. After viewing our web site you will see the quality & care our boas & pythons receive here at Peter Kahl Reptiles.

Construction of our new ten thousand square foot facility is complete as of November 1997. In this web site you will see photos of our facility, breeding stock, and offspring that are available. We hope you enjoy our web site and if you have any questions, please send us an e-mail us or give us a call. Your comments are always welcome.

Thank you,

Peter Kahl

Peter Kahl Reptiles, Inc.
P.O. Box 150
Long Green, MD 21092

Phone: (410) 592-9675
Fax: (410) 592-6911
Email: pete *a* pkreptiles.com

E-mail

PETITION FOR SPECIAL HEARING
FOR 12240 MANOR ROAD
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

MARY PAT MARZULLO
PETITIONER

BEFORE THE BALTIMORE COUNTY BOARD OF APPEALS
CASE NO. 97-494-SPH

RECEIVED
COUNTY BOARD OF APPEALS
98 NOV -6 PM 12:23

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

This Memorandum of People's Counsel for Baltimore County, Appellants in this de novo appeal, is submitted in lieu of closing argument in the hearing concluded on October 23, 1998.

INTRODUCTION

The facts in this case pertaining to Mr. Kahl's use of 12240 Manor Road, are not, for the most part, in dispute. Thus a separate recital of the facts will not be made in this Memorandum. Reference to the facts may be made in the course of presenting the legal argument.

The **characterization** of the use is in dispute.

The site is zoned RC 4. The issue is whether the use as described by Mr. Kahl is commercial agriculture permitted by right in this zone. People's Counsel's position is the use is not permitted in the RC 4 zone, but may be permitted by right or special exception as an animal breeding facility in other zones in Baltimore County.

WHAT AUTHORITY IN THE COUNTY DETERMINES THE LEGALITY OF THE USE

1. The decision on the Petition for Special Hearing falls squarely on the County Board of Appeals (CBA) - not on Building Permits, Zoning Administration and Development Management (ZADM), nor the Baltimore County Agricultural Land Preservation "Advisory" Board. (See generally Baltimore County Code and County Charter).

(i) The fact that Mr. Kahl constructed a building is not determinative. In other words, the building may be legal, but the **use** is not. Any number of uses permitted in the zone may be conducted within this generic building. It is not unique to the use. Mr. Kahl admitted his desire to expand prompted moving the business from his home. The testimony and evidence presented by Mr. Kahl and his witnesses pertaining to the building only serve to describe a structure that meets the bulk (height, setback, area, location) regulations in the zone. People's Counsel never claimed a variance is needed for the structure.

If a property owner builds without authorization of the use, he does so at his own peril. The CBA is not restricted in its decision because the building exists or a permit was issued. (Many CBA decisions deny a use in an existing structure, whether owned or leased). The building permits department cannot usurp the CBA's jurisdiction of compliance with the zoning regulations. Moreover, Mr Kahl's application for a "reptile barn" is self-serving and misleading, which negates the whole permit process.

There are numerous Maryland cases that assert if a building permit is issued erroneously for an illegal use, the applicant cannot rely on the permit. (See attached excerpt from

Cromwell v. Ward, 102 Md. App. 691 (1995) on building permits issued in violation of the law).

If Mr. Kahl chose to proceed on a building permit without zoning authority, he did so at his own risk. He cannot be rewarded for reckless judgment.

Additionally, the Maryland Court of Appeals has refused to adopt the doctrine of "zoning estoppel". Sycamore Realty v. People's Counsel, 344 Md. 57 (1996).

Nor does "vested rights" apply. Vested rights protects legal uses which become illegal after a zoning change: "a vested right in the existing zoning use which will be constitutionally protected against a subsequent change in the zoning ordinance prohibiting or limiting that use. . ." Id at 67. First, there is no zoning change here. Second, it is undisputed that this use is not listed in the RC 4 zone. Simply stated, Mr. Kahl never received zoning approval under the existing zone. This is the issue for the Board.

Vested rights cannot apply to this case. Mr. Kahl's preferred interpretation of the zoning regulations, without authority, is no substitute for approval.

(ii) Secondly, the Agricultural Advisory Board decision is not a substitute for zoning approval. The agricultural advisory board was created in Bill 51-1993 (attached hereto) to aid in the violations process. (See BCZR 404.11). It is not a component of the Special Hearing/Special Exception/Variance process. The CBA's authority to decide issue in the RC zones is not dependent on

advisory opinions from the Agricultural Board.

People's Counsel is unaware of its input in any prior zoning decision in the RC zones.

Additionally, the Advisory Board's own form states, "In the judgment of the Director and/or the Zoning Commissioner, in consideration of your findings, **a special hearing may be required before the Zoning Commissioner prior to any zoning approvals**." (emphasis added). (See Kahl's Exhibit #6, page 5).

WHAT IS MEANT BY "COMMERCIAL AGRICULTURE" IN THE ZONING REGULATIONS

2. Mr. Kahl claims his operation is permitted by BCZR 1A03.3 A.2., which permits in the RC 4, "Farms and limited-acerage wholesale flower farms . . . " There is no other applicable permitted or special exception use in this zone. People's Counsel does not believe his operation is a "farm" as that term was contemplated and used in the zoning regulations.

3. The legal decision in this case involves a review of pertinent definitions:

> **"farm" :**
>
> "Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and

associated agricultural uses. The term does not include the following uses as defined in these regulations: limited acreage wholesale flower farms, riding stables, landscape service, firewood operations, and horticultural nursery businesses."

"Agriculture, Commercial":

The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the tax-property article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquacultural, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, mananging, marketing or distributing provided that any such activity shall be secondary to the principal agricultural operations."

4. Mr. Kahl contends his operation falls within the use "animal and poultry husbandry". It is undisputed that no other use listed could apply to Mr. Kahl. Animal Husbandry is not defined in BCZR. Section 101 requires reference to Webster's Third New International Dictionary of the English Language, Unabridged, which sets forth:

"Animal Husbandry":

a branch of agriculture concerned with the production and care of domestic animals; specif: scientific study of the problems of animal production (as breeding and feeding)

"Animal Husbandman":

1. a specialist in animal husbandry 2. one that keeps or tends livestock

"Domestic Animal":

any of various animals (as the horse, ox, or sheep) which have been domesticated by man so as to live and breed in a tame condition - compare ferae naturae

5. The Baltimore County Code is helpful in further defining the terms used in animal husbandry. See attached for definition of **domestic animal, farm animal, and wild animal.** Mr. Kahl readily agreed his snakes are dangerous because they constrict to the point of death. Anyone or anything is prey. At the very least, a handler can minimize, but not preclude, an attack by the snake. Moreover, Mr. Kahl keeps these snakes into adulthood, for sale or breeding. He has between 350-400 adults. Adults of these species can grow to 40 pounds and 13 feet. We propose these snakes (boa constrictors and pythons) are wild animals.

In other jurisdictions, python snakes were found to be life-threatening, and certainly not "domestic animals". See People v. Fabing, 570 N.E.2d. 329 (Ill. 1991).

6. Mr. Kahl admitted his property is zoned "residential" by the Maryland Department of Assessments and Taxation. (See attached

printout). It fails to satisfy the definition of "commercial agriculture" requiring farm or agricultural use assessment.

7. The building where the snakes are kept and bred is not ancillary to the use of the land. The building is the primary component of the operation - the land is superfluous.

8. The term "animal" is further defined in 4 Am Jur 2d Animals, Sec. 1. attached hereto. Note that the terms "wild" or "domestic" are to be construed according to the common and approved usage of the language.

9. "Agriculture" is defined in 3 A. Jur 2d Agriculture Section 1. attached hereto. Note the reference to agricultural products. It is noteworthy than in all the examples, raising snakes is nowhere included, although this is certainly not a new concept.

On a related issue, a Kansas case held raising and keeping of greyhounds was not "agriculture". See Weber v. Board of County Com'rs, 884 P.2d 1159 (Kan. App. 1994).

DO THE BALTIMORE COUNTY ZONING REGULATIONS PROVIDE FOR THIS USE

10. People's Counsel submits that Mr. Kahl's business, as he himself describes it, falls within the definition of **Animal Boarding Place** as defined in BCZR, Section 101:

> **"Animal Boarding Place -**
>
> **Any building, other structure or land, or any portion thereof, which is used, intended to be used or arranged for the boarding, breeding or other care of animals for**

profit, but excluding a farm, kennel, pet shop, veterinarian's office or veterinarium. [Bill No. 85-1967]

11. An **Animal Boarding Place, Class A** provides for "dogs, cats, birds and/or other household pets. An **Animal Boarding Place, Class B** provides for "any other animal boarding place" not excluded under the general definition. Mr. Kahl's breeding and caring of snakes for profit fits exactly the Animal Boarding Place, Class B.

12. Petitioner's expert planner and former Baltimore County Director of Planning, **Norman Gerber**, stated Mr. Kahl's snake breeding business, as described by the Zoning Commissioner's Opinion from Mr. Kahl's testimony, fits into the animal boarding place use. **Paul Solomon**, the Petitoner's expert is rural land use, agreed.

13. BCZR Section 270 (attached) sets forth the zones where Animal Boarding Places, Class A & Class B are permitted. It is not a permitted or special exception use in RC 4. (Animal Boarding Places are permitted in the RC 2 zone by special exception under Bill 178-1979. This Bill followed and refined the Resource Conservation Zones, including RC 4, established in 1975). If the County Council intended to include the animal boarding place use in RC 4, it could certainly have done so in 1979.

14. The zoning regulations also provide specifically for breeding dogs. A **"kennel"** is defined in Section 101 as:

> "Any building, other structure or land, or any portion thereof, which is used, intended to be used or arranged for the housing of more than three dogs, not counting

puppies less than four months old, for purposes of show, hunting, breeding or sale, or as pets, **excluding a farm** or pet shop."

Kennels are permitted by right in BR, DR 1 and by special exception in RC 2, RC 3, DR 2, DR 3.5, DR 5.5, ML, MH.

15. **"Pet Shop"** is defined as:

"A store for the sale of dogs, cats, birds, tropical fish and/or other domesticated pets, and related supplies and equipment."

Pet Shops are permitted by right in BL,BM, BR.

16. As Paul Solomon pointed out in his testimony, when all the zoning regulations pertaining to animals are read in conjunction, there is a place for the breeding, boarding or sale of every animal. The County Council's detailed selectivity of the zones for these uses, and the comprehensiveness of this subject matter is significant. By contrast, Mr. Kahl's position distorts the blueprint so aptly set forth in the Regulations.

17. Two recent Court of Appeals cases discuss statutory interpretation. Additionally, the Board of Appeals faced a similar interpretation in Club 101/Ramparts.

18. In Porter v. Bayliner, 349 Md. 609, 617 (1998), the Court reaffirmed prior cases when quoting. "When interpreting any statute, we must look to the entire statutory scheme, and not any one provision in isolation, to effect the statute's general policies and purposes." "Where the statute to be construed is part of a statutory scheme, the legislative intention is determined by

considering it in light of the statutory scheme."

19. In Edgewater Liquors, Inc. et al. v. Liston, 349 Md.803,808-809 (1998), the Court reaffirmed prior cases and stated, "The 'meaning of the plainest language' is controlled by the context in which it appears." "In analyzing a statute, we approach statutory construction from a common sense perspective.. . Accordingly, we avoid construing a statute so as to lead to results that are unreasonable, illogical, or inconsistent with common sense."

20. People's Counsel suggests there is no need for the Board of Appeals to strain the definition of agriculture to include Mr. Kahl's business, when the County Council has provided pointedly for this breeding operation as an **animal boarding place**. Moreover, it would be inappropriate for this Board to stretch the definition of "agriculture" under the guidelines for interpreting statutes in these cases.

21. In interpreting zoning regulations, the specific, or more restrictive, controls over the general. (BCZR Sec.600)

22. Generally under the Regulations each activity is defined as a use. This avoids confusion as to the proper location; to describe this activity as several uses (agriculture, animal boarding place, pet shop) creates an unnecessary ambiguity and defies common sense.

MUST THE BUSINESS AS DESCRIBED BY THE OWNER BE CONDUCTED ON A FARM

23. If common sense must be applied, is there any reason that this business must operate on a "farm", other than it is a permitted use

in the zone in which the owner lives?

24. People's Counsel suggests that if Mr. Kahl operated in a commercial zone, he would declare it to be an animal boarding place or a pet shop.

25. All the agriculture activites described in BCZR relate to food production or pasturage. This dovetails with Paul Solomon's depiction, based on first hand knowledge, of agriculture zones as "land oriented" and for land preservation. On the other hand, Mr. Kahl can operate his business anywhere where the use and building is permitted, including the commercial and manufacturing zones. He does not need to be in a farm zone. Even the food for the snakes can be purchased or raised within the building as Mr. Kahl described.

26. Although Mr. Kahl described occasionally letting a snake into the yard, he admitted he built a sizeable deck on the building which provides an adequate place if out-of-doors is needed. Also, Mr. Kahl was unaware of how to dispose of snake carcasses, nor, unlike farm animals, was there a suggestion of their use in the life cycle.

27. Mr. Kahl acknowledged snakes are not a food source, with the limited exception of the rare albino snakes believed to have a mystic quality in some cultures; clearly this is not the purpose to raise snakes in Baltimore County, and certainly not for this property owner who sells as pets only.

28. Is this business any different than a home occupation simply because live animals are involved? If proposed as a home

occupation, it would be denied. Here, Mr. Kahl keeps inventory on site and utilizes nonhousehold equipment in a separate structure, all prohibited by the home occupation statute. People's Counsel suggests Mr. Kahl should not be given a preference over other proposed home occupations because he chose to call it a "farm".

29. Mr. Kahl presented no witnesses to rebut Petitioner's expert testimony: (i) the use is **not explicitly listed** as an agriculture use under BCZR and Bill 51-93; (ii) the use is **not an implied agriculture use** under the zoning regulations or Bill 51-93; (iii) the use was never **contemplated nor intended** as an agriculture use when the legislation was created under Bill 98-1975, and as amended from time to time thereafter.

30. Mr. Kahl business approximates a breeding and sales operation on site, which is unlike the sale of farm animals offsite.

31. Mr. Kahl's facility appears well managed and productive. There is no doubt he is knowledgeable and proficient in this business. However, these attributes do not make him lawful at this site. The decision is not a personal referendum on Mr. Kahl's business acumen or expertise. The use of the site is still the key.

WHAT IS THE SIGNIFICANCE OF THE LEGISLATIVE INTENT AND HISTORY OF AGRICULTURAL USE IN THE ZONING REGULATIONS

32. The Court of Appeals has stated: "In construing any statute, our principal mission is to effectuate the intent of the

Legislature." Polomski v. Baltimore, 344 Md. 70,75 (1996). In the event the Board may view these issues as ambiguous, the experts, Paul Solomon and Norman Gerber, testified as to the history and context of the pertinent zoning regulations. "Where the legislative will is not immediately apparent from the language of the statute, we employ the canons of statutory construction to guide our inquiry." Id.

33. Mr. Solomon participated, if not directed, the creation of the rural zones. He amplified the language in BCZR with his employment experiences. He believed the meaning is clear - breeding snakes in a building for sale as pets was never contemplated as an agricultural use, nor discussed as a facet of animal husbandry. Agricultural operations required land and preserved land. Mr. Kahl's facility does neither.

Mr, Kahl's attorney suggested poultry do not graze, and breed in a structure. However, "poultry husbandry" is specifically listed in BCZR as commercial agriculture.

34. It is significant that the County Council revisited agriculture as recently as 1993. The purpose, as stated in Bill 51-93, was to amend the zoning regulations "to define terms relating to agricultural uses; . . . and generally relating to farm and commercial agriculture activities in Baltimore County." There was no expansion into snake breeding.

35. The Planning Board Report, which proceeded this legislation (People's Counsel's Exhibit) acknowledged the need to expand the definition of agriculture to include current activities. All the

additions are land based. Breeding of reptiles was not included and, thus, excluded under Kowalski v. Lamar, 25 Md. App. 493 (1975).

36. The language of the 1993 statute makes no provision for the Zoning Commissioner or the CBA to expand the term "commercial agriculture" beyond the language in the statute. Even if the Board believes breeding reptiles is an appropriate expansion, it is incumbent on the County Council to do so, following the appropriate preliminary review by the Planning Office and Planning Board.

37. On the contrary, Mr. Kahl is asking the Board to make new law.

CONCLUSION

For all the above reasons, it is respectfully submitted that the Petition for Special Hearing should be granted, and the breeding, maintaining, boarding and selling of reptiles at this site shall be prohibited.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. DeMilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of November, 1998, a copy of Memorandum of People's Counsel for Baltimore County was mailed to John B. Gontrum, Esq., Romadka, Gontrum & McLaughlin, 814 Eastern Blvd., Baltimore, MD 21221, to J. Carroll Holzer, Esq., Holzer and Lee, 508 Fairmount Avenue, Towson, MD 21286, and to Michael J. Moran, Esq., 401 Allegheny Avenue, Towson, MD 21204.

Carole S. DeMilio

CAROLE S. DEMILIO

noted in *AD + Soil, Inc. v. County Comm'rs*, 307 Md. at 340, 513 A.2d 893:

> The essence of AD + Soil's argument ... is that the setback requirements ... would cause ... unwarranted hardship because it had obtained its first state permit and constructed its transfer station before it learned of these local requirements.... The Board declined to grant the variances, concluding that Ad + Soil's "hardship" was self-inflicted ... and therefore not the kind of hardship cognizable under the Zoning Ordinance.

The Court affirmed the Board. Foreign jurisdictions are generally in accord. *See Pollard v. Zoning Bd. of Appeals*, 186 Conn. 32, 438 A.2d 1186, 1190 (1982) (" '[S]elf-inflicted or self-created hardship ... is never considered proper grounds for a variance.' ... '[W]here the applicant ... creates a nonconformity, the board lacks power to grant a variance.' ") (citations omitted); *Volkman v. City of Kirkwood*, 624 S.W.2d 58 (Mo.App.1981); *Matter of Schrader*, 660 P.2d 135 (Okl. 1983); *Ex Parte La Quinta Motor Inns, Inc. v. Greenville County Bd. of Zoning Appeals*, 279 S.C. 598, 310 S.E.2d 438 (App.1983); *McClurkan v. Board of Zoning Appeals*, 565 S.W.2d 495 (Tenn.1977); *Steele v. Fluvanna County Bd. of Zoning Appeals*, 246 Va. 502, 436 S.E.2d 453, 456 (1993) ("[T]he hardship, if any, was self-inflicted. The placement of the improvements ... was within the control of the Garretts and their contractor, Raintree."). *See also Shafer, supra; VanLandschoot, supra; Walkingstick, supra; Xanthos, supra; St. Clair, supra.* Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

The Granting of the Permit

In *Francis v. MacGill*, 196 Md. 77, 75 A.2d 91 (1950), a property owner sought equitable injunctive relief. The facts were that while the enactment of a zoning ordinance was pending, the property owner obtained a building permit to construct that which would not be permitted after the enactment of the ordinance. After the ordinance was enacted, the owner constructed, pursuant to the permit, a building that had become prohibited by reason of the passage of the ordinance. The Court noted:

> "Adoption of zoning ordinance *ipso facto* revokes permit for construction ... where no construction has begun." ... They completely ignored the Zoning Regulations, and they were engaged in an unlawful act.

196 Md. at 85, 75 A.2d 91 (citation omitted). The Court affirmed the revocation of the building permit.

The Court noted, pursuant to a timely appeal, in *Mayor and City Council of Baltimore v. Shapiro*, 187 Md. 623, 634, 51 A.2d 273 (1947), *overruled on other grounds in Nutter v. Non-Profit Housing Co.*, 230 Md. 6, 185 A.2d 360 (1962), where the ordinance was changed prior to commencement of construction under a permit, and where the change made that use, which was previously permitted, prohibited, that the "mere issuance of a permit ... does not create a vested right, or estop[9] the municipal authorities from revoking it." In a case for the issuance of a mandatory injunction that involved an attempt to obtain a permit for what was alleged would be a nonconforming use the court opined in *Board of County Comm'rs v. Snyder*, 186 Md. 342, 347, 46 A.2d 689 (1946): "No permit was issued, and if it had been, it would have conferred no vested right, nor would it have created an estoppel."

In the mandamus case of *County Comm'rs v. Ward*, 186 Md. 330, 340, 46 A.2d 684 (1946), the Court held:

> The Board ..., as an administrative body, was bound to follow the regulations it adopted, in the exercise of ...

9. The applicability of the "doctrine of zoning estoppel" has still not been accepted (or rejected) by the Court of Appeals in spite of the opportunity presenting itself to that Court as recently as our case of *Offen v. County Council*, 96 Md.App. 526, 625 A.2d 424 (1993), *rev'd in part*, 334 Md. 499, 639 A.2d 1070 (1994).

delegated legislative power. The fact that it might have rezoned ... does not alter its obligation to adhere to existing regulations....

In the case of *Lipsitz v. Parr*, 164 Md. 222, 164 A. 743 (1933), a case seeking injunctive relief by way of a restraining order, a city officer mistakenly issued a building permit for an ice factory when the statute prohibited ice factories. The Court there held:

> A municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law.... [T]he ordinance forbade the officials ... to grant the permit which the plaintiff asked and obtained....
>
> ... [I]t was therefore unlawful for the officers ... to grant the permit, and it would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued ... does not ... prevent the permit from being unlawful nor from being denounced by the municipality because of its illegality.... *Every one dealing* with the officers and agents of a municipality *is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled* by their acts when done without legal authority.
>
> So, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act ... it is not estopped by the unauthorized or wrongful act of its officer ... in issuing a permit that is forbidden by the explicit terms of an ordinance.... *Valentine v. Rds. Directors*, 146 Md. 199, 206 [126 A. 147] [(1924)].... [Citations omitted, emphasis added.]

164 Md. at 227–28, 164 A. 743.

The Court cited *Lipsitz* in *Inlet Associates v. Assateague House Condominium Assoc.*, 313 Md. 413, 545 A.2d 1296 (1988), a case seeking specific performance and injunctive relief, and also cited *City of Hagerstown v. Long Meadow Shopping Center*, 264 Md. 481, 287 A.2d 242 (1972), a case of a timely appeal of the denial of a building permit. In *Inlet Associates*, the Court opined that "[c]onsequently, '[e]veryone dealing with officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority.'" 313 Md. at 437, 545 A.2d 1296. The Court added: "[T]he doctrine of equitable estoppel 'cannot be ... invoked to defeat the ... enforcement of ... ordinances, because of an error or mistake committed by one of its officers ... which has been relied on by the third party to his detriment.'" *Id.*

[4] Accordingly, it appears clear that the mistake of a county official cannot be the "practical difficulty" unique to the subject property required in order to authorize the grant of the variance sought and obtained by Ward.

The authorities elsewhere are in accord.

> The master also erred in finding that unnecessary hardship resulted from the plaintiffs' reliance upon representations by the selectmen. This finding disregards the principal that hardship relates to the special character of the *land*, not to the circumstances of the *owner*.

Richardson, 455 A.2d at 1062.

> [R]elator argues the Board should be estopped from denying the height variance because a city building inspector visited the premises several times and observed the construction taking place but made no complaint....
>
> In any case there is no authority on the part of a building inspector to grant a variance....

Katz v. Board of Zoning Adjustments, 232 So.2d 546, 548 (La.App. 4th Cir.1970). *See also Klanke v. Zoning Bd. of Adjustment*, 83 Pa.Cmwlth. 441, 477 A.2d 907, 909 (1984), and *Walkingstick, supra; Xanthos, supra; and St. Clair, supra.*

Resolution

We resolve here only the issue of the granting of the variance sought and applied for by Ward.

[5] There was no evidence submitted to the Board that the subject site was in any way peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's height restriction's impact upon the subject property would be different than the restriction's impact upon neighboring properties. In essence, the impact would be the same. The first step of the variance process was thus not met. Had there been evidence before the Board indicating that the subject property was peculiar or unusual and, thus, disproportionately affected by the height restriction, then we might have been able to conclude that the Board was correct. There was, however, no such evidence presented. Therefore, the Board's granting of the variance was arbitrary and illegal.

It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper. We shall reverse.

JUDGMENT REVERSED; COSTS TO BE PAID BY APPELLEE.

---

651 A.2d 442

RICHARD F. KLINE, INC.

v.

SIGNET BANK/MARYLAND.

No. 618, Sept. Term, 1994.

Court of Special Appeals of Maryland.

Jan. 4, 1995.

After general contractor filed for bankruptcy, subcontractor sued construction lender to recover total sums unpaid under subcontractor's contract with contractor. The Circuit Court, Frederick County, G. Edward Dwyer, J., entered summary judgment in favor of lender, and subcontractor appealed. The Court of Special Appeals, Wenner, J., held that lender had not been unjustly enriched.

Affirmed.

1. Appeal and Error ⇐863

When reviewing grant of motion for summary judgment, appellate court must determine whether trial court was legally correct in granting motion.

2. Implied and Constructive Contracts ⇐3

Claim of unjust enrichment requires trial court to determine whether contract between parties should be implied as matter of law, i.e., whether quasi-contract exists.

3. Judgment ⇐181(19)

When facts are undisputed, whether quasi-contract exists is question of law that may be decided on motion for summary judgment.

4. Implied and Constructive Contracts ⇐3

Construction lender was not unjustly enriched even though subcontractor could not obtain mechanics' lien or sue for breach of contract because general contractor had filed for

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

The following words and phrases as used in this title and/or rules and regulations adopted pursuant thereto, unless a different meaning is plainly required by the context, shall have the following meanings:

Animal means any living, nonhuman, vertebrate creature.

Animal at large means any animal, other than a dog, off the premises of the owner and not under the control, charge, or possession of the owner or other responsible person.

Animal control agency, for the purpose of this title, means the health department, until the bureau of animal control acquires direct licensing power under the Charter and then becomes the animal control agency.

Animal control warden means that person or his authorized representative designated as such by the chief of the bureau of animal control to perform such duties described by this title.

Animal exposed to rabies means any animal that has been bitten by or has associated with any animal determined by the county health officer or the state public health veterinarian, or the state department of agriculture to be infected with rabies.

Animal hearing board means that group of citizens appointed by the county executive for the purpose of hearing cases resulting from the enforcement of this title by the bureau of animal control.

Animal shelter means any facility owned or operated by or under contract with the county for the care, confinement, adoption, euthanasia, or detention of animals pursuant to the authority of this title or the state law.

Animal under restraint means any animal secured by a leash or confined within a vehicle or within the real property limits of its owner or, when used for hunting, under control of a responsible person and obedient to that person's command.

Chief, bureau of animal control means the head of the animal control bureau.

Commercial kennel includes any animal boarding place or other establishment for the commercial breeding of dogs or cats or the boarding, grooming, sale, or training of dogs or cats for which a fee is charged; provided, that animal hospitals maintained by a licensed veterinarian as part of the practice of veterinary medicine for the treatment of animals and that animal fanciers' kennels shall not be considered "commercial kennels."

Commercial stable means any facility which provides riding instruction, with or without charge, boarding, or which offers for hire or which is engaged in the business of buying or selling or trading horses, ponies, donkeys, mules, or burros.

Dog at large means any dog off the premises of its owner and not under control of the owner or other responsible person by a leash, cord, or chain.

Domestic animals means any such animals that are accustomed to live in or about the habitation of humans, including but not limited to cats, dogs, cows, fowl, horses, or swine, but not to include any wild animal.

Fancier means any person who owns or keeps more than three (3) dogs and/or cats for the noncommercial purposes of hunting, practice tracking, or exhibition in dog and/or cat shows or field or obedience trials.

Fancier kennel or cattery means a kennel or cattery maintained by a fancier for the maintenance or training of the dog or cat owned or kept by such fancier.

Farm animal means any animal being maintained for the production of food, food products, and fiber.

Farm cat means any cat which is kept on premises having an agricultural or industrial assessment for the purpose of maintaining control of rodents which are a nuisance and hindrance to the farm or industrial operation and a potential hazard to the health of the general public.

Grooming parlor means any commercial establishment, whether stationary or mobile, where animals are bathed, clipped, or otherwise groomed.

Health officer means the health officer of the county and any of his duly authorized representatives.

Holding facility means any commercial stable, commercial kennel or cattery, pet shop, humane animal shelter, or animal shelter. A fancier kennel or cattery which is operated from the fancier's home shall be considered a holding facility for licensing purposes only.

Humane animal shelter means any facility owned or operated by a humane organization, incorporated in the state, for the care, confinement, euthanasia, and/or the adoption of animals.

Humane organization means any organization for the humane treatment or and/or the prevention of cruelty to animals.

Owner means any person, firm, association, or corporation owning, keeping, harboring, or acting as custodian of a domesticated animal. Any animal owned by a minor shall be deemed and taken to be owned, for the purpose of this title, by the parents, guardian, or adult with whom such minor resides.

Person means any individual, business, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

Pet shop means a person or establishment that sells and/or offers to sell animals, whether as owner, agent, or on consignment, to the general public, provided this shall not apply to horse farms licensed under the state.

Protection-trained dog means any dog that has received or been the subject of protection training.

Protection training means a method of training through the use of agitation and/or sleeve or wrap.

Public nuisance animal means any animal which:

(1) Damages the property of anyone other than its owner;

(2) Is a vicious animal;

(3) Causes unsanitary conditions in or on public property;

(4) Excessively makes disturbing noises;

(5) Molests passersby or chases passing vehicles;

(6) Attacks other domesticated animals; and/or

(7) Any at large female dog/cat in heat.

Veterinary hospital means any establishment maintained and/or operated by a veterinarian for immunization, hospitalization, surgery, and/or diagnosis, prevention, and treatment of disease and injuries of animals.

Vicious animal means any animal that constitutes a physical threat to human beings, animals, or livestock or any animal which due to its disposition or propensity to cause injury or behave in a manner which could reasonably cause injury to human beings, animals, or livestock, regardless of whether or not such behavior is hostile, or any animal which has bitten or attacked a human being or animal without provocation.

Weekday, for the purpose of this title, means Monday through Saturday inclusive, excluding New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Wild animal means any animal of a species that in its natural life is wild, dangerous, or ferocious and, though it may be trained and domesticated by the owner, will remain dangerous to the public at large.

(Code 1978, § 3-1; Bill No. 69-95, § 4, 7-1-95)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 6-2. Duties of enforcement.

(a) The health officer shall enforce the provisions of this title, except as may otherwise be specifically provided for by these regulations.

(b) The health officer or designee shall have power, as may be necessary in the interests of public safety, health, and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this title so as to further its intent, as well as the

Add BCZR definition of Pet Shop

cense. The application for said license to operate a holding facility shall be submitted to the department of permits and development management and shall indicate the type of facility, the name and address of the facility, and the name and address of the owner.

(b) The county administrative officer shall set the fees for licensing holding facilities and grooming parlors. He may set different fees for the different classifications and may in addition set different fees for different types of holding facilities.

(c) Every person having a license under the provisions of this article shall keep such license posted and exhibited while in force in some conspicuous part of such establishment.

(d) If a holding facility is being maintained in an unsanitary and/or inhumane manner and/or in violation of any specific provision of this title, the bureau of animal control and/or any animal control warden may cause the refusal to issue or the revocation of a license for said holding facility by the department of permits and development management at the request of the health officer or designee.

(Code 1978, § 3-27(a)—(c), (f); Bill No. 69-95, § 4)

Cross references—Licenses generally, § 6-91 et seq.; permits and licenses and business regulation, tit. 24.

Sec. 6-232. Minimum standards.

(a) All holding facilities shall, in addition to the other requirements of this title, comply with the following minimum standards of this section. Failure to meet these standards may be cause for denial or revocation of license:

(1) All animals must be supplied with sufficient good and wholesome food and potable water. All food and water containers shall be clean and so placed that the animals cannot readily tip them over.

(2) All animals and animal quarters shall be kept in a clean and sanitary condition. Floors of buildings, runs, and walls shall be of such material as to permit proper cleaning and disinfecting. Adequate ventilation and temperatures shall be maintained.

(3) Animals housed in holding facilities must be maintained in quarters so constructed as to prevent their escape. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

(4) Each cage shall be of sufficient size that an animal will have room to stand, turn, and stretch to his full length.

(5) All animals housed in holding facilities must be properly exercised in accordance with the age and species of the animal.

(6) Any animal housed in a holding facility which demonstrates signs of illness or disease shall be isolated in such manner as to prevent the spread of such illness or disease to other animals. The owner or lessee of such holding facility shall provide or cause to be provided appropriate veterinary care for such sick, diseased, or injured animals.

(b) The application of the standards set forth above in subsection (a) of this section shall be in conformity with individual species requirements and common veterinary practice.

(Code 1978, § 3-27(d), (e))

Sec. 6-233. Inspections.

The health officer or designee may, at any reasonable time, inspect or cause to be inspected any holding facility in the county except a fancier kennel or cattery which is operated from the fancier's dwelling. This right of inspection shall extend to any records of the holding facility or any records contained therein that are required to be kept by federal, state, or county law.

(Code 1978, § 3-40; Bill No. 69-95, § 4, 7-1-95)

Secs. 6-234—6-255. Reserved.

ARTICLE IX. WILD ANIMALS

Sec. 6-256. Keeping of wild animals; permit.

No person shall keep or permit to be kept on his premises any wild animal for any purposes whatsoever without the approval of the chief of the

bureau of animal control. Any application for a permit to keep a wild animal shall be accompanied by the appropriate state and federal permits where required. Upon approval, the licensing agent for the animal control agency shall issue said permit. This section shall not be construed to apply to zoological parks or research facilities. (Code 1978, § 3-34)

Cross reference—Permits and licenses and business regulations, tit. 24.

Sec. 6-257. Revocation of permits.

The director of the department of permits and development management or designee at the request of the health officer or designee may cause to be revoked a wild animal permit which has been issued if in the judgment of the health officer the maintaining of such wild animal is detrimental to the public safety, health, and/or welfare. (Code 1978, § 3-48; Bill No. 69-95, § 4, 7-1-95)

[The next page is 463]

Petitioner's #6

Real Property Information

Maryland Department of Assessments and Taxation
Real Property System

[Go Back] **BALTIMORE COUNTY** [Start Over]

District: 11 Acct No: 2200008105

Owner Information

Owner Name: KAHL PETER A
Use: Residential

Mailing Address: 12240 MANOR RD
GLEN ARM, MD 21057-9528

Principal Residence: YES

Transferred From: CAMPBELL JOSEPH L
Date: 04/08/91 Price: $210000

Deed Reference: 1) 0/8752/ 250
2) 0/ /

Potential Tax Liability: * NONE *

Tax Exempt: NO
Class:

Location Information [View Map]

Premise Address: 12240 MANOR RD
00000-0000

Zoning:

Legal Description:
4.716 AC
NWS MANOR RD
300FT S OF MANORVIEW RD

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat Num:
53	15	193					82	Plat Ref: /

Special Tax Areas Town:
Ad Valorem:

Primary Structure Data

Year Built	Enclosed Area	Property Land Area:	County Use
1965	1912 Sq Ft	4.710 acres	04

Value Information

	Base Value	Current Value As Of 01/01/97	Phase-In Value As Of 07/01/99	Phase-in Assessments As Of 07/01/98	Phase-in Assessments As Of 07/01/99
Land:	96010	95970			
Impts:	180020	199250			
Total:	276030	295220	295220	115520	118080
Pref Land:	0	0	0	0	0

Partial Exempt Assessments

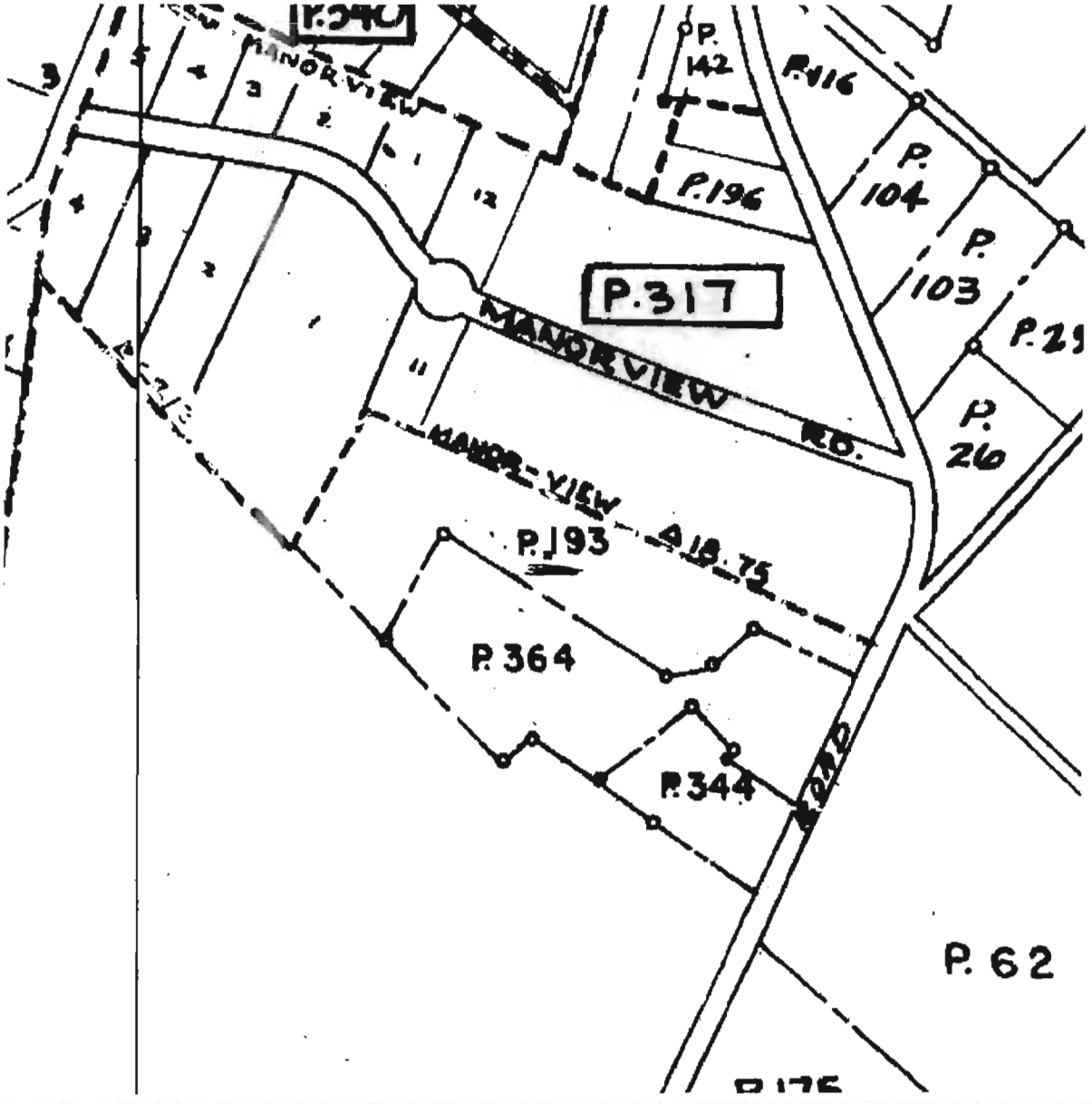
	Code	07/01/98	07/01/99
County	000	0	0
State	000	0	0
Municipal	000	0	0

[Go Back] [Start Over]

Real Property Information

Maryland Department of Assessments and Taxation
Real Property System

[Go Back] **Account ID : 04112200008105** [Zoom In]



Property maps provided courtesy of the Maryland Office of Planning © 1998.
For more information on electronic mapping applications, visit the Maryland Office of Planning web site at www.op.state.md.us.

Pacific #6

§ 8-109. Valuation, allocation, assessment, and apportionment of public utility property.

Editor's note.

Section 1, ch. 680, Acts 1994, effective July 1, 1994, provides that "a Task Force on Telecommunications Taxes shall be established for the purpose of undertaking a broad, comprehensive, and thorough study of the State and local tax structure on telecommunications companies in Maryland.

The study shall include an examination of all State and local taxes being paid by companies in the telecommunications industry in Maryland. It shall include but not be limited to income, gross receipts, sales, excise, and property taxes as well as methods of valuing real and personal property.

Among the factors the Task Force shall take into account in assessing the effectiveness of the current system of taxation of telecommunications companies are:

(1) revenue sufficiency;
(2) fairness and equity;
(3) competitiveness;
(4) economic market neutrality;
(5) impact on economic growth; and
(6) simplicity and ease of administration.

In addition, the Task Force shall include in its study a thorough examination of the effects that any potential changes will have on local governments and their revenues.

The Task Force shall consider possible changes to the tax structure that may be needed, analyze the advantages and disadvantages of the changes, and make recommendations.

The Task Force shall be made up of the following 13 members:

(1) 3 members of the Senate Budget and Taxation Committee, appointed by the President of the Senate;

(2) 3 members of the House Committee on Ways and Means, appointed by the Speaker of the House;

(3) 2 representatives from the Maryland Association of Counties;

(4) 1 representative from the Maryland Municipal League; and

(5) 4 individuals from the private sector, appointed jointly by the President of the Senate and the Speaker of the House of Delegates, including at least 1 representative of long distance providers, 1 representative of local exchange companies, and 1 representative from the Maryland Chamber of Commerce.

The Task Force shall have two co-chairmen, one of whom shall be appointed by the President of the Senate and one of whom shall be appointed by the Speaker of the House.

The Department of Fiscal Services [now Department of Legislative Services] shall provide staff to the Task Force and, subject to the approval of the President of the Senate and the Speaker of the House of Delegates, may contract with individuals or other firms with technical expertise in telecommunications taxation to provide information and/or analysis.

The Task Force shall complete its study and report its findings and recommendations to the Senate Budget and Taxation Committee and the House Committee on Ways and Means by January 15, 1995."

Subtitle 2. Assessment Procedures.

Part II. Use Assessments.

§ 8-209. Assessing of farm or agricultural use land.

(a) *Public interest.* — The General Assembly declares that it is in the general public interest of the State to foster and encourage farming activities to:

(1) maintain a readily available source of food and dairy products close to the metropolitan areas of the State;

(2) encourage the preservation of open space as an amenity necessary for human welfare and happiness; and

(3) prevent the forced conversion of open space land to more intensive uses because of the economic pressures caused by the assessment of the land at rates or levels incompatible with its practical use for farming.

(b) *Legislative intent.* — It is the intention of the General Assembly that the assessment of farmland:

(1) be maintained at levels compatible with the continued use of the land for farming; and

(2) not be affected adversely by neighboring land uses of a more intensive nature.

(c) *How valued.* — Land that is actively used for farm or agricultural use shall be valued on the basis of that use and may not be valued as if subdivided.

(d) *How assessed.* — Land that is valued under subsection (c) of this section shall be assessed on the basis of 50% of its use value.

(e) *Criteria for assessing.* — (1) The Department shall establish in regulations criteria to determine if land that appears to be actively used for farm or agricultural purposes:

(i) is actually used for farm or agricultural purposes; and

(ii) qualifies for assessment under this section.

(2) The criteria shall include:

(i) the zoning of the land;

(ii) the present and past use of the land including land under the Soil Bank Program of the United States;

(iii) the productivity of the land, including timberlands and reforested lands; and

(iv) the gross income that is derived from the agricultural activity.

(f) *Determinations by Director.* — In administering this section, periodically, the Director shall consult with:

(1) the Secretary of Agriculture;

(2) officials of the State who are knowledgeable in agriculture;

(3) representatives of the agricultural community;

(4) officials of counties and municipal corporations; and

(5) other persons as determined by the Director.

(g) *Land of less than 20 acres; single contiguous parcels.* — (1) In this subsection, the following words have the meanings indicated:

(i) "actively used" means land that is actually and primarily used for a continuing farm or agricultural use;

(ii) "agricultural land unit" means the combination of not more than 3 parcels of land when the parcels are:

1. located in the same county; and

2. under the same ownership;

(iii) "average gross income" means the average of the 2 highest years of gross income during a 3-year period;

(iv) "family farm unit" means not more than 1 parcel of land of less than 20 acres for each immediate family member for land that is:

1. contiguous to land receiving the farm or agricultural use assessment; and

2. owned by a member or members of the immediate family of the owner of the farm or agricultural use land; and

(v) "gross income" means the actual income that is received in a calendar year that results directly from the farm or agricultural use of the land.

(2) In determining if a parcel of land of less than 20 acres, or not zoned for agricultural use, is actively used, the Department may require the owner of the land to affirm, under oath, on a standard form provided by the Department that the farm or agricultural use of the land results in an average gross income of at least $2,500 from the parcel or the agricultural land unit.

(3) The Department may require an owner who submits an affirmation under paragraph (2) of this subsection to verify the gross income from the land by providing:

(i) copies of sales receipts or invoices;

(ii) lease agreements; or

(iii) other documents required by the Department.

(4) An affirmation under paragraph (2) of this subsection shall be filed before July 1 of the taxable year.

(5) If land that appears to be actively used does not yield an average gross income of $2,500, the Director shall waive the gross income requirement on finding that:

(i) the land is leased and the nature of the farm or agricultural use of the land when related to the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least $2,500;

(ii) the nature of the farm or agricultural use of the land and the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least $2,500 from the agricultural products, if sold, that are derived from the use of the land;

(iii) a drought or other natural cause has adversely affected the income-producing capability of the land during a 3-year period; or

(iv) for a newly established farm or agricultural use, the nature of the use and the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least $2,500 if the use had existed for a 3-year period.

(6) The Director may grant only the following additional waivers:

(i) under paragraph (5) (iii) of this subsection, for 1 additional consecutive 3-year period; and

(ii) under paragraph (5) (iv) of this subsection, for 1 additional consecutive 3-year period.

(7) The gross income requirement of paragraph (2) of this subsection does not apply:

(i) if the owner is at least 70 years of age and applies for waiver of the gross income requirement as to land that was assessed on July 1, 1984, on the basis of farm or agricultural use under the law or regulations of the Department that were in effect on or before that date;

(ii) if the owner becomes disabled and is unable to continue the farm or agricultural use of the land and applies for waiver of the gross income requirement as to land that is assessed on the basis of farm or agricultural use; or

(iii) if the land is actively used as a family farm unit.

(8) For purpos
this section, the fo
parcel:

(i) parcels tl
rights-of-way; and

(ii) land rel
for purposes of far

(h) *Exclusions.*
following land doe

(i) land rez
preceded the rezon
applied for or requ

(ii) land us
reasonably related

(iii) parcels
ownership excludi

1. the lan
the farm or agricu

2. the ow
the active use; or

3. the pa

(iv) if part
are owned by an o
are located in the
use assessment;

(v) parcels

(vi) land th
(g) of this section.

(2) No more t
may qualify for t
§§ 14, 19; 1985, cl
ch. 267; 1997, ch.

Effect of amendm
1995, approved Mar. 7,
date of enactment, re
as (g) (8).

Chapter 267, Acts
1995, inserted "or no
use" in (g) (2); rewr
former (g) (9) as (g) (8

The 1997 amendme
(i) and redesignated
graphs accordingly; a
deleted "after July 1
rezoned" and substit
preceded the rezonin
before July 1, 1972."

(8) For purposes of qualifying for the agricultural use assessment under this section, the following real property is deemed to be a single contiguous parcel:

(i) parcels that are created or separated by roads, easements, or other rights-of-way; and

(ii) land relating to a right-of-way that reverts back to its owner's use for purposes of farming.

(h) *Exclusions.* — (1) Subject to paragraph (2) of this subsection, the following land does not qualify to be assessed under this section:

(i) land rezoned to a more intensive use than the use that immediately preceded the rezoning, if a person with an ownership interest in the land has applied for or requested the rezoning;

(ii) land used as a homesite, which means the area of land that is reasonably related to a dwelling;

(iii) parcels of land of less than 3 acres that are under the same ownership excluding the homesite unless:

1. the land is owned by an owner of adjoining land that is receiving the farm or agricultural use assessment and is actively used;

2. the owner receives at least 51% of the owner's gross income from the active use; or

3. the parcels are part of a family farm unit;

(iv) if part of a subdivision plat, parcels of land of less than 10 acres that are owned by an owner of 5 other parcels of land of less than 10 acres each that are located in the same county and that are receiving the farm or agricultural use assessment;

(v) parcels of woodland of less than 5 acres excluding the homesite; or

(vi) land that fails to meet the gross income requirement of subsection (g) of this section.

(2) No more than 2 parcels of less than 3 acres under the same ownership may qualify for the agricultural use assessment. (An. Code 1957, art. 81, §§ 14, 19; 1985, ch. 8, § 2; 1986, ch. 171; 1990, chs. 268, 642; 1995, ch. 3, § 1; ch. 267; 1997, ch. 326.)

Effect of amendments. — Chapter 3, Acts 1995, approved Mar. 7, 1995, and effective from date of enactment, redesignated former (g) (9) as (g) (8).

Chapter 267, Acts 1995, effective June 1, 1995, inserted "or not zoned for agricultural use" in (g) (2); rewrote (g)(4); redesignated former (g) (9) as (g) (8); and added (h) (1) (vii).

The 1997 amendment deleted former (h) (1) (i) and redesignated the remaining subparagraphs accordingly; and, in present (h) (1) (i), deleted "after July 1, 1972" following "land rezoned" and substituted "that immediately preceded the rezoning" for "permitted on or before July 1, 1972."

Editor's note. — Section 21, ch. 3, Acts 1995, provides that "except for §§ 2, 3, 4, 11, 12, 13, and 14 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act."

Section 2, ch. 326, Acts 1997, provides that "this Act shall take effect June 1, 1997 and shall be applicable to all taxable years beginning after June 30, 1997.

2 Am Jur Legal Forms 2d, Animals §§ 20:01 et seq.
1 Am Jur Proof of Facts 597, Animals

§ 1. Definitions

Etymologically speaking, the word "animal" comprehends all living creatures, whether brutish or human. However, in the language of the law, the word "animal" is used to mean all animal life other than humans and signifies an inferior or irrational sentient being, generally, though not necessarily, possessed of the power of self-motion.[1] The power of self-motion is so common an attribute of nearly all animals that many lexicographers define an animal as any animate being, not human, and endowed with the power of voluntary motion.[2]

In many statutes where the word "animal" is employed it has been taken to include every living brute creature.[3] However, in other statutes, the word animal has been used to mean a mammal as distinguished from a bird, reptile, or other nonmammal.[4]

Observation: The word "animal" is used in the section of the Restatement of Torts dealing with injuries by animals otherwise than by trespass, in a broad sense, to include not only animals strictly so-called, but also birds, fish, reptiles, and insects.[5] For purposes of construing various state statutes, the term "animal" has been found to include fish,[6] fowls,[7] and snakes.[8]

§ 2. Classification

Generally, the present day classification of animals, and one which has been recognized from the earliest date of recorded history, is twofold: wild, or ferae naturae, and domestic, or domitae naturae.[9] Animals ferae naturae are such as are of a wild nature or disposition and so require to be reclaimed and made tame by art, industry, or education, or else must be kept in confinement to be brought within the immediate power of the owner.[10] Animals that are considered wild include pigeons[11] and ducks.[12]

1. Massachusetts Soc. for Prevention of Cruelty to Animals v Commissioner of Public Health, 339 Mass 216, 158 NE2d 487; Tate v Ogg, 170 Va 95, 195 SE 496.

2. Holcomb v Van Zylen, 174 Mich 274, 140 NW 521.

3. Thurston v Carter, 112 Me 361, 92 A 295; Tate v Ogg, 170 Va 95, 195 SE 496.

4. Jett v Municipal Court (4th Dist) 177 Cal App 3d 664, 223 Cal Rptr 111 (holding that, according to the penal code, a tortoise was not a "fighting animals" but rather as a reptile).

As to what constitutes an "animal" under the Animal Welfare Act, see § 37.

5. Restatement 2d, Torts § 506, Comment a.

6. Knox v Massachusetts Soc. for Prevention of Cruelty to Animals, 12 Mass App 407, 425 NE2d 393.

7. Brackett v State, 142 Ga App 601, 236 SE2d 689; State v Kaneakua, 61 Hawaii 136, 597 P2d 590.

For a contrary view, see Weber v Madison (Iowa) 251 NW2d 523.

8. State v Kirchner, 19 Ohio Misc 2d 7, 19 Ohio BR 183, 483 NE2d 497.

9. Coakley v Dairy Cattle Congress, 228 Iowa 1130, 293 NW 457.

Law Reviews: The Endangered Species Act: what do we mean by species?, 20 Bos Col Env Aff LR 239 (1993).

10. Rolling Meadows v Kyle (1st Dist) 145 Ill App 3d 168, 98 Ill Dec 644, 494 NE2d 766.

11. Glave v Michigan Terminix Co., 159 Mich App 537, 407 NW2d 36, app den 429 Mich 853.

12. Varga v Welsh (Portage Co) 27 Ohio App 3d 386, 27 Ohio BR 482, 501 NE2d 668.

Domestic animals are those which are naturally tame and gentle or which, by long continued association with humanity, have become thoroughly domesticated and are now reduced to such a state of subjection to his will that they no longer possess the disposition or inclination to escape.[13] The words "domestic animals" and "any domesticated animal" are not technical words which have acquired a peculiar and appropriate meaning in law, and are therefore to be construed according to the common and approved usage of the language.[14] In ordinary speech, sanctioned as well by the dictionaries, the word "domestic" means belonging to the home or household, and the word "domesticated" means made domestic or converted to domestic use. Where descriptive of the word "animals," these terms in general usage carry the meaning of "tamed," "associated with family life," or "accustomed to live in or near the habitations of men."[15]

The class of domestic animals includes cattle, horses, sheep, goats, pigs, poultry, cats, and all other animals which by habit or training live in association with humanity.[16]

Observation: A wild animal is an animal which is not, and a domestic animal is an animal which is, by custom devoted to the service of humanity at the time and in the place in which it is kept.[17]

§ 3. —Dogs

Dogs are regarded by the common law as ordinarily harmless animals,[18] and generally, at the present time, they are considered as domestic animals or are considered to be within the purview of statutes using the term "domestic animals" or "domesticated animals."[19] Some courts, however, in interpreting the particular language of a statute, have found that dogs are not included within the term "domestic animals" as such term is used in the statute.[20]

13. Motion Industries, Inc. v Le Blanc (La App 1st Cir) 532 So 2d 498 (holding that horses, through their long association with humanity, have become domesticated); Connor v Princess Theatre, 27 Ont L 466.

14. Commonwealth v Flynn, 285 Mass 136, 188 NE 627, 92 ALR 206.

The common law referred the question whether an animal was domestic or wild to our knowledge of its habits gained from fact and experience. Thurston v Carter, 112 Me 361, 92 A 295.

15. Commonwealth v Flynn, 285 Mass 136, 188 NE 627, 92 ALR 206.

16. Motion Industries, Inc. v Le Blanc (La App 1st Cir) 532 So 2d 498; Thurston v Carter, 112 Me 361, 92 A 295; Giles v State, 106 Misc 2d 329, 431 NYS2d 781; Mungo v Bennett, 238 SC 79, 119 SE2d 522, 85 ALR2d 1155.

17. Restatement 2d, Torts § 506.

18. Andrews v Jordan Marsh Co., 283 Mass 158, 186 NE 71, 92 ALR 726.

19. Wilcox v State, 101 Ga 563, 28 SE 981; Smith v Costello, 77 Idaho 205, 290 P2d 742, 56 ALR2d 1020 (superseded by statute on other grounds as stated in American Oil Co. v Neill, 90 Idaho 333, 414 P2d 206); Thurston v Carter, 112 Me 361, 92 A 295; Commonwealth v Flynn, 285 Mass 136, 188 NE 627, 92 ALR 206; Boosman v Moudy (Mo App) 488 SW2d 917; People v Scher, 55 Misc 2d 754, 286 NYS2d 770; Commonwealth v Ganster, 41 Pa D & C 383; Mungo v Bennett, 238 SC 79, 119 SE2d 522, 85 ALR2d 1155 (dictum).

20. Skog v King, 214 Wis 591, 254 NW 354; People v Wicker 78 Misc 2d 811, 357 NYS2d 597.

A dog is not a domestic animal within a statute making it a crime for a person to maliciously expose any poisonous substance, with intent that the same shall be taken or swallowed by any cattle, hog, sheep, goat, horse, mule, ass, or other domestic animal or domestic fowl. State v Getty (Mo) 273 SW2d 170.

Paragraph 49

B. RIGHTS, PRIVILEGES, AND LIABILITIES

§ 61. Generally; exemption from taxation
§ 62. Contract and tort liability
§ 63. Liability for acts or negligence of officers, agents, or employees
§ 64. Personal liability of members, officers, or agents

VII. ACTIONS

§ 65. Generally
§ 66. Against governmental agencies or officers; injunctions
§ 67. —By taxpayers
§ 68. Enforcement of agricultural liens
§ 69. Involving liability respecting individual spraying or dusting
§ 70. Involving sales of commercial fertilizer
§ 71. —Burden of proof; evidence
§ 72. By and against agricultural societies

I. IN GENERAL [§§ 1–4]

Research References

29 USCS §§ 1801 et seq.
42 USCS §§ 1471 et seq.
ALR Quick Indexes, Agriculture
Federal Quick Index, Agriculture
L Ed Index to Annotations, Agriculture
1 Am Jur Legal Forms 2d, Agriculture §§ 15:1 et seq.
12 Federal Procedure, L Ed, Ch 34 (Farms, Ranches, and Agricultural Products)

§ 1. Generally; definitions, nature, and distinctions

In its broad and commonly accepted sense, "agriculture" may be defined as the science or art of cultivating the soil and its fruits, especially in large areas or fields, and the rearing, feeding, and management of livestock thereon, including every process and step necessary and incident to the completion of products therefrom for consumption or market and the incidental turning of them to account.[1] "Agriculture" is broader in meaning than "farming"; and

1. Stuart v Kleck (CA9 Ariz) 129 F2d 400; Gregg v Mitchell (CA6 Ohio) 166 F 725; State v Wertheimer Bag Co., 253 Ala 124, 43 So 2d 824; Wayland v Kleck, 57 Ariz 135, 112 P2d 207; Miller & Lux, Inc. v Industrial Acci. Com., 179 Cal 764, 178 P 960, 7 ALR 1291; H. Duys & Co. v Tone, 125 Conn 300, 5 A2d 23; Cook v Massey, 38 Idaho 264, 220 P 1088, 35 ALR 200 (ovrld on other grounds University of Utah Hospital on behalf of Harris v Pence, 104 Idaho 172, 657 P2d 469); Keeney v Beasman, 169 Md 582, 182 A 566, 103 ALR 1515 (discussing both history and etymology of the term); State ex rel. Bykle v District Court of Watonwan County, 140 Minn 398, 168 NW 130; St. Louis Rose Co. v Unemployment Compensation Com., 348 Mo 1153, 159 SW2d 249; Chapman v Koenig, 205 Okla 402, 238 P2d 357.

"'Agriculture' is defined by Webster as, 'the art or science of cultivating the ground and raising and harvesting crops, . . . tillage; husbandry; farming; in a broader sense the science and art of the production of plants and animals useful to man including to a variable extent the preparation of these products for man's use and their disposal by marketing or otherwise.'" Lowe v North Dakota Workmen's Compensation Bureau, 66 ND 246, 264 NW 837, 107 ALR 973.

The storage and marketing of the crop raised, whether it is fruit or grain, is just as

while it includes the preparation of soil, the planting of seeds, the raising and harvesting of crops, and all their incidents, it also includes gardening, horticulture, viticulture, dairying, poultry, bee raising, and ranching.[2] More specifically, however, it refers to the field, or farm, with all its wants, appointments, and products, as horticulture refers to the garden, with its less important, though varied, products.[3]

Whether a particular type of activity is agricultural depends in large measure on the way in which that activity is organized. The question is not determined by the necessity of the activity to agriculture nor by the physical similarity of the activity to that done by farmers in other situations. The test is whether the activity in the particular case is carried on as part of the agricultural function or is separately organized as an independent productive activity.[4]

Engagement by an agriculturist in another distinct business, either on or off his land, such as sawmill operations for hire or as a commercial enterprise,

much the work of agriculture as is the planting and cultivation thereof, or any other labor engaged in for the purpose of furthering, as a main or an incidental purpose, the cultivation of the ground or the raising of crops. Bucher v American Fruit Growers' Co., 107 **Pa** Super 399, 163 A 33.

The term "agricultural" has been defined as "pertaining to, connected with, or engaged in agriculture." Slycord v Horn, 179 **Iowa** 936, 162 NW 249, 7 ALR 1285.

2. Gregg v Mitchell (CA6 Ohio) 166 **F** 725; State v Wertheimer Bag Co., 253 **Ala** 124, 43 So 2d 824; Slycord v Horn, 179 **Iowa** 936, 162 NW 249, 7 ALR 1285; People v Stimer, 248 **Mich** 272, 226 NW 899, 67 ALR 552; Re Rodgers, 134 **Neb** 832, 279 NW 800; Lowe v North Dakota Workmen's Compensation Bureau, 66 **ND** 246, 264 NW 837, 107 ALR 973 (agriculture as including grain threshing).

Raising chickens is an agricultural farm activity. Franklin v McCoy, 234 **Ark** 558, 353 SW2d 166.

"Agricultural pursuit" may properly include every process and step taken and necessary to the completion of a finished farm product. Cook v Massey, 38 **Idaho** 264, 220 P 1088, 35 ALR 200 (ovrld on other grounds University of Utah Hospital on behalf of Harris v Pence, 104 Idaho 172, 657 P2d 469).

"Agriculture" is defined as the art or science of cultivating the ground, and its broad use includes farming, horticulture, and forestry. Sierra Club v Kenney (4th Dist) 90 **Ill** App 3d 230, 45 Ill Dec 388, 412 NE2d 970, vacated on other grounds 88 Ill 2d 110, 57 Ill Dec 851, 429 NE2d 1214.

Cutting and baling hay constitute "agricultural purposes." Chapman v Koenig, 205 **Okla** 402, 238 P2d 357.

Where the milk produced by cattle kept on the farm, as a part of its operation, is sold, the business of producing and selling it is necessarily an agricultural pursuit. The nature of the business is not affected by the fact that to feed his cows the farmer may from time to time buy feed not grown on his own farm. Keeney v Beasman, 169 **Md** 582, 182 A 566, 103 ALR 1515.

Agriculture includes horticulture. St. Louis Rose Co. v Unemployment Compensation Com., 348 **Mo** 1153, 159 SW2d 249.

Sorghum making is a farm pursuit. Taverner v Anderson, 220 **Iowa** 151, 261 NW 610.

In the western states it is impossible to draw any line of demarcation between farming and ranching. Ganzer v Chapman & Barnard, 157 **Okla** 99, 11 P2d 115; Finger v Northwest Properties, 63 **SD** 176, 257 NW 121.

3. Cook v Massey, 38 **Idaho** 264, 220 P 1088, 35 ALR 200 (ovrld on other grounds University of Utah Hospital on behalf of Harris v Pence, 104 Idaho 172, 657 P2d 469); Slycord v Horn, 179 **Iowa** 936, 162 NW 249, 7 ALR 1285; Lowe v North Dakota Workmen's Compensation Bureau, 66 **ND** 246, 264 NW 837, 107 ALR 973.

Agriculture has a broader meaning than farming and includes such areas as horticulture, viticulture, dairying, poultry, bee raising, and ranching. County of Lake v Cushman (2d Dist) 40 **Ill** App 3d 1045, 353 NE2d 399; Nielsen v Erickson (**SD**) 272 NW2d 82.

4. Farmers Reservoir & Irrig. Co. v McComb, 337 **US** 755, 93 L Ed 1672, 69 S Ct 1274, 16 CCH LC ¶ 65217, reh den 338 US 839, 94 L Ed 513, 70 S Ct 31 and reh den 338 US 839, 94 L Ed 513, 70 S Ct 32; Borough of Demarest v Heck, 84 **NJ** Super 100, 201 A2d 75 (holding that a hostel for horses, with the characteristics of a livery stable and riding academy rather than those of an agricultural business, was not an "agricultural business" within the meaning of a zoning ordinance).

manufacturing for others, except simple processing of farm products, commercial mining, and logging and lumbering solely for the purpose of securing lumber, is usually held to be no part of the ordinary pursuit of agriculture, although such work may, in some circumstances and to a limited extent, be incidental to agriculture.[5]

§ 2. Agricultural or farm products

Agricultural products are an absolute essential to the sustenance and well being of the human race.[6] "Farm products" include swine, horses, neat cattle, sheep, manure, cordwood, hay, as well as vegetables, fruit, eggs, milk, butter, lard, and similar foodstuffs.[7] Although logically such terms as "agricultural products," "farm produce," etc., would include all things produced in the course of the pursuit of agriculture, their meaning, when used in tax or license statutes, is frequently dependent on the context[8] or on an express definition[9] or limitation to a given class of products.[10] Variously included under such statutes are both vegetable and animal products, including those of the field, garden, trees, orchards, livestock, poultry, eggs, dairy products, meats, nuts, and honey.[11] Many activities connected with the preparation of farm products for use or sale which formerly were carried on upon the farm or in intimate connection with it, such as the making of butter, cheese, and cider, have become specialized and removed from the farm, and when this is done, such work is industrial in nature rather than agricultural.[12]

§ 3. Farm or agricultural laborers; regulation of agricultural employment

One may be employed in agriculture and yet not be a "farmer" in the ordinary sense of the term, or even a "farm laborer" as used in lien laws. They are not synonymous terms.[13] Thus, one who is engaged in the pursuit of

5. United States Nat. Bank v Pamp (CA8 Neb) 77 F2d 9, 99 ALR 1370; Gregg v Mitchell (CA6 Ohio) 166 F 725; Roush v Heffelbower, 225 Mich 664, 196 NW 185, 35 ALR 196.

In the usual and commonly accepted sense, agriculture does not include the operation of commercial greenhouses. Hein v Ludwig, 118 Pa Super 152, 179 A 917.

The operation of a turpentine business is not included in "farming." Pridgen v Murphy, 44 Ga App 147, 160 SE 701.

6. State ex rel. Hickey v Levitan, 190 Wis 646, 210 NW 111, 48 ALR 434.

7. Keeney v Beasman, 169 Md 582, 182 A 566, 103 ALR 1515.

8. Davis & Co. v Macon, 64 Ga 128, stating that it appeared that a tax statute relating to "agricultural products" embraced merely vegetable products, unless there was something in the context to show that the term was intended to include animal products as well.

Agricultural commodities include milk and cream. Re Rodgers, 134 Neb 832, 279 NW 800 (holding that a person hauling milk and cream for farmers to designated dairies and creameries, the title to the milk and cream remaining in the farmers until delivered, and the hauler being paid by the dairy twice a month, was not a common carrier but a contract carrier).

9. Aero Mayflower Transit Co. v Georgia Public Service Com., 295 US 285, 79 L Ed 1439, 55 S Ct 709; Cook v Massey, 38 Idaho 264, 220 P 1088, 35 ALR 200 (ovrld on other grounds University of Utah Hospital on behalf of Harris v Pence, 104 Idaho 172, 657 P2d 469); State ex rel. Hickey v Levitan, 190 Wis 646, 210 NW 111, 48 ALR 434.

10. Ex parte Snyder, 10 Idaho 682, 79 P 819.

11. Aero Mayflower Transit Co. v Georgia Public Service Com., 295 US 285, 79 L Ed 1439, 55 S Ct 709; Cook v Massey, 38 Idaho 264, 220 P 1088, 35 ALR 200 (ovrld on other grounds University of Utah Hospital on behalf of Harris v Pence, 104 Idaho 172, 657 P2d 469); State ex rel. Hickey v Levitan, 190 Wis 646, 210 NW 111, 48 ALR 434.

12. Wayland v Kleck, 57 Ariz 135, 112 P2d 207; H. Duys & Co. v Tone, 125 Conn 300, 5 A2d 23.

13. St. Louis Rose Co. v Unemployment Compensation Com., 348 Mo 1153, 159 SW2d 249; Lowe v North Dakota Workmen's Compensa-

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

03/07/08

Case Number: 03-C-98-012834 AE
Date Filed: 12/29/1998
Status: Closed/Active
Judge Assigned:
Location :
CTS Start : Target :

In The Matter of: Peter A Kahl

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	97-494-SPH
Case Folder ID	C98012834V02

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. / Addr Update	Entered
PET	001	Kahl, Peter A	Party ID: 0266786	CT GR 09/04/02	12/29/98
Mail:		12240 Manor Road Glen Arm, MD 21057	12/29/98	12/29/98 TT	12/29/98 TT
Attorney:		0012404 Gontrum, John B Whiteford, Taylor & Preston L.L.P. 210 W. Pennsylvania Ave. Towson, MD 21204-4515 (410)832-2055			12/29/98
		0013940 Moran, Michael J The Law Offices Of Curtis C. Coon, LLC 305 West Chesapeake Ave			12/29/98

Suite 105
Towson, MD 21204
(410)244-8800

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. / Addr Update	Entered
RES	001	Marzullo, Mary Pat	Party ID: 0266804	CT GR 09/04/02	12/29/98
		Attorney: 0012186 Holzer, J Carroll Holzer & Lee 508 Fairmount Avenue Towson, MD 21286-5448 (410)825-6961			01/20/99
ITP	001	Baltimore County Board Of Appeals	Party ID: 0266798	CT GR 09/04/02	12/29/98
		Mail: Old Court House 400 Washington Avenue Towson, MD 21204	12/29/98	12/29/98 TT	12/29/98 TT
ITP	002	Peoples Counsel For Baltimore County	Party ID: 0270376	CT GR 09/04/02	01/20/99
		Attorney: 0005744 Demilio, Carole S 301 W Pennsylvania Ave Towson, MD 21204 (410)825-6963			12/03/99
		0029075 Zimmerman, Peter M People's Counsel For Baltimore County 105 West Chesapeake Ave. Room 204 Towson, MD 21204 (410)887-2188			01/20/99

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text	SA	Jdg	Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec					
09/09/99	09:30A	CR15	Civil Jury Trial	Y		JGT	01 /01		PB KS
Cancelled/Vacated			09/08/99						
11/10/99	09:30A	CR15	Civil Jury Trial	Y		JGT	01 /01		PB
Held/Concluded			11/10/99 C J.Turnbull, II	Y					
Stenographer(s): Barbara Ely									

Date	Time	Fac	Event Description	Text	SA	Jdg	Day	Of Notice	User ID
Result			ResultDt By Result Judge		Rec				
07/26/02	09:30A	CR14	Civil Non-Jury Trial		Y	DML	01	/01 06/24/02	KLS
Held/Concluded			09/04/02 C		Y				
Stenographer(s): William C. Forand									
09/04/02	09:30A	CR14	Civil Non-Jury Trial		Y	DML	01	/01	PB PF
Cancelled/Vacated			09/04/02 C						

DISPOSITION HISTORY

Disp Date	Disp Code	Description	Stage Code	Description	User	Activity Date
11/18/99	DO	Decree or Order	CT	AFTER TRIAL/HEARING	JM	05/16/02
09/04/02	GR	Granted	CT	AFTER TRIAL/HEARING		03/23/04

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
JGT Turnbull, II, Hon.John Gr J	ER	02/12/99	07/31/02

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review	12/29/98	12/29/98	PET001	TBA		11/18/99	TT PH
0001001	Answer Filed by RES001-Marzullo, Mary Pat, PET001-Kahl, Peter A	01/15/99	01/20/99	RES001	TBA		11/18/99	PH PH
0001002	Answer **	01/19/99	01/20/99	ITP002	TBA		11/18/99	SD PH
0002000	Certificate of Notice *	12/31/98	01/05/99	ITP001	TBA		11/18/99	DFF PH
0003000	Motion to Extend Time for the record to be transmitted no later than 3/31/99.	02/24/99	02/24/99	PET001	JGT	Granted	02/24/99	MR MR
0004000	Transcript of Record from Adm Agency *	03/31/99	04/01/99	ITP001	TBA		11/18/99	DFF PH
0005000	Notice of Transcript of Record Sent	04/01/99	04/01/99	ITP001	TBA		04/01/99	DFF DFF
0006000	Notice of Transcript of Record Sent	04/01/99	04/01/99	ITP002	TBA		04/01/99	DFF DFF

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0007000	Notice of Transcript of Record Sent	04/01/99	04/01/99	PET001	TBA		04/01/99	DFF DFF
0008000	Notice of Transcript of Record Sent	04/01/99	04/01/99	RES001	TBA		04/01/99	DFF DFF
0009000	Stipulation Extending Time *	05/11/99	05/12/99	PET001	TBA		05/12/99	CKC CKC
0010000	Brief of Petitioner. Peter A. Kahl *	06/08/99	06/10/99	PET001	TBA		11/18/99	DFF PH
0011000	Stipulation Extending Time for the Petitioner to file it's Memorandum. *	06/10/99	06/14/99	PET001	TBA		06/14/99	CKC CKC
0012000	* Memorandum with Exhibits.	08/12/99	08/16/99	ITP001	TBA		08/16/99	DFF DFF
0013000	* Memorandum	08/12/99	08/16/99	RES001	TBA		08/16/99	DFF DFF
0014000	*Petitioner's Reply Brief	08/26/99	08/27/99	000	TBA		11/18/99	MRS PH
0015000	Open Court Proceeding November 10. 1999. Hon. John Grason Turnbull II. Hearing had. Opinion and Order to be filed.	11/10/99	11/10/99	000	JGT		11/18/99	KP PH
0016000	Opinion and Order reversing the decision of the County Board of Appeals	11/18/99	11/18/99	000	JGT		11/18/99	PH KM
0017000	Docket entries sent to BOA	11/23/99	11/23/99	000	TBA		11/18/99	MDJ PH
0018000	Pre Trial Hearing Letter Issued	11/24/99	11/24/99	000	TBA		11/24/99	AJ AJ
0019000	*Notice of Appeal to COSA or COA (10/186)	11/24/99	11/24/99	RES001	TBA		11/18/99	MRS PH
0020000	*Notice of Appeal to COSA or COA (11/3)	12/03/99	12/03/99	ITP002	TBA		11/18/99	DR PH
0021000	Pre Trial Hearing Letter Issued	12/03/99	12/03/99	000	TBA		12/03/99	AJ AJ
0022000	*Order to proceed w/out prehearing conf. from COSA per Hon James R Eyler 01/05/00 (10/186. 1/23. due 03/06/00)	01/07/00	01/13/00	000	TBA		11/18/99	DR PH
0023000	Line requesting Transcript of entire * proceedings.	01/12/00	01/18/00	RES001	TBA		11/18/99	DFF PH
0024000	Original Record sent to COSA OF MARYLAND BY CERTIFIED MAIL NUMBER Z 010 930 706 . ONE VOLUME. ONE TRANSCRIPT AND ONE LARGE ENVELOPE OF EXHIBITS FROM BOX 131. MAILED ON FEBRUARY 25. 2000.	02/24/00	02/24/00	000	TBA		11/18/99	AJ PH
0025000	Mandate from the COSA reversing judgment and remanding case for further proceedings consistent with this	02/01/01	02/01/01	000	TBA		11/18/99	PH PH

opinion

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0026000	*Receipt for Records of a petition for writ of certiorari fd in the Court of Appeals Case	02/06/01	02/07/01	000	TBA	02/07/01	AR AR
0027000	Order remanding case to the Co. B O A for further proceedings	02/08/01	02/08/01	000	JGT Granted	02/08/01	PH PH
0028000	Appeal Order to COSA or COA * (Judge Robert M. Bell). (11/191).	04/18/01	04/18/01	000	TBA	09/04/02	DFF PF
0029000	Original Record sent to COSA OF MARYLAND BY CERTIFIED MAIL NUMBER 7099 3220 0003 8139 8594 AND 7099 3220 0003 8139 8600. ONE VOLUME, ONE TRANSCRIPT AND EXHIBITS.	04/20/01	04/20/01	000	TBA	09/04/02	AJ PF
0030000	Disposition of appeal in COA Judgment of the COSA reversed	12/19/01	12/19/01	000	TBA	09/04/02	PH PF
0031000	Mandate from the COSA reversing judgment and remanding to the Corcuit Court for further proceedings	12/19/01	12/19/01	000	TBA	09/04/02	PH PF
0032000	Order affirming decision of the B O A	01/04/02	01/04/02	000	JGT Granted	01/04/02	PH PH
0033000	Docket entries sent to Board of Appeals	01/04/02	01/04/02	000	TBA	09/04/02	CVM PF
0034000	Reopen Case	05/16/02	05/16/02	000	TBA	05/16/02	JM JM
0035000	Motion for Injunction, Mandamus and and Contempt of Court w/exhibits	05/16/02	05/21/02	RES001	TBA	09/04/02	DR PF
0035001	Answer	06/17/02	06/19/02	PET001	JGT	09/04/02	MRS PF
0036000	Request for Expedited Hearing/Motion for Injunction, Mandamus, and Contempt of Court	05/16/02	05/21/02	RES001	TBA	09/04/02	DR PF
0037000	Request to Recuse Judge Turnbull from Participation in Instant Matter.	05/28/02	05/30/02	RES001	JGT Denied	06/26/02	DFF MR
0038000	Request for Hearing/reponse to Motion for Injunction etc	06/17/02	06/19/02	PET001	TBA	09/04/02	MRS PF
0039000	Hearing Notice	06/24/02	06/24/02	000	TBA	06/24/02	KLS KLS
0040000	Open Court Proceeding July 26, 2002. Hearing had in re: Motion for Injunction & Mandamus. Hearing continued until 9/4/02 @ 9:30am.	07/26/02	07/26/02	000	DML	09/04/02	PF PF
0041000	Open Court Proceeding September 4, 2002. Hon. Dana M. Levitz. Hearing had in re: Motion for Injunction, Mandamus & Contempt of Court. Line of	09/04/02	09/04/02	000	DML	09/04/02	PF PF

dismissal to be filed.

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0042000	Invoice #12230 sent to John B Gontrum	09/17/02	09/17/02	000	TBA			PKE PKE
0043000	Docket entries sent to Board of Appeals for Baltimore County	09/23/02	09/23/02	000	TBA			CVM CVM

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	01/15/99	0	no	no	DANS	D	001	001
1ANS	1st Answer Tickle	CLOSED	06/17/02	0	no	no	DANS	D	035	001
1YRT	One Year Tickle (Jud	CLOSED	12/29/99	365	no	no	DAAA	D	000	000
DEXH	Destroy Exhibits	OPEN	04/08/08	33	no	no	U643	F	000	000
EXPU	Exhibit Pickup Notic	CLOSED	01/17/00	30	no	no			000	000
EXPU	Exhibit Pickup Notic	CLOSED	04/09/01	30	no	no			000	000
EXPU	Exhibit Pickup Notic	CLOSED	11/03/02	30	no	no			000	000
SLMH	Set List For Motions	CANCEL	06/17/02	0	no	no	SLMM	T	035	001
SLMM	Set List Motions Mar	DONE	02/08/05	999	yes	yes	DANS	D	036	000
SLMM	Set List Motions Mar	CLOSED	03/12/05	999	yes	no	DRHR	D	038	000
SLMR	Set List For Motions	CANCEL	03/18/99	22	no	no	MEXT	D	000	000
SLMR	Set List For Motions	CANCEL	06/21/02	36	no	no	DRST	D	035	000
SLTR	Set List For Trial	CANCEL	01/15/99	0	yes	no	1ANS	T	001	001
SLTR	Set List For Trial	CANCEL	06/17/02	0	yes	no	1ANS	T	035	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By: ITP 001 Baltimore County Board Of App								
000		B	DISPOSED					

ACCOUNTING SUMMARY

NON-INVOICED OBLIGATIONS AND PAYMENTS

Date	Rcpt/Initials	Acct	Desc	Debit	Credit	Method	Balance
12/29/98	199800025461/RG	1102	CF-Civil Fil	.00	80.00	CK	-80.00
12/29/98	199800025461/RG	1265	MLSC	.00	10.00	CK	-90.00
12/29/98	199800025461/RG	1500	Appearance F	.00	10.00	CK	-100.00
11/24/99	199900023584/JJ	1101	CF-Civil Fil	.00	60.00	CK	-160.00
11/24/99	199900023584/JJ	1999	CTSPAPP	.00	50.00	CK	-210.00
01/03/00	200000000006/JJ	1999	CTSPAPP	.00	50.00	CK	-260.00
10/01/02	200200018767/JLK	1500	Appearance F	.00	10.00	CK	-270.00

CERTIFICATE OF POSTING

RE: Case No.: 97-494-SPH

Petitioner /Developer: MARY PAT MARZULLO

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 12240 MANOR RD

_____

_____.

The sign(s) were posted on 12/16/1997 ✓.
(Month, Day, Year)

Sincerely,

Gary C. Freund 12/16/97
Signature of Sign Poster and Date

GARY C. FREUND
Printed Name

_____
Address

_____
City, State, Zip Code

_____
Telephone Number

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

February 4, 1998

Baltimore County Board of Appeals
Attn: Chairperson Kristine Howanski, Esquire
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing, Mary Pat Marzullo
Case No. 97-494-SPH

Dear Chairperson Howanksi,

Please be advised that I have just been retained to assist the Petitioner, Mary Pat Marzullo, in her appeal of the subject case before the County Board of Appeals. Please enter my appearance and direct all notices to me in the future. I would also appreciate your checking with me before assigning this matter for hearing, in view of my current schedule.

Thank you for your cooperation.

Very truly yours,

J. Carroll Holzer

cc: Michael J. Moran, Esquire
Mary Pat Marzullo
Peter Max Zimmerman, People's Counsel

c:letters\marzullo.1

98 FEB -5 PM 12:00
COUNTY BOARD OF APPEALS
RECEIVED

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

June 2, 1998
#7049

HAND DELIVERED
Kathleen Bianco, Administrator
County Board of Appeals
Old Courthouse, Room 49
Towson, Maryland 21204

Re: Property of Peter Kahl
12240 Manor Road
Case No. 97-494-SPH

Dear Ms. Bianco:

I have recently been informed by one of my clients, Mary Pat Marzullo, that because of commitments at her new position as Volunteer Coordinator in Anne Arundel County which she has been unable to alter, she would not be able to make the scheduled hearing on Wednesday, June 17. Today by fax, she submitted a letter to me which I have attached that explains in more detail the difficulty Ms. Marzullo is having trying to juggle her commitments at work and her central role in the hearing before the Board.

It is my understanding that this is the first request for postponement and if the Board will grant this requested postponement, I will work with Counsel and the Board to re-set this hearing at a mutually convenient time. If you have any questions, please call me at 410-825-6961.

Very truly yours,

J. Carroll Holzer /pw

J. Carroll Holzer

Enclosure

cc: Michael Moran, Esquire
People's Counsel
Mary Pat Marzullo

c:letters\bianco.1

pp Gibi set to 9/09/98

RECEIVED
COUNTY BOARD OF APPEALS
98 JUN -2 PM 4:01

12244 Manor Road
Glen Arm, MD 21057
June 6, 1998

J. Carroll Holzer, Esq.
305 Washington Avenue
Towson, Md 21204

Dear Mr. Holzer:

I recently started a new job as Volunteer Coordinator and Fund Development for Sarah's House, a shelter and transitional housing program for the homeless in Anne Arundel County.

As part of this job, there is a major fund-raising meeting being held June 17, 1998. I tried to get the meeting date changed, but because of the number of other outside people attending the meeting, it was not possible. In addition, the Administrator of Sarah's House, Mary Anne O'Donnell, is on vacation the week of June 14th and is expecting me to attend this meeting in her place.

As the one whose name is signed as the petitioner for our community, and because the community is relying on my testimony and participation in this hearing, I need for you to ask the Board to postpone this hearing. My sincere apologies for having to ask for a postponement, but I really am in a difficult position having just started this new job, and I ask the Board's indulgence this one time.

Sincerely,

Mary Pat Marzullo

Mary Pat Marzullo

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

June 8, 1998

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 97-494-SPH

IN THE MATTER OF: MARY PAT MARZULLO -Petitioner /Protestant Property of Peter Kahl located at 12240 Manor Road 11th E; 6th C

(Petition for Special Hearing DENIED; Use of subject site for breeding, raising and sale of reptiles is permissible)

which was scheduled for hearing on June 17, 1998 has been **POSTPONED** at the request of Counsel for Appellant /Protestant (Petitioner) and rescheduled to a confirmed date; and has been

REASSIGNED FOR: **WEDNESDAY, SEPTEMBER 9, 1998 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

---

cc: Appellant (Office of People's Counsel): Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire

Counsel for Appellant /Protestant : J. Carroll Holzer, Esquire
Appellant /Protestant (Petitioner) : Mary Pat Marzullo

Counsel for Property Owner : Michael J. Moran, Esquire
Property Owner : Peter Kahl

Phillip Mearig /Tally-Hi Farm

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

Printed with Soybean Ink on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

June 6, 1997

Leslie M. Pittler, Esquire
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Item No.: 494
Case No.: 97-494-SPH
Petitioner: Mary Pat Marzullo

Dear Mr. Pittler:

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 April 25, 1997.

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 Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

Printed with Soybean Ink
on Recycled Paper

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

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

RE: Baltimore County 5-9-97
Item No. 494 J.C.M.

Dear Ms. Eubanks:

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 Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

R. J. Gredlein

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

5/9/97 97-2230
& TO: RYE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 8, 1997

FROM: Arnold F. "Pat" Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

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

Item Nos. 488, 489, 490, 491, 492, 493, 494, and 499

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at (401) 887-3495

Prepared by: Jeffrey W. Long

Division Chief: Gary L. Kerns

AFK/JL

RECEIVED
MAY 9 1997
PDM

C:\MSOFFICE\WINWORD\ZAC\NOCOM\488.DOC

Baltimore County Government
Fire Department



RECEIVED
MAY 13 1997
PDM

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

May 12, 1997

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 May 12, 1997

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.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

488, 489, 490, 491, 492, 493, 494, 495, 496, 497, and 499

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

cc: File

Printed on Recycled Paper

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

INTEROFFICE CORRESPONDENCE

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

Date: May 27, 1997

FROM: Robert W. Bowling, Chief RWB1Dnr
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for May 19, 1997
Item No. 494

The Development Plans Review Division has received no plan for the subject zoning item.

RWB:HJO:jrb

cc: File

ZONE519.494

RECEIVED
SEP 30 1997
ZONING COMMISSIONER

September 24, 1997

Tammy Baran
P O Box 5871
Timonium, MD 21094

Mr. Larry Carson:

I am deeply dismayed and concerned by the contents of the article you wrote for yesterday's Sun Paper article entitled "Rattled Neighbors Decry Snake Breeding Business". The article is shamelessly presenting your bias, and promoting the destructive ignorance that it reflects. The denigration of Peter A. Kahl and the ignorant, phobic attitude about snakes are outrageous. Mr. Kahl is a widely known and respected breeder to the herpetocultural community. He has been developing a business that serves both local global needs, while abiding by all pertinent laws. The destructive ignorance of his neighbors is clearly behind the uncalled for zoning hearing that the article describes. Your reporting is reflective of an unfortunate negative attitude towards snakes that you apparently share with the neighbors that requested the hearing. It is frustrating to me that the government is spending resources on a public hearing that is based on phobic prejudice. It is alarming to know that Mr. Kahl's pursuits have been at least temporarily thwarted.

The ownership and captive breeding of snakes benefits many people, and is often an essential tool for preserving endangered species. Availability of captive-bred animals discourages the poaching of snakes and snake eggs in their native habitats. Private captive breeding efforts have often been more successful that those sponsored by zoos research institutions because it takes money and energy that is not available at those places. There is a market for these animals, as pets or otherwise. Serious research on reptiles is rarely government subsidized. We are living on a planet that is in serious danger of being irrevocably destroyed due to irresponsible, uneducated human pursuits. The public needs to be aware not only of the importance of "saving the rainforest" and "promoting biodiversity", but also of the realities involved in implementing these noble goals. The notion that "snakes are icky and nobody likes to touch them" is reflective of superstition and a serious lack of knowledge.

Sincerely,

Tammy Baran

CC:
Mr. Lawrence E. Schmidt, Zoning Commissioner, Baltimore County
Mr. Peter A. Kahl
Mr. Tim Hoen, President, Maryland Herpetological Society
The Baltimore Sun Paper Editor
Mr. Philippe de Vosjoli, President, American Federation of Herpetoculturists
Ms. Erica Ramus, Editor-Publisher, Reptile & Amphibian Magazine

Enclosure.

- If Peter Kahl Reptile has done everything that was required of him to build this building, then who is responsible for this error?

I feel that Peter Kahl's entreneurship is commendable. Another pitfall with his farm will have devastating consequences both emotional and financial. Please allow Peter Kahl Reptile to continue operations in the new building!

Thank you for your time!

Sincerely,

Michael P. McAdam

RECEIVED
SEP 30 1997
ZONING COMMISSIONER

September 23, 1997

Lawrence E. Schmidt, Commissioner
Baltimore County Zoning Commission
Room 405, County Courts Building
400 Bosley Ave.
Towson, MD 21204

Dear Commissioner Schmidt:

I am writing concerning the case of Mr. Kahl's reptile breeding operation in Glen Arm. I was not able to come to Towson yesterday for the public hearing, I am glad to have this opportunity to present my point of view.

I am a resident of Baltimore County, and own a residence at 12124 Jericho Road in Kingsville. I have been active over the years in issues of agricultural preservation and land use in the Gunpowder River watershed, including Glen Arm. I served on a committee with members of the Farm Bureau, and others, to craft the Baltimore County Agricultural Preservation Program when the State opened the option to Counties to institute local programs. I have also served as an officer of the Greater Kingsville Civic Association and have experience from the point of view of residents opposed to new developments. I have been involved in numerous constructive activities on behalf of Baltimore County's rural and natural landscape through my work with the Gunpowder Valley Conservancy, which I founded and served as President for five years.

To the case in point:

1. I do not see that reptile breeding in proper facilities is any different than other animal breeding in so far as qualifying as "farming" in Baltimore County.

2. I am not in favor of out-of-code buildings going up and being permitted after the fact as a *fait acompli*. If the building was properly permitted, then I think Mr. Kahl should be allowed to proceed with his business.

3. We live in a changing world because we, human people, are changing it. The nature of what constitutes commercial livestock is one of those things which are changing. Seventy years ago the large constrictors Mr. Kahl raises were abundant in the wild, and folks like Frank Buck went out and caught them for customers. Today we raise pigs instead of hunting them in the forest. Today, people have

transformed the face of the Earth so that many of these creatures will disappear unless other people begin "farming" them. While they may not be raised for food, that the creatures Mr. Kahl raises have commercial value indicates these are species in that circumstance. I think this is just a straightforward step in the changing nature of agriculture, that people should grow what nature has in short supply. It began with the domestication of grain 10,000 years ago.

4. Baltimore County is one of the major agricultural counties in the United States. To maintain a vigorous agricultural economy we must be flexible in growing new products, even willing to lead in growing new products.

5. There are other public priorities which have a rightful place beside cultivating economic prosperity. We must pay attention to public health and public safety, we must not be reckless. Large constrictors are pretty docile creatures, especially when well fed and cared for. I would rather be around a well fed python than a well fed bull. Also, they are not vectors of human or animal diseases so far as I know. The descriptions I have read of Mr. Kahl's new facility sound well designed, secure, and also thoughtful in terms of providing for the safety and comfort of the animals he raises.

6. Finally, there is the question of whether Glen Arm is an appropriate location for this operation. I believe it is. Keeping reptiles is something many folks do as a hobby, and it is done in all areas of the County. However, when a reptile collection expands to the scale Mr. Kahl's has, and sales at profit become routine, then I think it is appropriate to deny the use of residential facilities for such a collection and require it be moved to an area appropriately zoned for such larger scale animal husbandry - to wit, agricultural zoning. I think he is in the right place.

I have attended so many public hearings where the outcry was raised by suburbanites who moved into a rural area and then want to convert the rural area to a suburb. They want the beautiful farms to look beautiful, just like a picture hung over the mantle, but looking out the window. But they don't want them to <u>be</u> farms - no smell, no animals that might hurt a child who climbs under a fence, no tractors tending crops early in the morning, nothing "icky", and nothing that might reduce land values for further suburban sprawl (speculative land owners and farm owners looking to sell their farms for

development in the future might join this contingent). I believe that the County should enforce the URDL. Once you cross into rural areas, farming has the upper hand. The zoning is Rural Residential in the residential areas across the Gunpowder, and it should mean Rural. It is the right place for Mr. Kahl's farm, it is the right place for aquaculture, it is the right place for all kinds of agricultural expansion. We have White Marsh and Owings Mills for residential expansion, and we have established residential areas to revitalize. If people don't want to live near big snakes, then raising the snakes in a agricultural area is just the thing to do.

Thank you for your kind attention.

Edward W. Stuebing

County Board of Appeals of Baltimore County

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

December 29, 1997

Mr. Phillip Mearig
Tally-Hi Farm
Long Green, MD 21092

RE: Case No. 97-494-SPH
Mary Pat Marzullo -Petitioner;
Peter Kahl -Property Owner

Dear Mr. Mearig:

As promised in our telephone conversation this afternoon, enclosed is a copy of the Zoning Commissioner's Order filed October 21, 1997 in the subject matter. Your name has also been added to the file, so that you will be sent a copy of the Notice of Assignment when this case has been assigned a hearing date.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco, Administrator
County Board of Appeals

Enclosure

Printed with Soybean Ink on Recycled Paper

George K. & Kimberly M. Stanton

669 Quail Drive
Glen Burnie, MD 21061

Fax (410)381-1511
Home Phone 410-969-3403

September 29, 1997



Attention : Lawrence Schmidt
Zoning Commission Office
County Court Building
401 Bosley Ave.
Towson, MD 21204

Dear Commissioner,

On September 22, 1997 my husband and I sat in your hearing room from start to finish listening to both sides of the auguring parties. Being Reptile breeders ourselves and I being a mother of two children , one being one year of age and my daughter 8 years of age I can understand some of the fears that Mr. Kahls neighbors have regarding this matter.

I know no matter what anyone says to try to reinsure his neighbors that this facility was built with security in mind and I guess no one will understand if they can not open their mind to the Reptile World and try to broaden their knowledge that these animals are less likely to harm or attack anyone if they should accidentally get lose from their cage within the facility, but can Mr. Kahls neighbors guarantee that their dog, cat, horse or even their cows will not harm anyone if they were to accidentally get lose from their home, cage or yard?

I have never been bit by a snake and if I had choice I would rather be bit by a snake then a dog.

I really hope that this matter with Manor View Committee is only because of a possible zoning error , even so why should Mr. Kahl be put on the stand when he did every thing in his power to do it correctly, it is not his fault so why should he be the one to lose every thing he has worked so hard on to achieve his dreams.

Mr. Kahl has a lot of friends, family and believers that are standing in his corner which we all feel this facility should remain just as the cattle, horses, and dogs should remain in the Manor View area.

Sincerely,

George K. Stanton
Kimberly M. Stanton

George & Kimberly Stanton

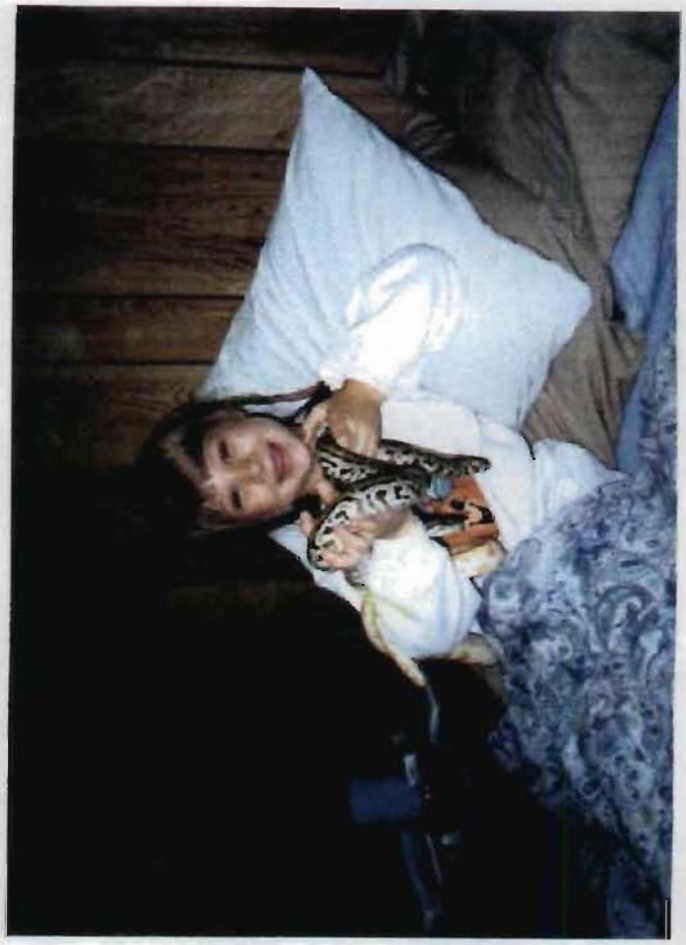












PROTESTANTS

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Patricia L. Salvo	5421 Sweet Air Rd
Joseph C. Salvo, Jr.	5421 Sweet Air Rd
Charles D. Schaub Jr	12248 MANNOR RD
Edward F. Smetana	13109 MANOR RD
Mildred Smetana	13109 Manor Rd
Albert L Maisel	5001 Sweet Air Rd
Joseph Bowen	2147 Greenwood Ave
Mary Kinney	100 Key Court Ky. 21228
[redacted]	[redacted]
Shirley Martin	4210 Manorview Rd 21057
Ida Collins	4213 Manorview Rd Glen Arm 21057
FRANCIS FAUST STEVENS	206 DEERFOX LANE 21093
Emmett Collins	4213 Manorview Rd Glenarm
[redacted]	[redacted]
Edward Joseph Martin	4210 MANORVIEW Rd 21057
Rayford Rushworth	4310 Meadowcliff Rd 21057
John G. Stevens	206 Deerfox Lane, Timonium MD
Julianne M Bowers	12308 Woodcrest Rd Long Green 21092
Margaret Meuse	12402 Woodcrest Lane Glenarm 21057
John Meuse Jr	12407 Woodcrest Lane Glen Arm 21057
Ed Gilbrook	13815 Pleasantville Rd. Baldwin Md. 21013
Mary Pat Margullo	12264 Manor Road, Glen Arm MD
Ltd. C. Tuck	4217 Manorview Rd - Glen Arm Md 21057
Catherine P. Carter	4809 Long Green Rd. 21057
John & Gebrunds	531 WYNGATE RD 21093

PROTESTANTS

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Martha E Cook	12710 Manor Rd Long Green MD 21092
Katherine F Gabriel	12601 Long Green Pike 21057
Anne Simmons	4219 Manor View Rd 21057
Zippyhauser	4216 Manor View Rd 21057
LOUIS M HAUSE JR	4216 MANOR VIEW RD 21057
Mary Jo Cook	4303 Meadow View Rd 21057
Elizabeth Jones	Manor Springs Ct 21057
Carol Gloria	3906 Link Avenue
[illegible]	[illegible]

PROTESTANT

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Lillian Reichart	4814 Long Green Rd Glen Arm 21057
Margaret Currens	Box 88 4615 Long Green Rd Long Green 21092
Zippy Larson	4216 Manor View Rd
Louis House	4216 Manor View Rd
Charles R. Gettier	12308 Manor Rd.
Viola Gettier	12308 Manor Rd
Fran Mank	4217 Manorview Rd - 21057
Wilma Viers	4304 North Cliff Road
Russ Viers	4304 North Cliff Rd
Margaret Sandifer	4203 Manorview Rd
Burton L. Cordry	4205 Manorview Rd.
Rick Volk	12301 Woodcrest Ln 21057
Barbara Sherbondy	4300 N Cliff Rd 21057
Leroy A. Wagner	4308 Meadow Cliff Rd 21057
Charles E. Rappold	4303 Echodalley Rd 21057
Sally Dugan	4505 Meadowcliff Rd.
Earl Wagner	4200 Manorview Rd 21057
Klon R. Ervin	4101 Morgan Mill Rd 21057
Rick Smith	12000 Manor Rd 21057
Christine E. Longhenry	4223 Manor View Rd. 21057
DAVE LONGHENRY	4223 MANORVIEW RD 21057
Marian Schultz	12246 Manor Rd 21057
DAVID SCHULTZ	12246 MANOR RD 21057
Silvio Capizzi	5423 Sweet Air Rd. 21013
Rosina Capizzi	5423 Sweet Air Rd 21013

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Michael McAdam	8132 Loch Raven Blvd Towson 21286
Mr. + Mrs. Christian H. Kahl II	12340 Boncrest Dr. Reisterstown MD 21136
VALERIE GOGER	1932 CHATER RD 21078
Ann Marie Smith	8132 Loch Raven Blvd Towson 21286
Keith Gold	3900 Gramm Rd Jarrettsville, MD 21084
Greg Facelo	4 Gorsuch Rd. Timonium, Md. 21093
Joan Facelo	4 Gorsuch Rd. Timonium MD 21093
Cheryl R. Hall	36 Dartmouth Ct. Timonium, Md.
MARC A. SPATARO	P.O. Box 50 Long Green 21092
GINA M LOPEZ	3823 Proctor Ln. Perry Hall MD 21236

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Lois Kabel Balderin	5 Waterbird Ct., Hunt Valley 21030
Brenning	2812 Rosemawn Ave Balto 21214
Antoinette Parry	4701 Meise Drive Balto. 21206
Robin Beers	12442 Jerusalem Road Kingsville, MD. 21087
George Hartman	665 Quail Dr Glenburnie 21061
Kimberly Hunter	969 Quail Dr
Michael Kahl	510 Benforest Drive Severna Park 21146
James Stevenson	7904 A Gentle Breeze Ct Glen Burnie 21061
Melissa Miller	3619 Fissels Church Rd Glen Rock, PA 17327

APPEAL

Petition for Special Hearing
W/S Manor Road, 450' S of the c/l of Manor View Road
(12240 Manor Road)
11th Election District - 6th Councilmanic District
Mary Pat Marzullo - Petitioner
Case No. 97-494-SPH

RECEIVED
COUNTY BOARD OF APPEALS
97 DEC -1 AM 10:21

Petition for Special Hearing

Description of Property

No Certificate of Posting Found

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Protestants and Citizens Sign-In Sheets

Petitioners' Exhibits:
1 - Affidavit from Long Green Valley Association dated September 17, 1997
2A-G - Seven Photographs

Kahls' Exhibits:
1 - Plat of a Survey of Part of the Property of Joseph and Grace Campbell
2 - No Exhibit Found
3 - Holding Facility/Kennel/Wild Animal License #W-26
4 - Approved Rural Accessory Uses Farm Qualification Form
5 - Letter from Baltimore County Government to Peter Kahl dated November 25, 1996
6 - Copy of Building Permit #B-297790
7A-J - Ten Photographs
8 - Site Plan

Motion to Dismiss from Michael J. Moran, Esquire, on behalf of Peter A. Kahl to Zoning Commissioner of Baltimore County

Memorandum from Leslie M. Pittler, Esquire to the Zoning Commissioner of Baltimore County

VE

Copy of Bill 51-93 - Mr. Ruppersberger - Agriculture dated May 17, 1993

Post Hearing Brief of Property Owner and Respondent Statement of the Case from Michael J. Moran, Esquire

Letter from Harold Spencer to Lawrence Schmidt, Zoning Commissioner, dated September 18, 1997

Letter from Edward W. Stuebing to Lawrence Schmidt, Zoning Commissioner dated September 23, 1997

Letter from Tammy Baran to Mr. Larry Carson dated September 24, 1997

Letter from George and Kimberly Stanton to Lawrence Schmidt, Zoning Commissioner, dated September 29, 1997

Letter from Sally M. Dugan to Arnold Jablon, Director, dated September 3, 1997

Letter from Michael P. McAdam, received September 30, 1997

Numerous Petitions Against the Building of a 10,000 Square Foot Warehouse for Raising and Selling Reptiles/Snakes

Rattled neighbors decry snake breeding business

Reptiles: Residents who live near Peter A. Kahl in Glen Arm have recoiled at the thought of a snake breeding business that they say violates zoning laws.

"There's guys like me breeding snakes all over the world. You just don't drive down the road and see a bunch of snakes in a field."

Peter A. Kahl,snake breeder

By Larry Carson

SUN STAFF

Daisy, the python?

In a zoning squabble over a snake breeding operation, Glen Arm residents packed a hearing room to overflowing yesterday -- spurred by contrasting images of dairy cows and boa constrictors.

Area residents say it is outrageous that Baltimore County granted a building permit in January for breeder Peter A. Kahl's $160,000 facility at his rural home, and they charge that his business violates zoning laws.

To Kahl, though, the squabble comes down to the different images evoked by thoughts of roadside bovines and reptiles. He says he is no different from people who breed cattle, or horses.

"There's guys like me breeding snakes all over the world,"

greyhounds

77 Hawai'i 382

INTERMEDIATE COURT OF APPEALS OF HAWAI'I

MEMORANDUM OPINIONS

Title	Docket Number	Date	Disposition
State v. Clayton	16533	8/4/94	Vacated and Remanded
State v. Enogi	16630	8/15/94	Dismissed
State v. Dela Cruz	16603	9/9/94	Affirmed
State v. Silva	15570	9/13/94	Affirmed
State v. Rideout	16094, 16095	9/22/94	Affirmed
State v. Arnold	15440	9/29/94	Affirmed
State v. Anzai	17374	10/18/84	Affirmed
State v. Martin	15848	10/20/84	Vacated and Remanded
State v. Carvalho	16578	10/21/94	Affirmed
State v. Rabanes	16017	10/21/94	Affirmed
Haraguchi v. State	16930	10/31/94	Dismissed

Paragraph #39

1

256 Kan. 199

In the Matter of Lyle M. HANSON, Respondent.

Bar Docket No. 05673.

Supreme Court of Kansas.

Nov. 4, 1994.

ORDER OF DISBARMENT

This original proceeding in discipline was filed on September 1, 1994, by Stanton A. Hazlett, Deputy Disciplinary Administrator, against Lyle M. Hanson, an attorney admitted to the practice of law in Kansas. The formal complaint filed against respondent alleged that he had converted $60,000 of his client's money and failed to cooperate in the investigation conducted by the Disciplinary Administrator's office.

A hearing before a panel of the Kansas Board for Discipline of Attorneys was set for November 9, 1994, and by letter dated October 24, 1994, respondent voluntarily surrendered his license to practice law in the State of Kansas, pursuant to Supreme Court Rule 217 (1993 Kan.Ct.R.Annot. 185).

This court, having examined the files and records of the office of the Disciplinary Administrator, finds that the surrender of respondent's license should be accepted and that respondent should be disbarred.

IT IS THEREFORE ORDERED that Lyle M. Hanson be and he is hereby disbarred from the practice of law in the State of Kansas and his license and privilege to practice law are hereby revoked.

IT IS FURTHER ORDERED that the Clerk of the Appellate Courts strike the name of Lyle M. Hanson from the roll of attorneys licensed to practice law in the State of Kansas and that respondent forthwith shall comply with Supreme Court Rule 218 (1993 Kan.Ct.R.Annot. 187).

IT IS FURTHER ORDERED that this order shall be published in the Kansas Reports and that the costs herein be assessed to respondent.

Dated this 4th day of November, 1994.

2

20 Kan.App.2d 152

Dennis W. WEBER and Patricia L. Weber, Appellees,

v.

The BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, Kansas, Appellant.

No. 71618.

Court of Appeals of Kansas.

Nov. 18, 1994.

Board of County Commissioners appealed order of the Franklin District Court, Jules V. Doty, J., enjoining county from enforcing zoning regulations against landowners. The Court of Appeals, James L. Burgess, District Judge, assigned, held that raising and keeping of greyhounds for racing or sale was not "agricultural" use of land, so land was subject to zoning authority.

Reversed.

1. Zoning and Planning ⇐151

Local zoning authority, not court, has right to prescribe, change, or refuse to change zoning.

2. Zoning and Planning ⇐605, 610

District court's power in reviewing zoning decision is limited to determining lawfulness of action taken and reasonableness of such action.

3. Zoning and Planning ⇐676, 682

In reviewing zoning decisions, there is presumption that zoning authority acted reasonably; landowner has burden of proving unreasonableness by preponderance of evidence.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1993, LEGISLATIVE DAY NO. 8

Pleadings #34

BILL NO. 51-93

MR. C. A. DUTCH RUPPERSBERGER, III, COUNCILMAN

BY THE COUNTY COUNCIL, APRIL 19, 1993

A BILL ENTITLED

AN ACT concerning

Agriculture

FOR the purpose of amending the Zoning Regulations in order to define terms relating to agricultural uses; placing limitations on the stabling and pasturing of animals; providing certain height exceptions; providing requirements for farms in D.R. and R.C. 5 zones; repealing provisions dealing with satellite farms and farmettes; permitting a winery or bottled water plant by Special Exception in certain zones; and generally relating to farm and commercial agriculture activities in Baltimore County.

BY repealing

Section 101 - Definitions, the definitions of "farm", as that definition appears twice, "farm, satellite" and "farmette" and Sections 1A02.2.A.4 and 1A04.2.A.4

Baltimore County Zoning Regulations, as amended

BY adding

Section 101 - Definitions, the definitions, alphabetically, of "Agriculture, Commercial" and "Farm" and Sections 100.6, 1A03.3.B.15 and 404.9 and 404.10

Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

April 10, 1998

NOTICE OF ASSIGNMENT

CASE #: 97-494-SPH

IN THE MATTER OF: MARY PAT MARZULLO -Petitioner /Protestant Property of Peter Kahl located at 12240 Manor Road 11th E; 6th C

(Petition for Special Hearing DENIED; Use of subject site for breeding, raising and sale of reptiles is permissible)

ASSIGNED FOR: WEDNESDAY, JUNE 17, 1998 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

pp'd @ request of Counsel for Petitioner (Protestant) Copy of Notice of Reassignment sent.

cc: Appellant (Office of People's Counsel): Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire

Counsel for Appellant /Protestant : J. Carroll Holzer, Esquire
Appellant /Protestant (Petitioner) : Mary Pat Marzullo

Counsel for Property Owner : Michael J. Moran, Esquire
Property Owner : Peter Kahl

Phillip Mearig /Tally-Hi Farm

Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attc

Post-it® Fax Note 7671	Date 4-23	# of pages ▶ 1
To Mike Moran	From Charlotte	
Co./Dept.	Co. CBA	
Phone #	Phone # 410-887-3180	
Fax # 410-337-0916	Fax #	

Printed with Soybean Ink on Recycled Paper










ZONING APPEAL
PUBLIC HEARING
CASE NUMBER
FOR INFORMATION CALL
887-3180
DO NOT REMOVE
UNDER PENALTY OF LAW
BALTIMORE COUNTY BOARD OF APPEALS


















































THE SUN
























elotex
Latex










Peter Kahl
Reptiles









































let #4



53

BALTIMORE COUNTY, MARYLAND

N

LEGEND

1. MANOR RD.
2. LOCH RAVEN RD.
3. LONG GREEN RD.
4. DULANEY VALLEY RD.

MARCH
1991
PHOTO

APPROXIMATE
SCALE
1" = 800'

FOR INDIVIDUAL COPIES
OF AERIAL MAPS OR PHOTOS
CALL
The National Data Research Center

BROWARD	(305) 321-7593
DADE	(305) 685-5731
FLORIDA WATS	(800) 833-5110
NATIONAL WATS	(800) 421-1052
FAX ORDERS	(305) 321-7609

REDI
REDI Real Estate
Information Service
COPYRIGHT

© 1981 S.H.A. INK-JETPLOT

Ref # 2

GENERAL HIGHWAY MAP

BALTIMORE COUNTY

MARYLAND

PREPARED BY THE

DEPARTMENT OF TRANSPORTATION

STATE HIGHWAY ADMINISTRATION

IN COOPERATION WITH THE

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

MAP SCALE

1 0 1 2 3 4 MILES

1 0 1 2 3 4 5 6 KILOMETERS

1997

LAMBERT CONFORMAL CONIC PROJECTION

THE CULTURAL FEATURES SHOWN ON THIS MAP ARE FOR LOCATING PURPOSES ONLY AND MAY NOT REFLECT ACTUAL CONDITIONS.

THIS MAP WAS CREATED USING MARYLAND STATE PLANE COORDINATE 50,000 FOOT GRID VALUES BASED ON THE 1927 NORTH AMERICAN DATUM (NAD) TICKS SHOWN IN RED.
50,000 FOOT VALUES FOR THE 1983 NAD ARE SHOWN IN ITALICS FOR REFERENCE PURPOSES ONLY.
10,000 METER UNIVERSAL TRANSVERSE MERCATOR (U.T.M.) GRID TICKS SHOWN IN BLUE

COPIES OF THIS MAP ARE AVAILABLE FOR PUBLIC USE AT A NOMINAL COST FROM THE STATE HIGHWAY ADMINISTRATION, SHA STORE, 211 EAST MADISON STREET, BALTIMORE, MARYLAND 21202

LEGEND

HIGHWAY CLASSIFICATION

INTERSTATE SYSTEM
- Toll
- Multilane Divided Highway Access Fully Controlled

STATE PRIMARY SYSTEM (or Traveled Way)
- Multilane Divided Highway Access Fully Controlled
- Multilane Divided Highway
- 2 Lane Highway

STATE SECONDARY SYSTEM
- Multilane Divided Highway Access Fully Controlled
- Multilane Divided Highway
- 2 Lane Highway

COUNTY HIGHWAY SYSTEM
- Multilane Divided Highway
- 2 Lane Highway
- Mileage between Arrows (5)

HIGHWAY DESIGNATION

- Interstate Highway (95)
- U.S. Highway (40)
- State Highway (25)
- Interchange Exit (23)

RAILROADS

- Standard Tracks with Station/Stop
- Rapid Transit-Inter Urban
- Overpass-Underpass

AREA DESIGNATION

- Incorporated City
- Forest, Park, Recreation Area
- Reservation
- State Capital
- County Seat

ROADSIDE CULTURE

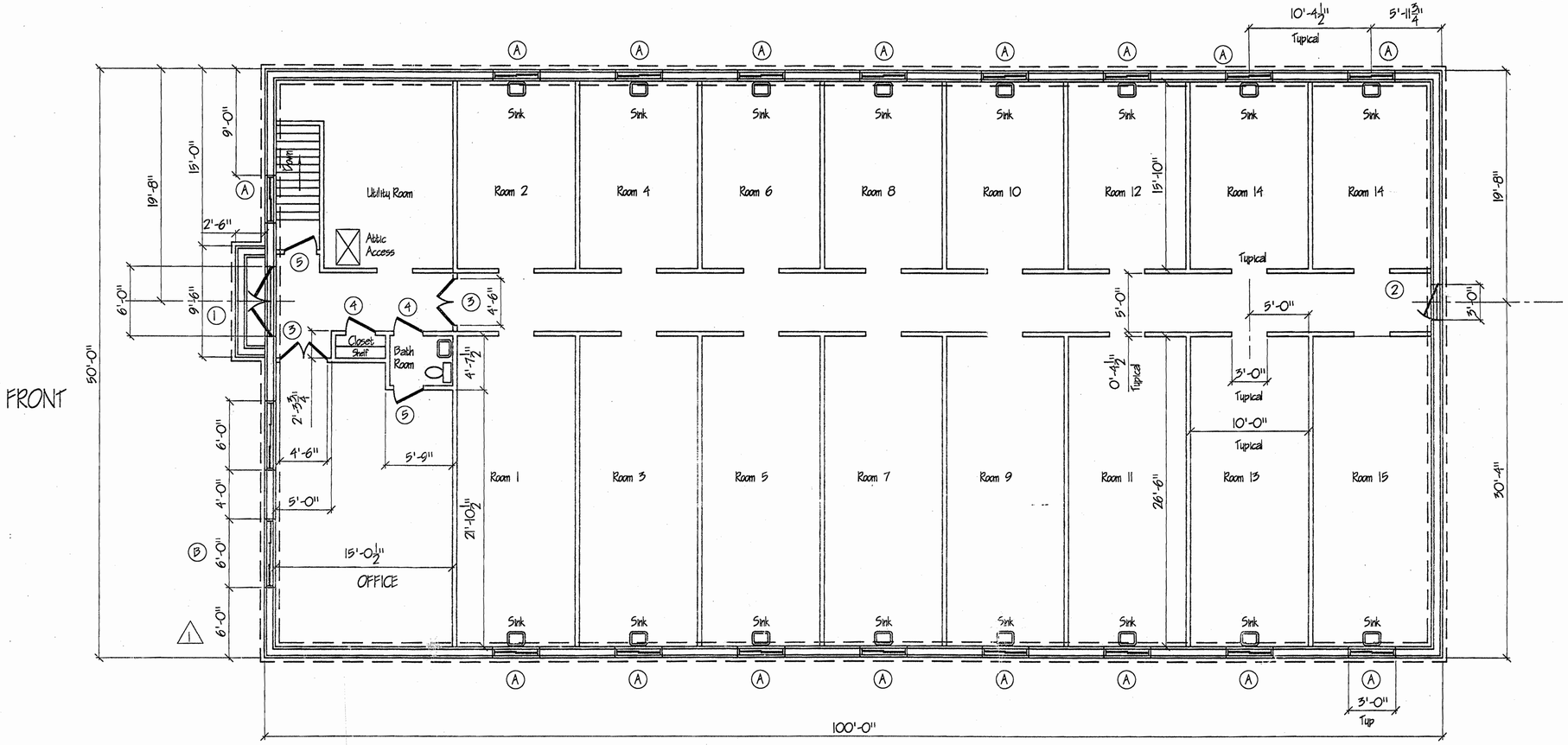
- Airport
- Armory
- Athletic Field
- Camping Facility
- Cemetery
- Church/Religious Inst.
- City/Town Hall
- College (Junior)
- College/University
- Commuter Station w/ Parking
- County Police
- Courthouse
- Md. Dept. of Agriculture Farmers Market
- Fire/Rescue
- Garage/SHA/County/Municipal
- Hospital
- Hospital w/ 24 hour Emergency Room
- Library
- Light Rail (MTA)
- Md. Motor Vehicle Administration Location
- Metro (MTA)
- Metrorail (WMTA)
- Park and Ride Location
- Picnic Site
- Post Office
- Prominent Peak w/ Elevation
- Radio/Microwave/TV Tower
- Rest Area w/ Restrooms
- Salvage Yard
- School
- Shopping Center/Mall
- State Police
- Trailer Park
- Welcome Center
- Wildlife Area (State)
- Wildlife Area (Federal)
- Yacht Club/Marina

STATEWIDE GRID MAP KEY

	A–12	A–13
B–11	B–12	B–13
C–11	C–12	C–13
D–11	D–12	D–13

KEY MAP

KAHL #8



1st FLOOR PLAN

GENERAL NOTES

FOUNDATIONS:
BOTTOM OF ALL EXTERIOR FOOTINGS SHALL BE 2'-6" MINIMUM BELOW FINISHED GRADE. A BEARING CAPACITY OF 3000 P.S.F. FOR FOOTING DESIGN, AND AN EQUIVALENT FLUID PRESSURE OF 45 P.C.F IS ASSUMED FOR RETAINING WALL DESIGN, IF SOIL OF THIS CAPACITY IS NOT ENCOUNTERED AT ELEVATIONS INDICATED ON PLAN, FOOTINGS SHALL BE INCREASED IN SIZE OR LOWERED AS DIRECTED BY THE ENGINEER.

THE PLACING OF COMPACTED FILL MATERIAL AND EQUIPMENT USED FOR COMPACTION SHALL BE SUPERVISED AND APPROVED BY A GEOTECHNICAL ENGINEER.
ALL FILL SHALL BE PLACED IN 8" LIFTS AND COMPACTED TO 95% MAXIMUM DENSITY AT OPTIMUM MOISTURE CONTENT, AS DETERMINED BY ASTM D 698 (AASHTO-T-90).

CAST IN PLACE CONCRETE:
ALL CONCRETE SHALL CONFORM TO ACI 301, ACI 318, ACI 315.
CONCRETE FOR FOOTINGS AND SLAB ON GRADE SHALL HAVE A 28 DAY COMPRESSIVE STRENGTH = 3000 PSI, ALL OTHER CONCRETE SHALL BE 4000 PSI.
REINFORCING - ASTM A 615, GRADE 60.
WELDED WIRE FABRIC - ASTM A 185.
SPLICE LAPS FOR ALL REINFORCING SHALL BE CLASS "B" SPLICE.
CEMENT - ASTM C 150, TYPE I OR III.
AGGREGATES - ASTM C 33 ACI 304, ACI 211.1.
COARSE AGGREGATE - SIZE #67.
WATER CEMENT RATIO NOT EXCEED 0.58 FOR NON-AIR-ENTRAINED CONCRETE AND 0.46 FOR AIR-ENTRAINED CONCRETE.
ALL CONCRETE SHALL HAVE SLUMPS IN ACCORDANCE WITH ACI 211.1, EXCEPT SLABS ON EARTH SHALL HAVE A 3-1/ 2" MAXIMUM SLUMP.
EXTERIOR CONCRETE SHALL BE AIR ENTRAINED 4% -6%.
CONTRACTOR SHALL SUBMIT DESIGN MIX FOR ALL CLASSES OF CONCRETE PRIOR TO PLACING ANY CONCRETE.

STRUCTURAL STEEL:
FABRICATION AND ERECTION OF STRUCTURAL STEEL SHALL CONFORM TO AISC SPECIFICATIONS AND AWS D1.1
ALL STRUCTURAL STEEL SHALL BE ASTM A36, UNLESS NOTED.
PIPE COLUMNS: ASTM A 53, GRADE B.
WELDING ELECTRODES: E70XX
HIGH STRENGTH BOLTS: ASTM A 325
ANCHOR BOLTS: ASTM A 307
SHOP COAT ALL STRUCTURAL STEEL WITH APPROVED PRIMER.
UNLESS NOTED ALL BEAM CONNECTIONS SHALL BE DESIGNED TO SUPPORT 50% BEAM WEB SHEAR CAPACITY PER AISC.

METAL DECK:
FABRICATION AND ERECTION OF STEEL DECK SHALL CONFORM TO STEEL DECK INSTITUTE SPECIFICATIONS.
STEEL DECK - ASTM A 653 SQ GRADE 33, G60 GALVANIZED.
ATTACH FLOOR DECK TO ALL STEEL SUPPORTS USING 5/ 8" DIAMETER FUSION WELD @ 12" O/ C, FASTEN SIDE LAPS AT 3'-0".

STEEL STAIRS :
STAIR FRAMING SHALL BE DESIGNED FOR A LIVE LOAD OF 100 PSF.
SUBMIT SHOP DRAWINGS AND SAMPLE COMPUTATIONS FOR REVIEW.

WOOD TRUSSES:
CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN, FABRICATION AND ERECTION OF THE WOOD TRUSSES. TRUSSES SHALL BE DESIGNED FOR THE LOADS INDICATED PLUS APPLICABLE SNOW DRIFT AS REQUIRED BY CODE. NO INCREASE IN ALLOWABLE STRESS WILL BE PERMITTED.
TRUSS DESIGN SHALL INCLUDE TEMPORARY AND PERMANENT BRACING.
PERMANENT BRACING TO BE ATTACHED TO THE WALLS EXCEPT AT EXPANSION JOINT. TRUSS CONFIGURATIONS SHOWN ARE EXAMPLES ONLY.
DESIGN COMPUTATIONS AND SHOP DRAWINGS, SIGNED AND SEALED BY A PROFESSIONAL ENGINEER REGISTERED IN THE STATE OF MARYLAND, SHALL BE SUBMITTED FOR REVIEW. PROFESSIONAL ENGINEER SHALL VISIT THE SITE TO CONFIRM THAT THE TRUSSES, AS ERECTED, ARE IN ACCORDANCE WITH THE DESIGN.
ALL TRUSS CONNECTIONS TO FULLY DEVELOP STRESSES IN MEMBER (NO ALLOWANCE FOR END BEARING WILL BE PERMITTED). PLUS ANY ECCENTRICITIES
ALL CONNECTORS TO BE GALVANIZED.

SHOP DRAWINGS:
SHOP DRAWINGS SHALL BE SUBMITTED FOR ENGINEER'S REVIEW FOR THE FOLLOWING ITEMS:

- CONCRETE REINFORCING STEEL
- STRUCTURAL STEEL
- METAL DECK
- PREFABRICATED WOOD TRUSSES
- STEEL STAIRS

INSPECTION:
AN INDEPENDENT INSPECTION AGENCY, APPROVED BY THE ENGINEER, SHALL BE RETAINED BY TO INSPECT/ MONITOR/ TEST THE FOLLOWING ITEMS:

- EARTHWORK OPERATIONS INCLUDING VERIFICATION OF SOIL BEARING CAPACITY
- CAST IN PLACE CONCRETE
- STRUCTURAL STEEL
- METAL DECK
- PREFABRICATED WOOD TRUSSES
- STEEL STAIR FRAMING

LIVE LOADS:
THIS BUILDING HAS BEEN DESIGNED FOR THE FOLLOWING LIVE LOADS:

ROOF: 30 PSF
FLOOR: 100 PSF.
WIND: PER BOCA 1993 (SECTION 1611.0)
BASIC WIND SPEED = 80 MPH
EXPOSURE = B
IMPORTANT FACTOR = 1.0

General Notes

WINDOW SCHEDULE:
A- 48x36, Alum, Slider, Dable Glazed
17 Req'd
B- 48x72, Alum, Slider, Dable Glazed
2 Req'd

DOOR SCHEDULE:
1- External, Steel, Dable Door, 6'-0" x 6'-8"
2 Req'd
2- External, Steel, RH Door, 3'-0" x 6'-8"
1 Req'd
3- Inside, Wood, Dable Door, 4'-6" x 6'-8"
2 Req'd
4- Inside Passage Door, 2'-6" x 6'-8", LH
3 Req'd
5- Inside Passage Door, 2'-6" x 6'-8", RH
2 Req'd

All work shall be done in a workmanlike manner and in conformance with manufacturer's installation and guarantee requirements.

All dimensions and field conditions shall be verified. Any discrepancies or variances shall be brought to the attention of the engineer or general contractor immediately.

All electrical and mechanical work shall be accomplished by persons licenced by the State to perform that work.

The Customer shall be responsible to obtain all building permits, perform site surveys, obtain perc tests, and installation of a satisfactory well.

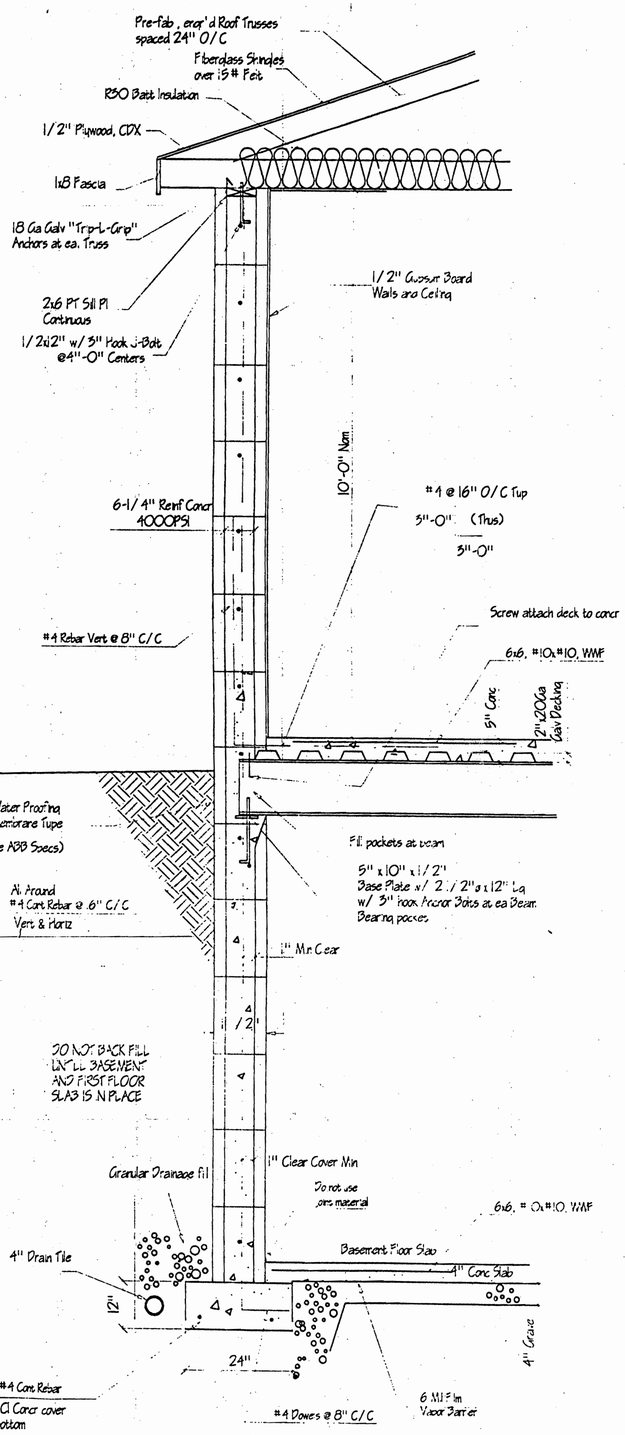
See Sheet 3 for additional construction notes.

No.	Revision/Issue	Date
1	dim d'OE, WAS 8'-0"	4/97

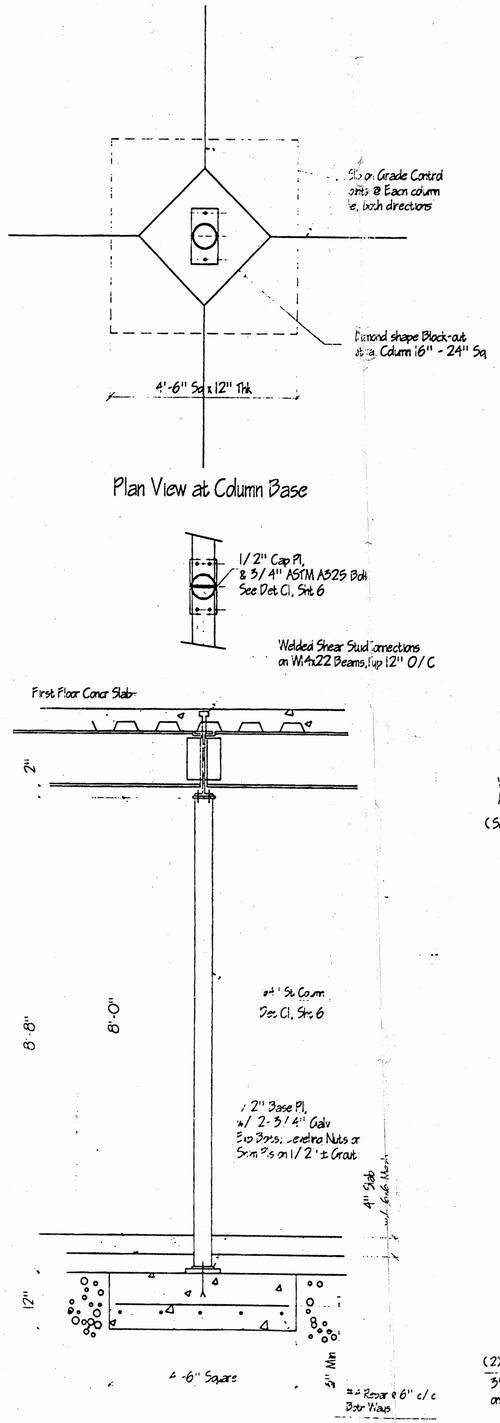
ADVANCED BUILDING STRUCTURES
16365 Falls Road
Monkton, Md 21111
1-800-830-8867

Herpatological Center
Mr. Peter A. Kahl
12240 Manor Road
Glenarm, Md 21057

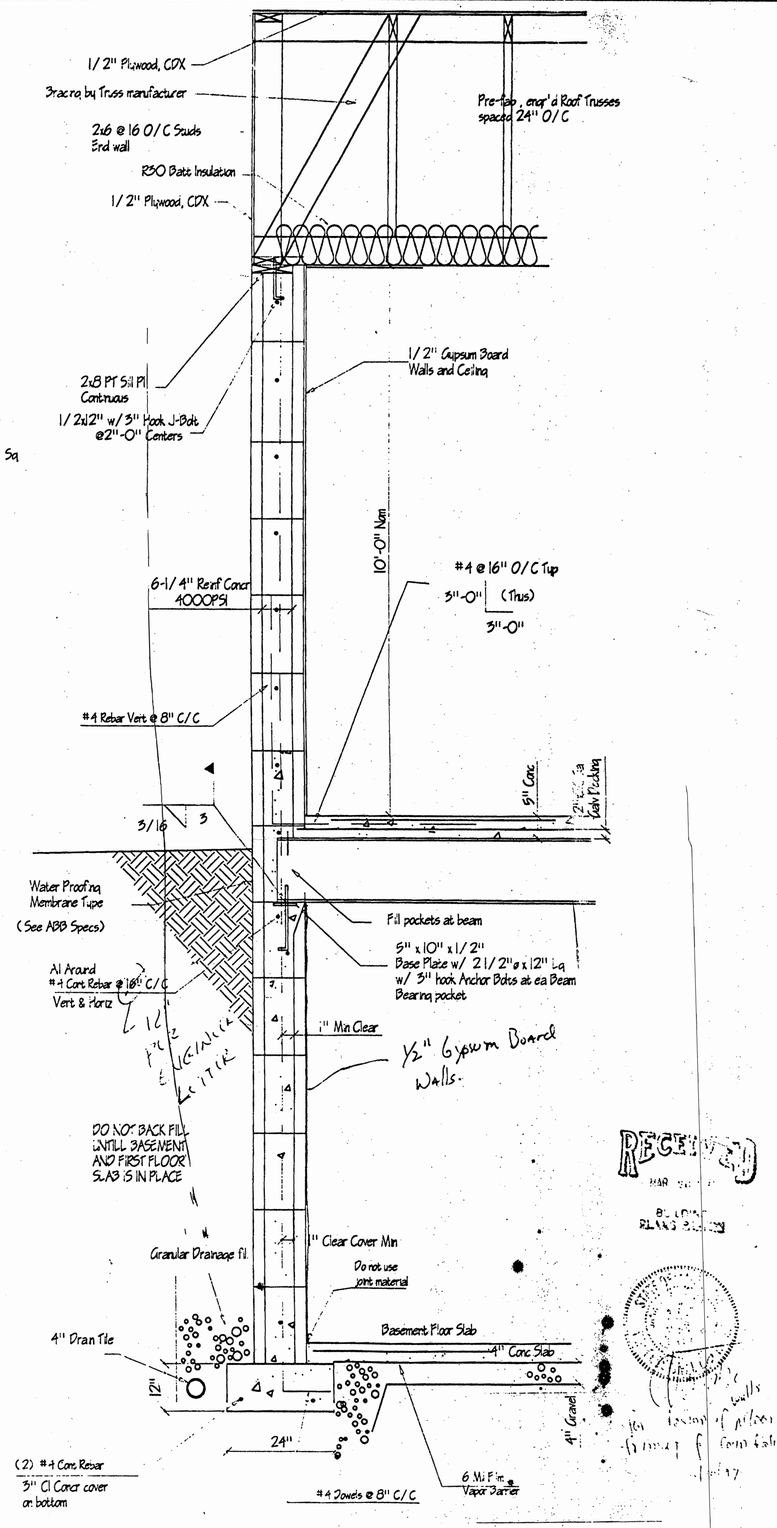
Project	Sheet
Date 1/28/97	1
Scale 3/16"=1'-0"	



SECTION 2 THRU WALL



SECTION THRU COLUMN



SECTION 1 THRU END WALLS

RECEIVED
MAR
BUILDING PLANS PROCESSING

General Notes

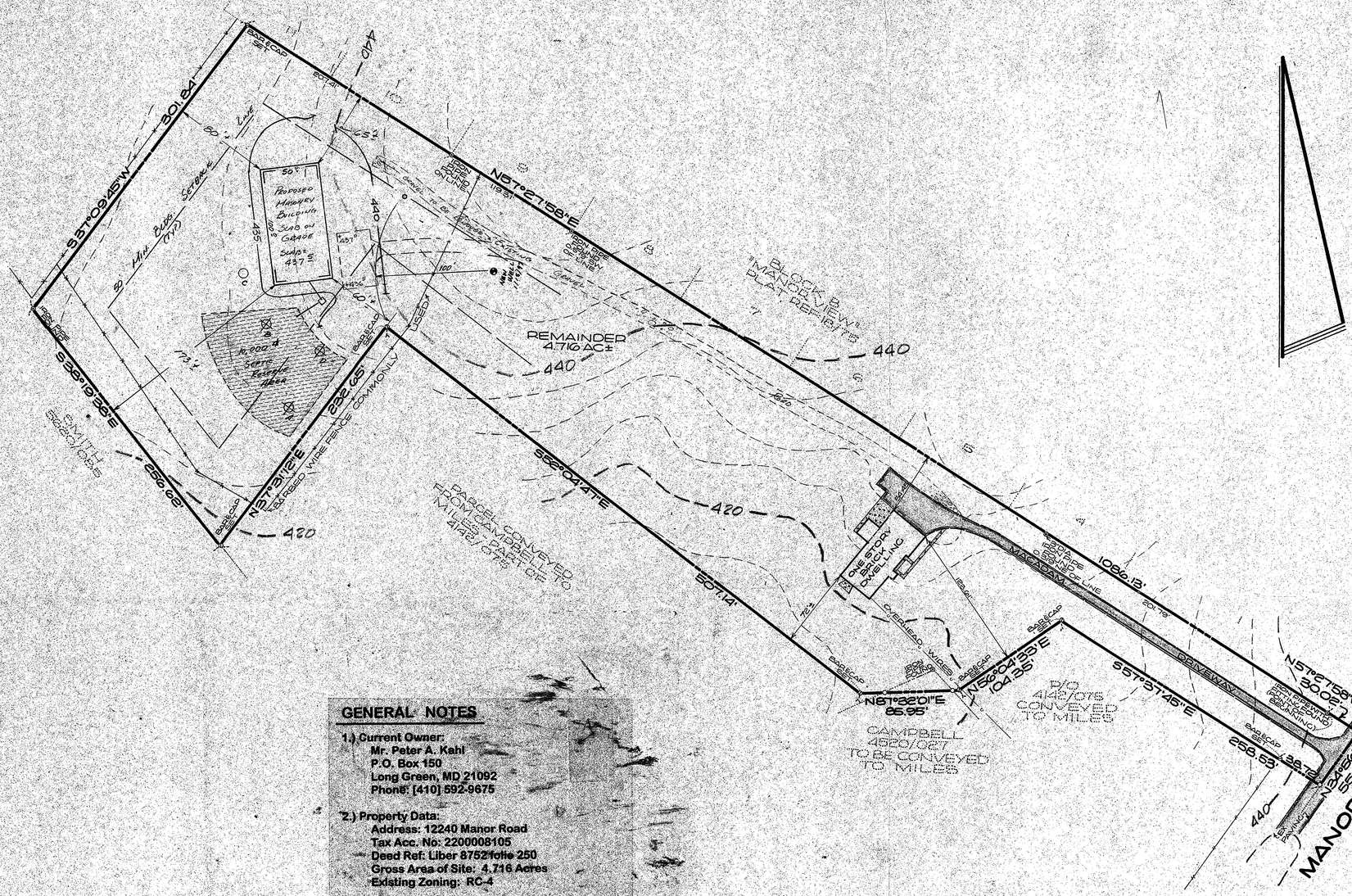
No.	Revision/Issue	Date
1	Chg Ftg size, was 5'-6 Sq Chg vert rebar to 8" oc	3/18/97

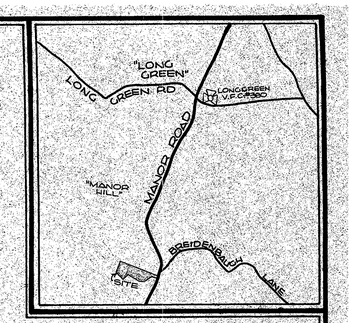
ADVANCED BUILDING STRUCTURES
16365 Falls Road
Monkton, Md 21111
1-800-880-8887

Herpatological Center
Mr. Peter A. Kahl
12240 Manor Road
Glenarm, Md 21057

Project	Sheet
Date	3
Scale 3/16"=1'-0"	

KAHL Gr. #1





VICINITY MAP
1" = 2,000'

PLAT OF A SURVEY OF PART OF THE PROPERTY OF JOSEPH & GRACE CAMPBELL

DEED REF: 4142/075

TAX ACCOUNT NO:
1103003330

11TH ELECTION DISTRICT
BALTIMORE COUNTY, MD.

SCALE IN FEET
100 75 50 25 0 50 100

GENERAL NOTES

1.) Current Owner:
Mr. Peter A. Kahl
P.O. Box 150
Long Green, MD 21092
Phone: [410] 592-9675

2.) Property Data:
Address: 12240 Manor Road
Tax Acc. No: 2200008105
Deed Ref: Liber 8752/folio 250
Gross Area of Site: 4.716 Acres
Existing Zoning: RC-4

3.) Floor Area Calculations:
(Existing Dwelling)
Attic Storage: 720 sq. ft.
First Floor: 2,689 sq. ft.
Basement: 2,070 sq. ft.
NET Floor Area: 5,479 sq. ft

4.) Proposed Masonry Building:
Size: 100' X 50' = 5,000 sq. ft.
Use: Climate controlled herpatological center for breeding of non-venomous reptiles.
Commercial sales only.

5.) Plan and proposed use was approved by the Baltimore County DRC on November 25, 1997, DRC No. 11860

LEGEND

- 420 — Denotes Existing Contour
- 440 — Denotes Proposed Contour
- #1 Denotes Satisfactory Percolation Test
- #2 Denotes Failed Percolation Test
- Denotes New Well
- Denotes 10,000 sq. ft Septic Reserve Area

Total Disturbed Area - 17,650 ±

SCALE: 1" = 50'

DATE: 18 OCT 1990

SURVEYED BY: V.J. COSTANZI
COMPUTED BY: G.E. SKEEN
DRAWN BY: D.C. CASLIN
CHECKED BY: J.F. RANSONE

AMENDMENTS AND REVISIONS

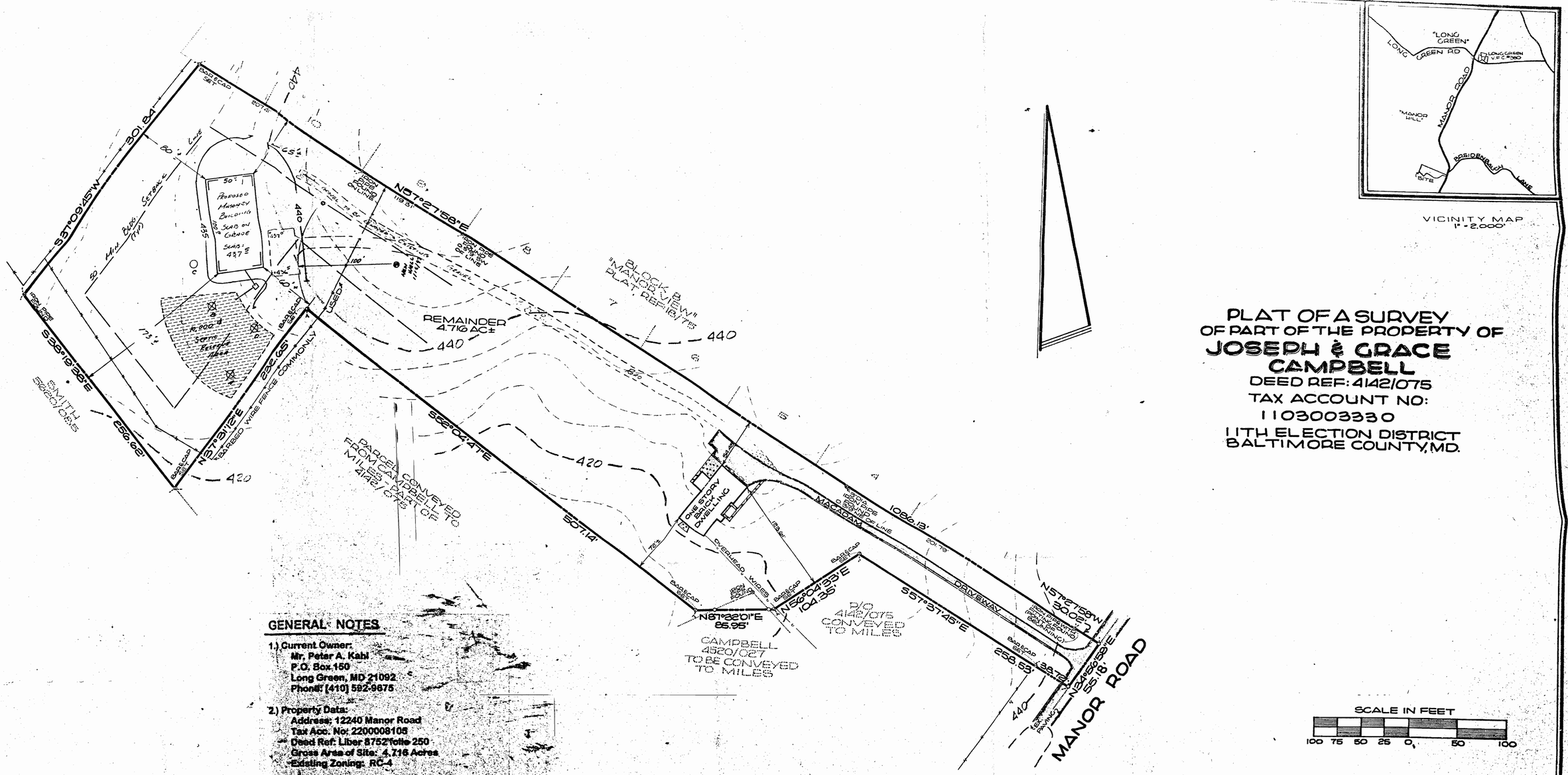
DATE	REASON
11/04/96	Add General Notes 1 thru 4, Add Topo & Proposed Bldg.
1/15/97	Add General Note 5, Revise Building Location, Add New Well & Septic Reserve Area, Legend & Proposed Grading

J. FINLEY RANSONE & ASSOCIATES
REGISTERED
LAND SURVEYORS
P.O. BOX 10160
TOWSON, MARYLAND
21285-0160
666-7448

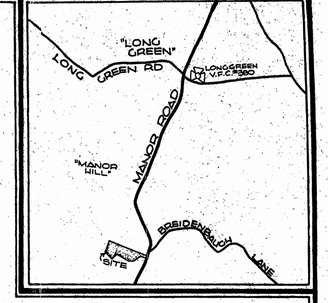
J# 9007-732

F# 118-085

A & E INC. BALTIMORE


S37°09'45"W
301.84'
N57°27'58"E
1086.12'
S32°19'38"E
256.62'
N37°31'12"E
232.65'
S62°04'47"E
507.14'
N57°27'58"W
30.00'
N32°56'02"E
258.53'
N34°56'39"E
55.18'
N87°32'01"E
85.95'
N56°04'33"E
104.35'
S57°37'45"E
REMAINDER
4.716 AC±
PROPOSED MASONRY BUILDING SLAB ON GRADE
50' x 100'
SLAB = 4375 SF
R.900 SEPTIC RESERVE AREA
BLOCK B
"MANOR VIEW"
PLAT REF: 18/75
PARCEL CONVEYED FROM CAMPBELL TO MILES PART OF 4142/075
CAMPBELL 4520/027 TO BE CONVEYED TO MILES
P/O 4142/075 CONVEYED TO MILES
ONE STORY DWELLING
DRIVEWAY
MACADAM
TEXTURED WIRE FENCE COMMONLY USED
EXISTING WOOD FENCE
EXISTING STONE WALL
EXISTING WIRE FENCE
EXISTING WOOD FENCE
EXISTING WOOD FENCE
EXISTING WOOD

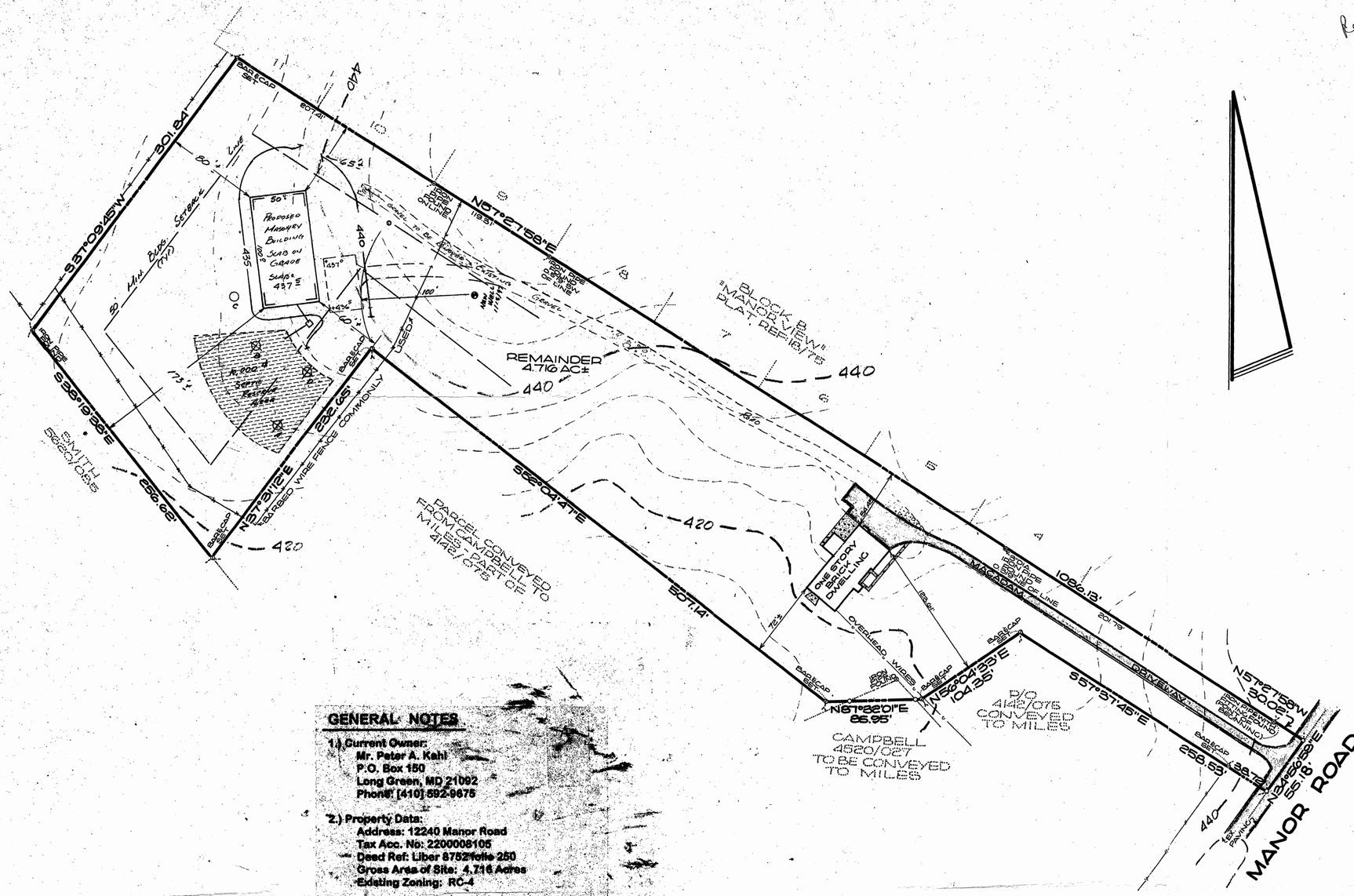
Request'd II / for ID examination only



VICINITY MAP
1" = 2,000'

PLAT OF A SURVEY OF PART OF THE PROPERTY OF JOSEPH & GRACE CAMPBELL

DEED REF: 4142/075
TAX ACCOUNT NO:
1103003350
11TH ELECTION DISTRICT
BALTIMORE COUNTY, MD.


N57°27'58"E 1193'
S37°09'45"W 801.84'
S58°19'28"E 256.62'
N37°31'12"E 282.05'
S56°04'41"E 507.14'
N56°04'33"E 104.35'
N67°32'01"E 86.95'
S57°31'45"E 258.53'
N57°27'58"W 200'±
N32°48'39"E 55.18'
1086.13'
Proposed Masonry Building Slab on Grade Slab= 437 ±
50'
80'
65'
100'
60'
40'
Grade 11' to 8'
Grade 8' to 5'
Grade 5' to 0'
Gravel
Gravel Drive
Proposed Gravel Drive
Proposed Asphalt Drive
Proposed Concrete Apron
Proposed Concrete Walk
Proposed Asphalt Walk
Proposed Concrete Pad
Proposed Concrete Curb & Gutter
Proposed Concrete Flume
Proposed Concrete Swale
Proposed Concrete Ramp
Proposed Concrete Steps
Proposed Concrete Retaining Wall
Proposed Concrete Wall
Proposed Concrete Footing
Proposed Concrete Pier
Proposed Concrete Pile
Proposed Concrete Beam
Proposed Concrete Column
Proposed Concrete Slab
Proposed Concrete Deck
Proposed Concrete Foundation