IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF MICHAEL ZULLO AND CAROLE ZULLO 3231 Canterbury Lane

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Old Courthouse, Room 49 400 Washington Ave.

Fallston, Maryland 21047

Towson, Maryland 21204

No.03-C-98-010326

CIVIL

ACTION

IN THE CASE OF

MICHAEL ZULLO, ET UX, PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED * ON THE NORTHEAST SIDE OF SNYDER AVENUE 520' NW OF C/L OF HOLABIRD AVENUE (1957 SNYDER AVENUE) 12th ELECTION DISTRICT 7 th COUNCILMANIC DISTRICT CASE NO. 98-191-SPH

ORDER

Upon review of the foregoing Request for Dismissal of the above referenced case filed by the Petitioners Michael and Carole Zullo, and there being no other parties to said case, it is hereby

ORDERED this Court for Baltimore County that the Petition for Judicial Review of the decision of the County Board of Appeals in Case No. 98-191-SPH be and the same is hereby dismissed with costs to be paid by the Petitioners.

True Copy Test SUZANNE MENSH, Clerk

Assist ni Clerk

FILED MAY 1 9 1999

09 MAY 20 MIII: 40

COUNTY ENAMED AND SELECTED RECEIVED

12/11/98

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:

MICHAEL AND CAROLE ZULLO 3231 CANTERBURY LANE FALLSTON, MARYLAND 21047

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

MICHAEL ZULLO, ET UX - Petitioners

FOR A SPECIAL HEARING ON PROPERTY

LOCATED ON THE NORTHEAST SIDE SNYDER

AVENUE, 520' NW OF C/L HOLABIRD AVENUE

12TH ELECTION DISTRICT

7TH COUNCILMANIC DISTRICT

CASE NO. 98-191-SPH

* * * *

CIVIL

ACTION

No. 3-C-98-10326

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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 Margaret Worrall, 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. 98-191-SPH

November 19, 1997 Petition for Special Hearing filed by Michael and Carole Zullo, to approve a five-dwelling units as a legal non-conforming use.

Case No. 98-191-SPH /Michael Zullo, et ux Civil Action No. 3-C-98-10326

December 1, 1997 Entry of Appearance filed by People's Counsel for Baltimore County.

December 3 Certificate of Posting.

December 4 Publication in newspaper.

December 12 ZAC Comments.

December 18 Hearing held on Petition for Special Hearing by the Deputy Zoning Commissioner.

January 20, 1998 Order issued by the Deputy Zoning Commissioner in which the Petition for Special Hearing was DENIED; fifth apartment shall be eliminated; four apartments which existed since 1942 are legal and nonconforming.

February 17 Notice of Appeal filed by Michael Zullo.

August 19 Hearing held by the Board of Appeals.

Deliberation conducted at conclusion of hearing.

September 14 Opinion and Order issued by the Board; ruling by DZC is AFFIRMED; request to approve a fifth apartment as legal and nonconforming is DENIED.

October 13 Petition for Judicial Review filed in the Circuit Court for Baltimore County by John B. Gontrum, Esquire, on behalf of Michael and Carole Zullo.

October 15 Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.

October 16 Certificate of Notice sent to interested parties.

Petitioner's Exhibit Nos. 1-Affidavit -Julia Monaco
2-Affadavit -Peter J. Monaco
3-Affadavit -Livia Pierorazio
4-Affadavit -(2nd) Peter J. Manaco
5-Affadavit -(2nd) Julia Monaco
6-PDM -Comments Dec. 12, 1997
7-Photo - 1957 Snyder Avenue

(Large - in CBA closet) 8-Drawing of first floor

Case No. 98-191-SPH /Michael Zullo, et ux Civil Action No. 3-C-98-10326

Protestant's Exhibit No. (1 thru 7 -Photographs)
1-Back of Zullo's house

2-Side of Zullo's facing Giorgilli's

house

3-Front of Zullo's

4-Other side of Zullo's house

5-Back of Zullo's house looking from Giorgilli

6-Air conditioner basement level Zullo's house

7-Giorgilli's property

December 14, 1998

Transcript of testimony filed.

December 14, 1998

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, Legal Secretary
County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse
400 Washington Avenue

Towson, MD 21204 (410) 887-3180

cc: John B. Gontrum, Esquire

Mr. and Mrs. Michael Zullo

Mr. and Mrs. Joseph M. Hazel

Ms. Mary Giorgilli

Mr. Wade Sensebaugh

Mr. and Mrs. Lloyd Widdowson

People's Counsel for Baltimore County Virginia W. Barnhart, County Attorney

10/16/118

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:

MICHAEL AND CAROLE ZULLO 3231 CANTERBURY LANE FALLSTON, MARYLAND 21047

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

MICHAEL ZULLO, ET UX - Petitioners

FOR A SPECIAL HEARING ON PROPERTY

LOCATED ON THE NORTHEAST SIDE SNYDER

AVENUE, 520' NW OF C/L HOLABIRD AVENUE

12TH ELECTION DISTRICT

7TH COUNCILMANIC DISTRICT

CASE NO. 98-191-SPH

CIVIL

No. 3-C-98-10326

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 Margaret Worrall, 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, John B. Gontrum, Esquire, ROMADKA, GONTRUM & MCLAUGHLIN, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Petitioners; Michael Zullo and Carole Zullo, 3231 Canterbury Lane, Fallston, Maryland 21047, Petitioners; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, MD 21204.

RECEIVED AND FILED

98 OCT 16 PH 3: 19

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

98-191-SPH, Michael Zullo, et ux CCt File No. 3-C-98-010326

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to John B. Gontrum, Esquire, ROMADKA, GONTRUM & MCLAUGHLIN, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Petitioners; Michael Zullo and Carole Zullo, 3231 Canterbury Lane, Fallston, Maryland 21047, Petitioners; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, 400 Washington Avenue, Room 47, Towson, Maryland 21204, this 16th day of October, 1998.

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

10/16/98



County Board of Appeals of Baltimore County

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

October 16, 1998

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

> RE: Civil Action No. 3-C-98-10326 MICHAEL ZULLO, ET UX - Petitioners

Dear Mr. Gontrum:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Legal Secretary

Enclosure

c: Mr. and Mrs. Michael Zullo

Printed with Soybean Ink

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF MICHAEL ZULLO AND CAROLE ZULLO 3231 Canterbury Lane

Fallston, Maryland 21047

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 49 400 Washington Ave.

Towson, Maryland 21204

IN THE CASE OF

MICHAEL ZULLO, ET UX, PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED * ON THE NORTHEAST SIDE OF SNYDER AVENUE 520' NW OF C/L OF HOLABIRD AVENUE (1957 SNYDER AVENUE) 12th ELECTION DISTRICT 7 th COUNCILMANIC DISTRICT

CASE NO. 98-191-SPH

CIVIL

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10.00 TOTAL Side. W

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PETITION FOR JUDICIAL REVIEW

COMES MICHAEL ZULLO and his wife CAROLE ZULLO NOW petitions this Court by and through their attorneys John B. Gontrum and Romadka, Gontrum & McLaughlin, P.A. for judicial review of a final decision and Order dated September 14, 1998, in the abovecaptioned case denying the approval of a fifth apartment as a legal, non-conforming use. Petitioners were parties petitioners in the matter for which review is sought.

> Attorney Gontrum, Petitioners Michael and Carole Zullo Romadka, Gontrum & McLaughlin, P.A.

814 Eastern Boulevard

Baltimore, Maryland 21221

Tel. No. 410-686-8274

COUNTY SOLVED **98 OCT**

> RECEIVED AND FILED 98 OCT 13 PM 2: 14

CLERK OF THE CALCULT COU.

9/11/93

IN THE MATTER OF THE
THE APPLICATION OF
MICHAEL ZULLO, ET UX PETITIONERS FOR SPECIAL
HEARING ON PROPERTY LOCATED
ON THE NORTHEAST SIDE SNYDER
AVENUE, 520' NW OF C/L
HOLABIRD AVENUE
(1957 SNYDER AVENUE)
12TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

BALTIMORE COUNTY

* CASE NO. 98-191-SPH

OPINION

This case comes before this Board on appeal of the partial denial of a Petition for Special Hearing by Order dated January 20, 1998 by Deputy Zoning Commissioner, Timothy M. Kotroko. Michael Zullo, one of the Petitioners, was represented by John Disney, Esquire. Three protestants, Mr. and Mrs. Joseph M. Hazel and Mary Giorgilli, appeared in proper person.

Petitioners below had sought approval of a five-apartment dwelling as a legal, nonconforming use of the subject property. The Deputy Zoning Commissioner found four of the apartments as legal and nonconforming, but denied the approval of the fifth apartment. Insofar as no one appealed the granting of the special hearing with respect to four of the apartments, they are not subject to review.

With respect to the fifth apartment, we find that Mr. Zullo purchased the house in 1972. What is now a fifth apartment was, at that time, two day rooms which had separate tenants who were obliged to share a separate bathroom. When a fire broke out in 1982, Petitioners apparently proceeded in the fall of 1983 to convert the two day rooms to a single apartment. The process entailed converting various walls to doors and vice versa as well

Case No. 98-191-SPH /Michael Zullo, et ux /Petitioners as relocating the toilet within the bathroom such that the resulting unit was now a self-contained three-room apartment.

Section 101 of the Baltimore County Zoning Regulations (BCZR) defines a "nonconforming use" as a "legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use." Nonconforming uses may be grandfathered in under the appropriate circumstances in order to protect property owner's rights. Insofar as they are not compatible with their surroundings, however, they are disfavored and should be discontinued in the event of a break or change in the The burden is on the Petitioners to produce evidence of a use. prior use as well as its continuance without change.

In this instance, a lawful nonconforming use existed on the property retroactive to 1945, when a change in the zoning regulations rendered the use illegal. Under Section 104.1 of the BCZR, a nonconforming use may continue "provided that upon any from such nonconforming use to any other change use whatsoever...the right to continue or resume such nonconforming use shall terminate."

The dictionary does make a distinction between the day rooms as originally configured and the apartment as presently designed, defining an "apartment" as a building designed for independent housekeeping. In this, the conversion in 1983 from two day rooms with a separate bathroom to an apartment is a change that breaks the applicability of Section 104.1. The current use of the space as an apartment does not reflect the nature and purpose of the original nonconforming use and is different in character, nature

Case No. 98-191-SPH /Michael Zullo, et ux /Petitioners

and kind than the original nonconforming use, and thus violative of Section 104.1 and McKemy v. Baltimore County, 39 Md.App. 257, 385 A.2d 96 (1978).

Accordingly, this Board must affirm the ruling below that the four-apartments which have existed in the subject dwelling since 1942 are legal and nonconforming, but a petition for special hearing to permit use of the dwelling as a legal and nonconforming five-apartment dwelling must be denied.

ORDER

IT IS THEREFORE this 14th day of September , 1998 by the County Board of Appeals of Baltimore County

ORDERED that the ruling below in Case No. 98-191-SPH that the four apartments which have existed in the subject dwelling since 1942 are legal and nonconforming must be affirmed, but a special hearing request to approve a fifth apartment in the subject dwelling as legal and nonconforming be and is hereby DENIED.

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 K4 Howanski, Chairman

Charles L. Marks

Margaret Worrall



County Board of Appeals of Baltimore County

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

September 14, 1998

John G. Disney, Esquire 2903 Manns Avenue Baltimore MD 21234-4016

RE: Case No. 98-191-SPH Michael Zullo, et ux

Dear Mr. Disney:

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

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

Very truly yours,

Kathleen C. Bianco Legal Administrator

Charlotto E. Radelyfor for

encl.

cc: Mr. and Mrs. Michael Zullo

Mr. and Mrs. Joseph M. Hazel

Ms. Mary Giorgilli Mr. Wade Sensebaugh

Mr. and Mrs. Lloyd Widdowson

People's Counsel for Baltimore County

Pat Keller

Lawrence E. Schmidt

Arnold Jablon, Director /PDM

Virginia W. Barnhart, County Attorney

1/20/91

IN RE: PETITION FOR SPECIAL HEARING

NE/S Snyder Avenue, 520' NW of

the c/l Holabird Avenue (1957 Snyder Avenue) 12th Election District 7th Councilmanic District

Michael Zullo, et ux

Petitioners

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 98-191-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Michael Zullo, and his wife, Carole Zullo. The Petitionseek approval of a five-apartment dwelling as a legal, nonconforming ers use. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Michael and Carole Zullo, property owners. Appearing as Protestants in the matter were several residents from the surrounding community, all of whom signed the Protestants' Sign-In Sheet.

Testimony and evidence offered revealed that the subject property consists of a gross area of 6,250 sq.ft., zoned D.R. 5.5 and is improved with a two-story dwelling and a detached garage. The Petitioners purchased the property in 1972, at which time the dwelling contained four apartments and two "day rooms". Mr. Zullo testified that the house was built in the 1930s and was converted into four apartments and two "day rooms" by the prior owners in 1942. Testimony indicated that the apartments were leased to military personnel who were stationed at nearby Fort Holabird. Mr. Zullo testified, and submitted affidavits showing, that the subject property was

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utilized as four separate apartments and two "day rooms" from 1942 until 1983. However, during an inspection by Baltimore County in 1983, the Petitioners were advised that special provisions were required for the two "day rooms" since the tenants therein shared a bath. Thus, the two "day rooms" were converted to create one apartment. This conversion is important in that these two "day rooms" did not constitute separate apartments in and of themselves. They did not contain the necessary amenities that would constitute their use as an apartment. Furthermore, the fifth apartment does not meet the requirements for a nonconforming use since it was not created until 1983. Therefore, according to the testimony and evidence presented, only the four original apartments can be classified as legal and nonconforming.

As noted above, several residents from the surrounding community appeared in opposition to the Petitioners' request, including the adjoining property owner, Mary Giorgilli. All of the Protestants are opposed to the apartments and object to the quality of the residents who are tenants These neighbors have noticed a decline in the character and therein. quality of the tenants over the years and noted that the Police have been called to the property on several occasions for unruly behavior by the tenants and/or their guests. While many of the Protestants in attendance object to the apartments and the tenants residing therein, few had any actual knowledge of the number of apartments which have existed in the dwelling over the years. In fact, Ms. Giorgilli signed an affidavit in 1982 which attests to the existence of multiple apartments in the subject dwelling, but does not specify the exact number. Furthermore, it is odd that the Petitioners have owned the property for the past 25 have rented the property as five separate apartments for the last 14 years

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without any prior complaint. I find it unusual that after 25 years of ownership by the Petitioners, the issue of the propriety of these apartments now comes before me.

Section 101 of the B.C.Z.R. defines a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a specific regulation applicable to such a use. In essence, a legal nonconforming use designation can operate to "grandfather" an otherwise prohibited use in a specific location. However, the Petitioner must adduce testimony and evidence that any such use existed prior to the effective date of the prohibiting legislation. Moreover, it must be shown that the use has not changed, been abandoned or discontinued for a period of one year or more since the use began. Furthermore, regulations are provided regarding the alteration and/or enlargement of such use.

The first task is to determine whether a lawful nonconforming use existed on the property prior to the year in which a change in the zoning regulations caused the use of the property to become illegal. The controlling year in this case is 1945.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. It has already been established that the two "day rooms" did not constitute apartments in the first place. However, even though they were converted to create the fifth apartment, the fifth apartment is not a legal, nonconforming use as the conversion did not take place until 1983, well after the effective date of the zoning regulations governing a nonconforming use. If the change in use is found to be different than the original use, the

current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

- "(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;
- (b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;
- (c) Does the current use have a substantially different effect upon the neighborhood;
- (d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

Tariff Str. and

W. W.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption as four apartments since prior to 1945, and as such, the four original apartments enjoy a legal nonconforming use. While the two "day rooms" did not constitute apartments, their conversion into an apartment did not take place until 1983. Thus, the fifth apartment cannot be construed as being nonconforming and the Petitioner shall be required to remove same or eliminate one of the other apartments so that only four apartments remain in the dwelling.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the

relief requested in the Petition for Special Hearing, as modified herein, shall be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20 day of January, 1998 that the four apartments which have existed in the subject dwelling since 1942 are legal and nonconforming; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve the subject dwelling as a legal and nonconforming five-apartment dwelling is hereby DENIED; and,

IT IS FURTHER ORDERED that within sixty (60) days of the date of this Order, the fifth apartment that was created out of the two "day rooms" shall be eliminated; and,

IT IS FURTHER ORDERED that the relief granted herein is subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Within ninety (90) days of the date of this Order, the Petitioners shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management (DPDM) to make an inspection of the subject property to insure compliance with this Order.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

FILING

OKUME ENCH

Date

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OHORR RECE

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1957 SNYDER AUE 21222 which is presently zoned

This Petition shall be filed with the Department of Permits & 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

SPECIAL HEARING TO APPROVE A FIVE DWELLING UNITS AS A LEGAL WON-CONFORMING USE.

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 filling 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

			legal owner(s) of the property which is the subject of this Petition
Contract Purchaser/Lessee.			Legat Owner(s)
(Type or Print Name)			HICHAEL ZULLO (Type or Print Name) (Type of Print Name)
Signature			Signature
Address		<u> </u>	CAROLE T LULLO
City	State	Zipcode	Signature Suga
Attorney for Petitioner			3231 CANTERBURY LANG
(Type or Print Name)			City Name, Address and phone number of representative to be contacted.
Signature	·		MIKE ZULLO 410-557.70 Name ACCUSA CA CALLES 410-555
Address .	Phone !	No	Address Same as above Phone No
City	State	Zipcode	ESTIMATED LENGTH OF HEARING unavailable for Hearing
			the following dates Next Two Months
			REVIEWED BY: DATE 11-19-47
vi <i>s</i> ed 9/5/95			98-191-91-PH
TION NOT	ICE # 10	14-99	98-191-SPH



Baltimore County Zoning Commissioner Office of Planning

Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204 410-887-4386

January 20, 1998

Mr. & Mrs. Michael Zullo 3231 Canterbury Lane Fallston, Maryland 21047

RE: PETITION FOR SPECIAL HEARING
NE/S Snyder Avenue, 520' NW of the c/l Holabird Avenue
(1957 Snyder Avenue)
12th Election District - 7th Councilmanic District
Michael Zullo, et ux - Petitioners
Case No. 98-191-SPH

Dear Mr. & Mrs. Zullo:

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

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

Very truly yours,

TIMOTHY M. KOTROCO

Sunthy Hotroco

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

cc: Ms. Mary Giorgilli, 1953 Snyder Avenue, Baltimore, Md. 21222

Mr. Wade Sensebaugh, 1949 Snyder Avenue, Baltimore, Md. 21222

Mr. & Mrs. Lloyd Widdowson, 1941 Snyder Avenue, Baltimore, Md. 21222

Mr. & Mrs. Joseph M. Hagel, 1979 Snyder Avenue, Baltimore, Md. 21222

Mr. James Thompson, Supervisor, Code Enforcement Division, DPDM People's Counsel; Case/Files

ZONING DESCRIPTION

Beginning at a point on the Northeast side of Snyder Avenue which is 50'-0 wide at the distance of 520'-0 Northwest of the centerline of the nearest improved intersecting street - Holabird Avenue which is 40'-0.

Being Lots #57 and 58, Block 0, in the subdivision of Fairlawn as recorded in Baltimore County Plat Book #6, Folio 100, containing 6250 square feet. Also known as 1957 Snyder Avenue, located in the 12th Election District.

#191

NOTICE OF HEARING

The Zoning Commissioner of Baitimore County, by authority of the Zoning Act and Regulations of Baitimore County will hold a public hearing in Tow-son, Maryland on the property Identified herein as follows:

Case: #98-191-SPH
1957 Snyder Avenue
W/S Snyder Lane, 502' from
centerline Holabird Avenue
12th Election District
7th Councilmanic District
Legal Owner(s):

Legal Owner(s): Michael Zullo & Carole T. Zullo

Special Hearing: to approve five dwelling units as a legal non-conforming use.
Hearing: Thursday, December 18, 1997 at 2:00 p.m., Room 106, County Office Building, 111 West Chesapeake Avenue.

LAWRENCE E SCHMIDT
Zoning Commissioner for
Baltimore County

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.

12/038 Dec. 4 C193697

CERTIFICATE OF PUBLICATION

THE JEFFERSONIAN,

LEGAL AD. - TOWSON

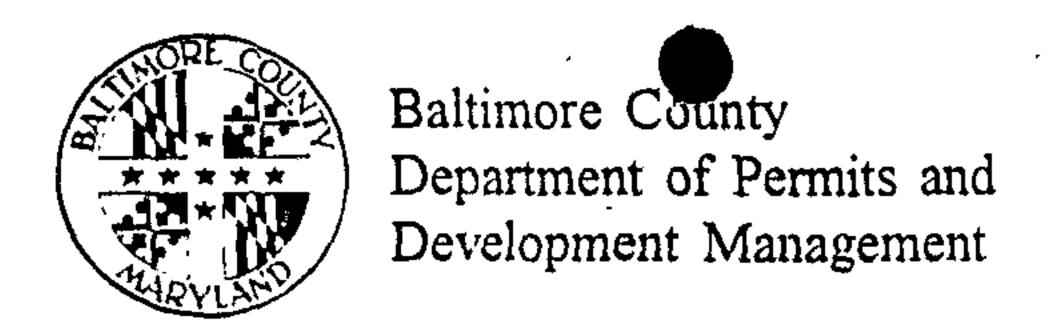
`	RE: Case No.: 75-171-5PH
	Petitioner/Developer:
	MICHAEL ZULLO
	Date of Hearing/Closing: 12 18 97
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	
Ladies and Gentlemen:	
This letter is to certify under the penalties of powere posted conspicuously on the property lo	perjury that the necessary sign(s) required by law cated at
,	NYDER AVE
-	**************************************
The sign(s) were posted on	12/3/97 (Month, Day, Year)
CASE # 98-191 SPH	
	Sincerely, Signature of Sign Poster and Date) RICHARD E. HOFFMIAN
	(Printed Name) 904 DEZLWOOD DR. (Address) FALLSTON, MO. 21047
	(City, State, Zip Code) (410) 879-3122 (Telephone Number)
1937 SNYDER AVE. SIGN POSTED 12/3/97	
SIGN FOSTED 12/3/97 Spelles 12/3/97	•

CERTIFICATE OF POSTING

RE: Case No.: 98-191-5PH
Petitioner /Developer:
MICHAEL ZULLO
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 1957 SNYDER AVE.
The sign(s) were posted on $\frac{3/30/98}{(Montk, Day, Year)}$.
Sincerely,
\mathcal{L}_{μ}
Signature of Sign Poster and Date
GARY C. FREUND
Printed Name
Address
City, State, Zip Code
Telephone Number

:	BALTIMORE COUNTY, MARYI OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT MISCELANEOUS RECEIPT MISCELLANEOUS RECEIPT MISCELLANEOUS RECEIPT MISCELLANEOUS RE		
т	DATE 11-19-97 ACCOUNT 16-001-6/50		S RESTELLANDUS CASH RECEIPT
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	#1957 Snyder Ave Ray To		
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	PAIRISSONE COUNTY BEAC SAID	-	
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	OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT DATE 2/17/92 ACCOUNT R-001-6150 AMOUNT \$ 210.00 RECEIVED Michael and Carole Zulla		TOTAL THE LEGISLATION ASSOCIATION AND THE PROPERTY OF THE PROP

- -





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

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

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

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

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

ARNOLD JA	BLON, DIRECTOR
For newspaper advertising:	
Item No.: 191	
Petitioner:	
Location:	
PLEASE FORWARD ADVERTISING BILL TO:	
NAME: MICHAEL ZULLO	<u></u>
ADDRESS: 3231 CANTER BURY LANE	
FALLSTON NUCL. 210A7	<u></u>
PHONE NUMBER: 410-557.8443	
AJ:ggs	(Revised 09/24/96)

Printed with Soybean Ink

_

TO: PATUXENT PUBLISHING COMPANY

December 4, 1997 Issue - Jeffersonian

Please forward billing to:

Michael Zullo

410-557-8443

3231 Canterbury Lane Fallston, MD 21047

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: 98-191-SPH

1957 Snyder Avenue

W/S Snyder Lane, 502' from centerline Holabird Avenue

12th Election District - 7th Councilmanic District Legal Owner: Michael Zullo & Carole T. Zullo

Special Hearing to approve five dwelling units as a legal non-conforming use.

HEARING: Thursday, December 18, 1997 at 2:00 p.m. in Room 106, County Office Building,

111 West Chesapeake Avenue.

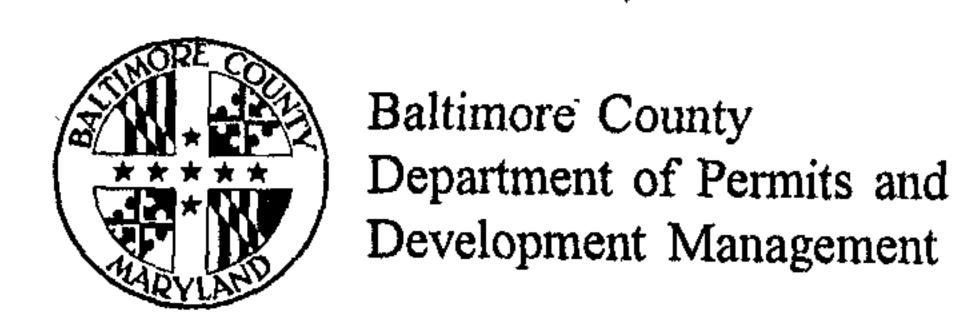
LAWRENCE E. SCHMIDT

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.

Request for Zoning: Valence, 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.: 98-191 SPH			
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD			
PLACE:			
DATE AND TIME:			
REQUEST: SPECIAL HEARING TO APPROVE A FIVE DWELLING UNITS AS A LEGAL NON-CONFORMING			
USE,			
OSTPONEMENTS 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			



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

November 26, 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:

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1957 Snyder Avenue

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12th Election District - 7th Councilmanic District

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Arnold Jablon Director

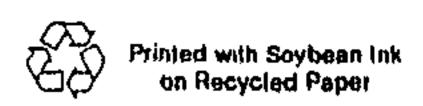
c: Michael & Carole Zullo

Colland Ses

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY DECEMBER 3, 1997.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.





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

May 22, 1998

NOTICE OF ASSIGNMENT

CASE #: 98-191-SPH

IN THE MATTER OF: MICHAEL ZULLO, ET UX -Petitioners (1957 Snyder Avenue) 12th E; 7th C

(Petition for Special Hearing DENIED in part and GRANTED in part by DZC.)

ASSIGNED FOR:

WEDNESDAY, AUGUST 19, 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: Appellants /Petitioners

: Mr. and Mrs. Michael Zullo

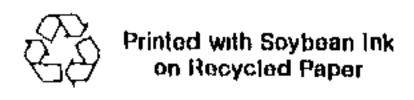
Ms. Mary Giorgilli

Mr. Wade Sensebaugh

Mr. and Mrs. Lloyd Widdowson

Mr. and Mrs. Joseph M. Hagel

People's Counsel for Baltimore County Pat Keller, Director /Planning Lawrence E. Schmidt /Z.C. James Thompson /Code Enforcement /PDM Arnold Jablon, Director /PDM Virginia W. Barnhart, County Attorney



IN THE MATTER OF THE * BEFORE THE

MICHAEL ZULLO, ET UX - * COUNTY BOARD OF APPEALS

PETITIONERS FOR SPECIAL * OF BALTIMORE COUNTY

HEARING ON PROPERTY LOCATED * Case No. 98-191-SPH

ON THE NORTHEAST SIDE SNYDER * August 19, 1998

AVENUE, 520' NW OF C/L

*

HOLABIRD AVENUE

*

(1957 SNYDER AVENUE)

12th ELECTION DISTRICT

ORIGINAL

7th COUNCILMANIC DISTRICT

The above-entitled matter came on for hearing

before the County Board of Appeals of Baltimore County at

the Old Courthouse, 401 Washington Avenue, Towson,

Maryland 21204 at 10 o'clock a.m., August 19, 1998.

* * * *

Reported by:

C.E. Peatt

		Page 2	Page
ļ	1 BOARD MEMBERS:		1 MS. GIORGILLI: I am Mrs. Mary Giorgilli,
l	2		THE CHAIRMAN: Very well. This is an appeal, and
l	3 KRISTINE K. HOWANSKI, Chairman	ļ	3 because it is an appeal, it is a de novo appeal. Mr.
ł	4 CHARLES L. MARKS	Ì	4 Disney will be putting on his case. Okay.
l	5 MARGARET WORRALL	j	The case is confined to the portion of the
l	6)	6 special hearing that was denied, and that's what he'll be
ĺ	7 APPEARANCES: JOHN G. DISNEY, Esquire	}	7 putting testimony on.
	8 On behalf of Petitioner	}	Both of you will be permitted I say both of
ļ	9 SARA HAGEL JOSEPH HAGEL		9 you. I am talking about one person out of this group will
Į	10 MARY GIORGILLI	{ }	10 be permitted to make an opening statement, if it is your
Ł	In Proper Person	,	11 desire.
ı	12	(1	I do want to explain an opening statement is not
ı	13	(1	13 testimony. So if you simply want to and it's not
ı	14	[1	14 argument either it's simply what you believe you will
ı	15	Į1	15 prove today.
1	16] 1	If you want to testify, you may simply wait, skip
1	17) 1	17 the opening statement, and you will be given an
ļ	18	}]	18 opportunity to testify.
ļ	19	} ;	19 You also will be given an opportunity to
֓֞֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֓֡֝֡֓֓֡֓֡֓֓֡֝֡֝֡֓֡֝֡֡֡֡֝֡֡֝	20	2	20 cross-examine. I imagine Mr. Disney is going to call Mr.
ľ	21	2	21 Zullo as a witness, or whatever, and put on some
1			
•		ſ	

Page 3

PROCEEDINGS

THE CHAIRMAN: Good morning. We're here on Case 4 No. 98-191-SPH, in the matter of Michael Zullo, et ux., 5 petitioners.

I gather this is an appeal from the petition for 7 special hearing which was denied in part and granted in 8 part. And, obviously, the appeal as it was filed by the 9 petitioners would be on the portion that was denied.

If counsel would identify themselves for the 11 record.

12 MR. DISNEY: My name is John Disney, 2903 Manns 13 Avenue in Parkville, Maryland.

THE CHAIRMAN: You're representing Mr. Zullo? 14

15 MR. DISNEY: Yes, sir.

THE CHAIRMAN: Over at this table? 16

MR. HAGEL: We have no counsel.

18 THE CHAIRMAN: Who are you?

19 MR. HAGEL: We are neighbors.

THE CHAIRMAN: If you can identify yourselves? 20

MR. HAGEL: Mr. and Mrs. Hagel, Joseph Hagel.

1 testimony,

You will have the opportunity to cross-examine

3 Mr. Zullo. Okay? I don't want to infringe on anybody's

4 rights, but it might make sense for you to have one person

5 do that.

When Mr. Disney has closed his case, you will be

Then, afterwards, you will be subject to

cross-examination.

At the conclusion of the testimony, that is the

time where you may want to make an argument, if that's

16 what you want to do, and explain why you want this portion

of the special hearing to be denied.

Okay. If you have any questions during any part 18

21 I am just trying to lay them out because you are

20 them.

Page 6

unrepresented by counsel, and I want to give you an idea of what will be happening.

Do you have any questions, Mr. Disney, or do you have any, Mr. Hagel?

MS. DISNEY: No, I don't. I'd like to have a few words in an opening statement.

THE CHAIRMAN: Certainly, you are going to be permitted to make your opening statement. If you're ready, go ahead.

MR. DISNEY: I just want to reiterate what you said. This is an appeal from the decision of the Deputy Zoning Commissioner denying the apartment on the first floor and nonconforming status.

This building was divided into various units in 1942. We would prove to you by a series of affidavits labeled in the file, I believe they are in the file as A, B, C, D, E, F, G and H.

The evidence will refer to the day room, we have been unable to even define the definition of a day room in the code. The only definition of day room is in Webster's 3rd Edition Dictionary which states, military-like,

1 statement of what we intend to show.

THE CHAIRMAN: You intend to prove this is a

3 single family house and that --

4 MR. HAGEL: And that it's over-stuffed.

5 THE CHAIRMAN: Thank you.

6 MR. DISNEY: Mr. Zullo, will you take the stand?

MICHAEL ZULLO,

8 having been called as a witness, was duly sworn and

9 tesfied as follows:

10 DIRECT EXAMINATION

11 BY MR. DISNEY:

12 Q. Mr. Zullo, state your name and address and

13 relation to the property at 1957 Snyder Avenue.

14 A. My name is Mike Zullo, or Michael Zullo. I live

15 at 3231 Canterbury Lane, Fallston, Maryland 21947.

This is a property, 1957 Snyder Avenue, that I

17 purchased in February or March of 1972, and I am presently

18 the owner and have been the owner during that entire

19 period.

Q. Mr. Zullo, did you inquire as to the zoning of

21 the property when you purchased it?

Page 7

itting rooms, common area needed, as a television room. Io other definition we have been able to find. That's my pening statement.

THE CHAIRMAN: Okay. Very well. How about your rst witness?

MR. HAGEL: Do we make an opening statement? THE CHAIRMAN: I apologize. Would you like to ake an opening statement?

MR. HAGEL: We are neighbors in that area. It's very solid neighborhood, and this is, frankly, it's on a slide. It's in a state of deterioration. The house question is, I think by anybody's standard, would be lied a single family house in any neighborhood.

We have pictures calling this a single family use. How anyone can put five apartments in this case is youd me.

THE CHAIRMAN: I want you to understand right now what you intend to prove. That, to me, sounds like ument, and there's a place for that in closing ument.

MR. HAGEL: I'm sorry. Well, that is the

A. I spoke to the owners who sold me the property

2 and I asked them when this house had been converted to

3 apartments and rentals.

And he said that it was done in 1942 before he

5 went into the Navy, and that he was the one that was

6 involved with Mary Reale, who owned it, and that was his

7 wife's aunt.

And he indicated during the war that --

9 THE CHAIRMAN: I am going to -- again, these are

10 lay people, so they don't understand a lot of this is

11 absolutely inadmissible in my book.

What I would like you to do is confine yourself

3 at this moment to when you purchased the property. That

14 was back in --

15 THE WITNESS: 1972.

6 THE CHAIRMAN: That was a rental property at that

17 time?

18 THE WITNESS: Right. They were all rentals. The

19 whole building was a rental.

Q. Do you have those affidavits that I mentioned

21 before with you?

Page 9

Page 13

Page 10

- A. They are sitting there on the table.
- MR. DISNEY: Madam Chairman, can we read these 3 into the record?
- THE CHAIRMAN: Well, they are going to be what
- 5 they are, and you've got affidavits of people who aren't
- 6 here, I take it, and I don't -- you know, again, I will
- 7 admit them for what they are worth, but affidavits are not
- 8 people's testimony. And these folks --
- MR. DISNEY: Some of them are dead.
- 10 MS. HAGEL: We have aleady lost the part about
- 11 the four apartments. That isn't even the issue.
- 12 THE CHAIRMAN: I'm just having trouble. These
- 13 folks are supposed to be given an opportunity to
- 14 cross-examine and, you know, you're trying to slip in
- 15 affidavits.
- 16 MR. DISNEY: I'm not trying to slip in anything.
- THE CHAIRMAN: I understand, but him reading it 17
- 18 in isn't going to make any difference. And I don't know
- 19 if these folks have seen these.
- 20 MR. DISNEY: One of them is significant to the
- 21 issues.

- 1 C. Reale who owned the house from which I purchased it
- 2 from Julie. When Mary Reale died, she inherited the
- 3 house, she and her husband Peter, and I bought the house
- 4 from Julie and Peter.
- Q. Okay. We have another affidavit from her
- 6 husband --
- THE CHAIRMAN: Let's get it marked Petitioner's
- 8 Exhibit 1.
- Q. Do we have an affidavit from his wife?
- 10 A. No.
- Q. From Peter, her husband. And then we have -- who
- 12 was also the seller to you, right?
- A. Yes, they were the seller.
- Q. Then you have an affidavit of yourself which you
- 15 can testify to?
- A. Right,
- Q. And did you give Mrs. Worrall a copy of both
- 18 those?
- 19 THE CHAIRMAN: Petitoner's No. 2 will be the
- 20 affidavit of Peter Monaco. Mr. Zullo can testify ---
- 21 MR. DISNEY: And the third one is from Mary

Page 11

- THE CHAIRMAN: That's not the question. The
- 2 question is, why isn't anybody else here to testify to
- 3 this?
- MR. DISNEY: These people are so old they can't
- 5 even make it here. In fact, the one guy may have died,
- 6 because he went into the hospital with a heart attack.
- THE CHAIRMAN: Then you take depositions, you do
- 8 something. You know, I am stuck. I will accept the
- 9 affidavits, and we'll accept them and give them the weight
- 10 we think they deserve, but to further compound it by
- 11 reading it into the record is improper.
- MR. DISNEY: Fine. Well, how do you want this 12
- 13 handled if we give them to you to put in the record, just
- 14 read their names?
- THE CHAIRMAN: We'll identify them as whatever,
- 16 affidavit of whoever.
- MR. DISNEY: We'd like to submit an affidavit
- 18 which is from Julie Monaco.
- 19 MR. HAGEL: Can I ask who Julie Monaco is?
- 20 THE CHAIRMAN: Yes.
- THE WITNESS: Julie Monaco is the niece of Mary

Giorgilli.

- THE CHAIRMAN: Is Mary Giorgilli here?
- THE WITNESS: Mary Giorgilli is here, yes.
- THE CHAIRMAN: We want simply to know if she's
- 5 here.
- MR. DISNEY: Then we have one from Livia
- 7 Pierorazio.
- THE CHAIRMAN: Please do not speak up. Keep the
- 9 record clean. Okay,
- Q. And who was she?
- A. She was Mary's mother. Mary Giogilli's mother.
- 12 She's now deceased.
- MR. DISNEY: And then we have an additional two 13
- affidavits from Peter Monaco and Julie Monaco, and
- 15 additional ones --
- THE CHAIRMAN: Julie will be A and --16
- MS. WORRALL: That now messes up my order.
- THE CHAIRMAN: Petitioner's No. 4 is a second
- 19 affidavit from Peter J. Monaco. And Petitioner's No. 5 is
- 20 a second from July Monaco.
- Q. In reference to your affidavit, you stated your

Page 17

Page 14

purchased the house in 19 -- did you say 1972?

- A. Yes.
- Q. Why are we here on this first floor apartment now?
 - A. Well, in the decision by Mr. Kotroco --
 - Q. You mean originally?
 - A. Originally?
 - Q. Yes. Were you cited?
- A. Oh, because Mary Giorgilli called the zoning people, because she was angry with me.
 - Q. What did they tell you?
- A. They said I have to prove a nonconforming use, the zoning people.
 - Q. What did you do after they said that to you?
- A. Well, I went about to see if I could find the people that sold me the property. I had lost contact with them after I had purchased the property in '72.

And the only affidavit the I had at that point were from Mary and her mother, which I believe were eighty something -- eighty-two.

And I had spoken to an attorney who said I should

- THE CHAIRMAN: How about having your client
- 2 testify?
- 3 Q. Would you identify this?
 - A. This drawing represents the two rooms that are ---
- Q. Could you come down and point to them?
- 6 A. This is just identifying the two rooms that are
- 7 referred to as day rooms. And before November of '83, the
- 8 way it was, this was a room. This was a room that had a
- 9 stove, a sink, and a fridge, and had two gentlemen living 10 in here.
- They had to come out into the hallway, walk down
- 12 and use the bathroom. In November or October of '83, there
- 13 was a fire in the apartment behind, a mattress fire, and
- 14 the fire chief came down and looked it over and had a
- 15 building inspector from Baltimore County come down.
- And he was looking over the entire house. And he
- 17 said to me that this was a violation because, he said, you:
- 18 had two men sharing a bath, and he said I should convert
- 19 it. So, I mean, here's a guy who comes in and tells me to 20 do this.
- 21 So I said, All right. All I had to do was this

Page 15

ry to find the original sellers.

Since I knew they were the ones who were involved a the renovation, and knew the owner, I finally found nem. They very old.

In fact, Peter is suffering from heart disease, and the last time I saw him he was on his way to the aspital. So I don't where he stands now.

- Q. The Zoning Commissioner, in his opinion, denied is configuration that was made by you when?
- A. That was not made by me. That's what I irchased, this unit here, what everybody refers to --
- Q. Can you folks see?

MR. HAGEL: Yes.

A. These are the first two rooms as you come in the llway in front of the house.

THE CHAIRMAN: I'm sorry to interrupt. I'm not ng to try your case for you, but in terms of the ord, you're talking about a "this" and it hasn't been ntified.

- Q. Well, identify this.
- A. This is a drawing.

1 door had to be eliminated. I blocked that off. Came out

- 2 into the hallway, took off the door into the bathroom,
- 3 swung the toilet from here to there, and put a door there,
- 4 and that was it.
- And then I only had one unit. This door here
- 6 between these two rooms always existed. It just remained
- 7 locked when it was rented by two people.
 - Well, when I closed this off, I swang that door
- 9 open, and it become essentially the one unit. The stove,
- 10 the sink and fridge were there, and they are still there.
- Now, I have upgraded the place. I have added
- 12 better equipment and stuff. But, essentially, there was a
- 13 stove, sink, and fridge.
- 14 And he had to come out and use the bathroom. Now,
- 15 we have a stove, fridge and sink and the bath. Now you
- 16 can enter directly from that room.
- Q. Did you add the door that goes between the two
- 18 rooms?
- 19 A. This door? No. This has always been there.
- Q. You didn't modify that in any way?
- 21 A. No. I didn't have to. It was there. This pantry

Page 21

Page 18

1 was here. It's been there since I purchased it. And this

2 was a closet.

Now, this guy had a clothes rack, a pipe, that he hung his clothes. This guy had a closet. And it's still a pantry.

And nothing really changed, except I just blocked this, blocked that, swung the toilet around and opened it up there. That was the total extent of the changes.

And I reduced the number of people from two to one. It's been rented by one person since. There was one person in each room, and now there is only one person for that apartment. I only rent it to one person.

Q. So you reduced the number of units from six to 14 five, is that what you're saying?

15 A. Yes.

Q. Do you believe that the amenities that are contained there do constitute an apartment for that one unit?

A. They were there before, and they are still there, 20 and it really -- the amenities. And the decision by Mr. 21 Kotroco said that -- I think he didn't understand that in 1 MR. DISNEY: I think so. We have explained to

2 you what has happened here.

3 THE CHAIRMAN: Well, if you're finished, that's

4 fine. Cross-examination?

5 MR. HAGEL: I'd like to say one thing. In 1942

6 was the middle of World War II.

7 THE CHAIRMAN: No, no. Right now, the question

8 is, do you have any questions for Mr. Zullo?

9 I will let you testify when it's your turn.

MR. HAGEL: I don't have any questions.

11 THE CHAIRMAN: Ms. Giorgilli, do you have any

12 questions about anything he said?

13 MS. GIORGILLI: No, I don't.

14 THE CHAIRMAN: Okay.

MR. DISNEY: Everything that's in the file is

16 part of the evidence?

17 THE CHAIRMAN: Not unless you move it in, its

18 not.

MR. DISNEY: Okay. Then I would like to move one

20 thing into the file, the zoning advisory committee that's

21 in the file, various committees in the county, their

Page 19

1 the affidavits that both Peter and Julie make reference to

2 the day room as a kitchenette. And the first -- did you

3 name them one, two, three?

In one and two, there is specific reference, in

5 their affidavits -- if I may read it just for clarity?

In 1942, my Aunt Mary C. Reale, converted the house into multiple dwellings with an apartment in the

8 basement, two apartments and two day rooms on the first

9 floor, one day room with a kitchenette, and an apartment

10 on the second floor.

Peter, if you read the same, says, In 1942, I

12 personally helped Mary C. Reale convert the house into

13 multiple dwellings with an apartment in the basement, two

14 apartments and two day rooms on the first floor, one day

15 room with a kitchenette and an apartment on the second 16 floor.

So he was instrumental in putting in what would

18 be amenities. The only thing they did is kept the bathroom

19 as sharing. These two guys had to share that,

MS. DISNEY: I am going to rest.

21 THE CHAIRMAN: Are you finished with your direct?

1 replies when the inspection was made down there. There

2 was no comment. And I think it's in the file too. All

3 those affidavits were in the file too.

4 THE CHAIRMAN: These comments are in the file.

5 MR. DISNEY: I just wanted to make sure.

6 THE CHAIRMAN: Mr. Hagel, given that, do you have

7 any questions?

8 MR. HAGEL: No.

9 THE CHAIRMAN: That will close their case in

10 chief.

It is now your opportunity to testify. Would all

12 of you wish to testify?

MR. HAGEL: I will speak, I guess.

14 THE CHAIRMAN: Okay, You are free to either

15 remain seated there or take the stand. But you will need

16 to stand and be sworn in,

JOSEPH HAGEL,

18 called as a witness, was duly sworn, and testified as

19 follows:

THE WITNESS: I would like to make a very simple

21 statement.

Page 25

Page 22

THE CHAIRMAN: That's fine.

THE WITNESS: I am Joseph Hagel. Okay? In 1942, people actually took turns sleeping in beds. Conditions were completely different. You could do a lot of things with houses then, and no one would say anything.

So I don't think you should compare that time to this time.

And our statement, if you will, is really very simple. We think this is a house that one family should live in.

THE CHAIRMAN: Mr. Hagel, I really apologize for this, because I want you to put on your case.

But right now is the time where you testify, When you testify, you testify to facts.

I will give you an opportunity to make your argument too, but that will be at the end.

But right now is --

MR. HAGEL: We don't have anything.

THE CHAIRMAN: Facts, things you want to say that are factual about the case that would help us understand why or why not the special hearing, that portion should be

THE CHAIRMAN: Cross-examination?

MR. DISNEY: I have one question.

CROSS EXAMINATION

4 BY MR. DISNEY:

Q. This property was in use in 1942. We have had

6 various zoning revisions and all. How come, fifty-six

7 years later, or whenever you purchased your property,

8 you're now complaining about the use?

9 THE CHAIRMAN: I'm sorry, that's not a question

10 that I will accept at this point.

11 MR. DISNEY: Okay.

12 THE CHAIRMAN: You can do it another way. Right

13 now, that's argumentative. That's not a question.

I am perfectly fine if you want to ask how it

15 came about or whatever, that's perfectly fine.

16 Q. Okay. How did it come about, after all these

17 years, you filed, or one of you filed a zoning complaint?

THE CHAIRMAN: The question right now is directed

19 to Mr. Hagel, and only he can answer.

20 A. I didn't file the zoning complaint, so I guess I

21 can't answer that.

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lenied. Do you understand what I'm looking for?

THE WITNESS: Yes. Factually, the only factual ning we do know, that during that period it is a fact at the owner lived in the house at that time.

THE CHAIRMAN: When was that?

THE WITNESS: Mrs. Reale.

THE CHAIRMAN: What period of time?

THE WITNESS: That was before Mr. Zullo bought e place. And the only reason I bring the owner up is at with the owner living on the premises, even though it as broken up into a lot of apartments, we feel that, you low, you have someone there that owns the place would not of keep some order out of the chaos, you know.

11 The WITNESS: That was before Mr. Zullo bought explane with the place with the place with the place with the place would not of keep some order out of the chaos, you know.

12 The WITNESS: That was before Mr. Zullo bought explane.

THE CHAIRMAN: Where did Ms. Reale live?

THE WITNESS: That house.

THE CHAIRMAN: What apartment or what floor?

MS. GIORGILLI: I can testify to that,

THE CHAIRMAN: Mr. Hagel, do you have anything

e you would like to say?

MR. HAGEL: No, I don't.

1 THE CHAIRMAN: That's fine. That's the end of

2 the question. Other people obviously know, and they will

3 be able to say.

Thank you, Mr. Hagel. The next one that would

5 like to testify?

6 MS. GIORGILLI: This is not on the record. I'm

7 not sure I --

8 THE CHAIRMAN: No, no. The question is, do you

9 want to be sworn in?

10 MS. GIORGILLI: Yes.

MARY GIORGIILLI,

12 called as a witness, was duly sworn and testified as

13 follows:

14 THE CHAIRMAN: Why don't you go ahead?

15 State your name and address, for the record.

16 THE WITNESS: My name is Mary Giorgilli, 1953

17 Snyder Avenue.

I don't know if I am, you know, saying this

19 correctly or not correctly. But at the time that my

20 mother and father had a home built next to Mr. Zullo's

21 property, Mrs. Reale lived there.

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1 She was a little old Italian lady, and my mother

2 was Italian, and they became friends. Okay?

Mrs. Reale had a kitchen in the basement. She

4 lived -- she had her bedroom on the second floor, which

5 would be considered a first floor.

6 And I can testify to that because I was in and

7 out of there many times. There were only a few people in

8 there. The apartments were not rented at the time.

9 She had her nephew who was living there, which

10 was one person, for many years, and that's the truth.

The apartment, the people renting apartments came

12 once Michael Zulio took the place over. If the rest of

13 the house was made into apartments, I don't really know,

14 because I never went through the rest of the home.

And that's the statement I am making.

16 THE CHAIRMAN: Do you have anything to testify to

17 about the apartments, so to speak, or the day rooms that

18 are in question today?

19 MS. GIORGILLI: No, I really can't say about

20 that.

MR. MARKS: Were you ever physically in the

1 understand what I'm saying?

2 Q. Yes.

MR. DISNEY: I am going to give her a copy of

4 this affidavit and I want to probably try and enter one of

5 these in here. You can reject it later.

THE CHAIRMAN: What?

7 MR. DISNEY: Her testimony.

8 THE CHAIRMAN: Give her the opportunity to look

9 at that and see if she wants to change anything she's

10 said.

Q. Do you want to read this and see if you want to

12 change some of the testimony you have just given?

13 A. Well, I will be perfectly truthful with you.

14 When this was written and when I signed this, this was

15 because of my mother, okay? Number one. And I really

16 didn't understand what this was all about.

17 Q. You understand ---

18 A. I understand it now, yes,

19 Q. Do you want to change any of your testimony after

20 reading that?

A. Yes. I don't remember the apartments, all those

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1 house?

MS. GIORGILLI: In the part Mrs. Reale -- like in

3 her kitchen, when she would invite my mother over for

4 coffee.

5 MR. MARKS: That was the basement. What about

6 the first floor?

MS. GIORGILLI: I know she had her bedroom on the

8 first floor.

9 MR. MARKS: Did you ever see it physically?

MS. GIORGILLI: No, but we just knew that, you

11 know. So that's basically it.

MR. DISNEY: Are you finished?

13 CROSS EXAMINATION

14 BY MR. DISNEY:

Q. Ma'am, you have just testified that -- I believe

16 you testified that, in fact, when Mr. Zullo purchased the

17 property, the apartments weren't all rented?

18 A. Weren't all rented.

19 Q. Weren't all rented?

20 A. There were no apartments there, that I knew of.

21 Like I just said, I was not in the whole house. Do you

1 apartments being rented out, or not rented out. I am just

2 stating the fact of what I said before as to what I knew

3 at the time, and my mother said, Well, go ahead, we'll go

4 up and sign the paper because he's a nice person, and

5 whatever.

But as the years went by, the property has went

7 downhill and the elements of who he has rented it to has

8 went downhill. Of course, I know that has nothing to do

9 with, you know --

Q. You haven't been in there, according to your

11 affidavit, since 1954?

12 A. No. My mother and father have been in there

13 since 1954. I took the house over maybe about ten years

14 ago,

Q. You moved in there in 1954 with your parents --

16 A. Oh, yes, but then I got remarried and moved out

17 sure.

Q. Then you moved out and moved in, back and forth?

19 A. Right.

Q. But you haven't been in there for awhile?

21 A. Ten years. Well, about ten years.

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Q. After all these years since 1954, you have known this property and its various uses, its use, what caused you to file a violation complaint?

A. Because the property has gone downhill, just as I said before. He doesn't keep the property up. He doesn't cut the grass.

He's rented it to just whoever he wanted to rent it to, you know, and it's a residential neighborhood, which is a good neighborhood of people who own their homes.

There are no other rental properties in the area, and this is the reason for the complaint right now.

- Q. Is this a picture of the property?
- A. Right. That's it. These don't look like those.
- Q. What's wrong with this?
- A. What's wrong with that? That was taken from across the street where you really can't tell what the property looks like.

MR. DISNEY: I'd like to enter this, a picture of he property.

THE CHAIRMAN: Okay. Have them identify it.

- 1 Ms. GIORGILLI: The back of Mr. Zullo's house.
- 2 THE CHAIRMAN: Would you be so kind as to
- 3 identify Protestant's No. 2?
- THE WITNESS: That's the side of the house that's '
- 5 facing next door to my home.
- 6 THE CHAIRMAN: So this is the side of the subject
- 7 property that is facing your property?
- 8 THE WITNESS: Uh-huh.
- 9 THE CHAIRMAN: I see in the one side -- I gather
- 10 you took this fairly recently?
- THE WITNESS: Right, because I wanted them to
- 12 know this was the property. I didn't know if they was
- 13 going to bring pictures or not, so the zoning sign would
- 14 show there.
- 15 THE CHAIRMAN: How about Protestant's Exhibit No.
- 16 3, can you identify that for me?
- 17 THE WITNESS: This is the front of the home here
- 18 and the property in front, that's the home on the other
- 19 side of Mr. Zullo's property.
- THE CHAIRMAN: Now, can you identify Protestant's
- 21 Exhibit No. 4?

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- Q. You identified this?
- A. That's his property.
 - THE CHAIRMAN: Very well.
 - MR. HAGEL: Could we also enter something?
 - THE CHAIRMAN: Sure.
 - MR. HAGEL: (Handing)
- THE CHAIRMAN: Since you're lay people, I will go
- ead and mark the back and walk you through a little bit.
 - MR. HAGEL: I appreciate it.
 - MS. GIORGILLI: Can we see this picture?
- THE CHAIRMAN: You certainly may. And then I
- Il go ahead and mark them afterwards.

This is Petitioner's Exhibit No. 7, a photograph the subject property. Okay.

- Q. Ms. Giorgilli, what I'm going to do, I am going show you what's been marked as Protestant's Exhibit No. nd ask you -- and you can come up, whatever -- and ask
- 1 if you can identify that?
- A. Yes. That's the back of the house,
- THE CHAIRMAN: This is the back of Mr. Zullo's se?

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 THE WITNESS: Okay. This is part of the front of
- 2 his property. My home is on this side.
- 3 THE CHAIRMAN: This will be the other side?
- 4 THE WITNESS: Yes.
- 5 THE CHAIRMAN: The front of home. And that would
- 6 be your side then?
- 7 THE WITNESS: Uh-huh.
- 8 THE CHAIRMAN: Protestants' Exhibit No. 5, if you
- 9 can identify that?
- THE WITNESS: This is also the back of his house,
- 11 of Mr. Zullo's property.
- This is my fence, which little by little I have
- 13 been putting a privacy fence up, so I take the money out,
- 14 put a couple more panels up.
- My husband is deceased and I am the only one
- 16 working. And it hides -- you know, hides the property,
- 17 because the property -- because it hasn't been kept up,
- 18 you know, in good condition.
- 19 I keep forgetting that you're writing.
- 20 THE CHAIRMAN: Protestants' No. 6?
- THE WITNESS: This is also the side of the house,

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Page	34
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- 1 and this is the apartment that we are -- this air
- 2 conditioner is in the window to the apartment in the
- 3 basement here.
- 4 THE CHAIRMAN: Is this the day room level or the
- 5 basement level?
- 6 THE WITNESS: Basement level. That's my property.
- 7 THE CHAIRMAN: Number 7 would be your property?
- 8 THE WITNESS: Right. And his home is to the
- 9 right,
- 10 THE CHAIRMAN: Would you like to have these
- 11 entered into evidence?
- 12 MS. GIORGILLI: Yes, sure.
- 13 THE CHAIRMAN: Any objection?
- MR. DISNEY: I have no objection. I don't
- 15 understand why she shows her property. Six of one, half a
- 16 dozen of the other.
- 17 THE CHAIRMAN: It will be admitted.
- MR. DISNEY: I do want that entered as an
- 19 exhibit.
- THE CHAIRMAN: You're going to have to reopen
- 21 after they've finished.

- 1 enough to write Petitioner's No. 8 on there?
- 2 MR. DISNEY: Sure.
- 3 THE CHAIRMAN: We'll admit that into evidence.
- 4 Okay. Closing argument?
- 5 MR. DISNEY: My closing argument is basically
- 6 that we are here strictly on this unit, the definition of
- 7 these two units on the first floor.
- When Mr. Zullo purchased the property, it was
- 9 like this. What he did was not much. He closed this
- 10 door, which is here, closed this door, which is here, and
- 11 moved the bathroom ninety degrees to here. I'm sorry. The
- 12 toilet. And he put a door here.
- All these other doors existed. The door here,
- 14 that went from this apartment to here. This is a closet,
- 15 this is a pantry, and this is a clothes rack. This would
- 16 be able to be moved, so they moved it and then they pushed
- 17 the refrigerator over into this position.
- 18 Everything is basically the same, except some
- 19 doors and the movement of the toilet.
- The Deputy Zoning Commissioner said that he
- 21 didn't think that we had the necessary amenities that

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- MR. DISNEY: Okay.
- THE CHAIRMAN: Do you have anymore
- 3 cross-examination of Ms. Giorgilli?
- 4 MR. DISNEY: No. Hold on for one second, please.
- 5 No, I don't have anything else.
- 6 THE CHAIRMAN: Thank you, Ms. Giorgilli.
- 7 Mrs. Hagel, did you wish to testify?
- 8 MRS. HAGEL: I guess not.

MRS. HAGEL: No.

9 THE CHAIRMAN: No?

10

- THE CHAIRMAN: So then that would close your case
- 12 in chief, in terms of evidence?
- 13 MR. HAGEL: Yes.
- 14 THE CHAIRMAN: Mr. Disney, I gather you wanted to
- 15 entered something in evidence?
- MR. DISNEY: I'd like to re-open the case, my
- 17 portion, to get the drawing of the first floor, which is
- 18 really the issue in this case, the before and the after.
- 19 THE CHAIRMAN: Okay.
- 20 MS. WORRALL: Number 8.
- 21 THE CHAIRMAN: Mr. Disney, if you'd be kind

- 1 would constitute a use as an apartment.
 - We totally disagree. We have here a stove, a
 - 3 sink, and then there's a fridge. We have the same things.
 - 4 Nothing has changed except, like I said, one, two doors
 - 5 have been closed, one door has been opened, and a toilet
 - 6 moved ninety degrees. That's it.
 - 7 This house has been converted since 1942. That's
 - 8 fifty-six years. If anything deserves a nonconforming
 - 9 use, this is it.
 - I would like to point out to you that in McKemy
 - 11 v. Baltimore County, there was a certain criteria, and by
 - 12 the way, that was a case appealed from this Board, not you
 - 13 members, but appealed from this Board, where certain
 - 14 criteria was listed for a nonconforming use, and it would
 - 15 ask four questions.
 - It says, To what extent does the current use of
 - 17 theses lots reflect the nature and purpose of the original
 - 18 nonconforming use?
 - Two. Is the current use merely a different manner
 - 20 of utilizing the original nonconforming use or does it
 - 21 constitute a use different in character, nature and kind.

Page 38 We don't believe in any either case that it changes. We believe in, one, the current use has not changed in nature and purpose of the original nonconforming use, and we do not believe it's a different manner of use than the original use.

In three, Does the current use have a substantially different effect upon the neighborhood, the answer is definitely no.

And, four, Is the current use a drastic enlargement or extension of the original nonconforming use. The answer is no.

Even if this is an enlargement, and we take and say, Okay, we had an apartment here and this is an enlargement. This, under 104-3 of the zoning code, constitutes only 318 square feet of the total first floor, which is part of the zoning code, and, therefore -- let me see if I am right on that zoning code -- it's less than -it's twenty-three percent. I believe it's 104.3. That's pasically our argument, and that this unit does have the unenities it created, and if you look at the criteria on McKerny v. Baltimore County, you will have to agree with THE CHAIRMAN: Sure.

MR. DISNEY: Thank you.

THE CHAIRMAN: What we are going we do, we want

4 to take some time to look over the evidence that's before

5 us, and we would like to go ahead and deliberate this case

6 at noon today.

So we'll stand in recess now, and we'll pick up

8 at noon to deliberate the matter. Thank you.

(Hearing concluded.)

10

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s. Thank you.

THE CHAIRMAN: Mr. Hagel?

MR. HAGEL: Our argument is going to be much norter and much simpler.

Prior, we have no idea what the house looked like 1942. I think Mr. Kotroco, when he made his original iling, he ruled this house is a single family house. It as five apartments in it.

I think it's ridiculous, and I think he did too, d he decided to make it four apartments.

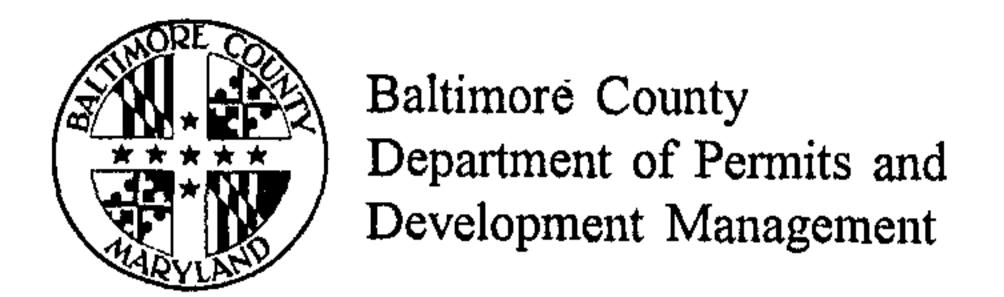
I don't know anything about the law in this case, d so there is no way to prove anything here.

I believe these charts that's made up can be made out of thin air. You know, that means nothing to me.

All I know is this is a single family house, and have five apartments in it, it's a blight on the ghborhood. That's it.

THE CHAIRMAN: Is there anything in the way of

MR. DISNEY: No, I'm not going to. Would you to have a copy of that case?



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

December 12, 1997

Mr. and Mrs. Michael Zullo 3231 Canterbury Lane Fallston, MD 21047

RE: Item No.: 191

Case No.: 98-191-SPH

Petitioner: Michael Zullo, et ux

Dear Mr. and Mrs. Zullo:

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 November 19, 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

Baltimore County Government Fire Department



700 East Joppa Road Suite 901 Towson, MD 21286-5500

(410) 887-4500

December 10, 1997

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

RE: Property Owner: Michael

Location: DISTRIBUTION MEETING OF <u>December 1, 1997</u>

Item No.: (191,) 192, 193, and 199

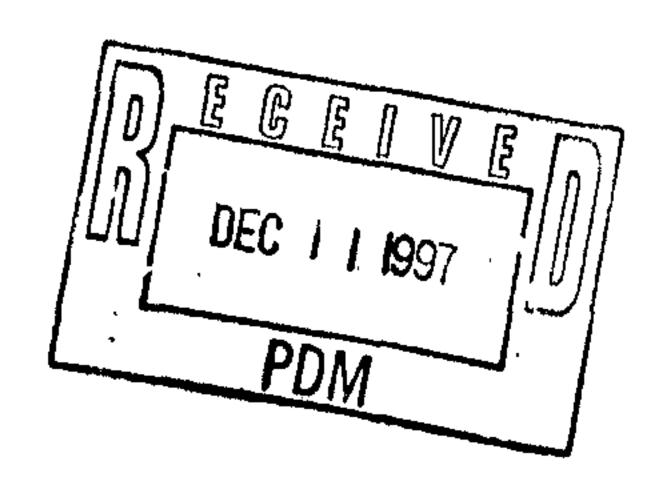
Zoning Agenda:

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.

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

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







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 11/28/91 ltem No. 191 PT

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

1-800-735-2258 Statewide Toll Free

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

TQ:

PDM

DATE: Dec. 9, 1997

FROM:

R. Bruce Seeley RM/9/9/Permits and Development Review

DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date:

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

Item #'s:

RBS:sp

BRUCE2/DEPRM/TXTSBP

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director

DATE: December 2, 1997

Dept. of Permits & Development Management

FROM: Arnold F. 'Pat' Keller, III, Director

Office of Planning

SUBJECT: Zoning Advisory Petitions

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

Item Nos. 191, 192, 195, 197, and 200

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3495.

Prepared by:

Division Chief:_

AFK/JL

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: December 8, 1997

Department of Permits & Development

Management

Robert W. Bowling, Chief Bureau of Developer's Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

for December 8, 1997

Item Nos. 191, 194, 195, 196, 198,

and 200

The Bureau of Developer's Plans Review has reviewed the subject zoning item, and we have no comments.

RWB:HJO:jrb

cc: File

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
1957 Snyder Avenue, W/S Snyder Lane,		
502' from c/l Holabird Avenue	*	ZONING COMMISSIONER
12th Election District, 7th Councilmanic		
	*	OF BALTIMORE COUNTY
Michael and Carole Zullo		
Petitioners	*	CASE NO. 98-191-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

C

People's Counsel for Baltimore County

er Mass annuman

idle S. Demilio

CAROLE S. DEMILIO

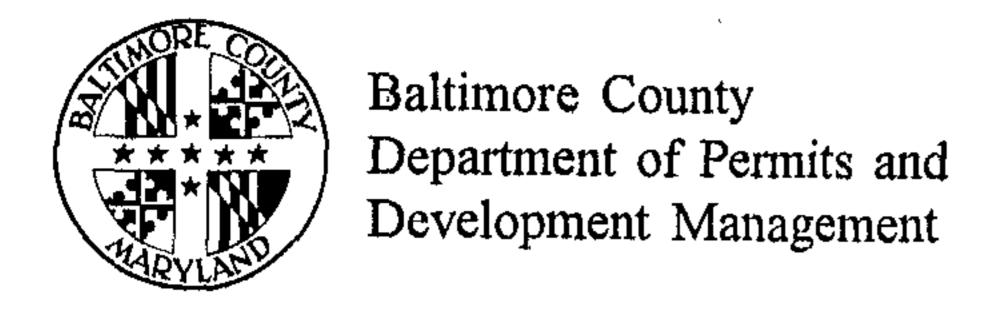
Deputy People's Counsel Room 47, Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this <u>S</u> day of December, 1997, a copy of the foregoing Entry of Appearance was mailed to Michael and Carole Zullo, 3231 Canterbury Lane, Fallston, MD 21047, Petitioners.

PETER MAX ZIMMERMAN



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

February 23, 1998

Ms. Mary Giorgilli 1953 Snyder Avenue Baltimore, MD 21222

RE: Petition for Special

Hearing

Case No. 98-191-SPH 1957 Snyder Avenue

12c7

Michael Zullo, et ux -

Petitioners

Dear Ms. Giorgilli:

Please be advised that an appeal of the above-referenced case was filed in this office on February 17, 1998 by Michael Zullo. 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: Mr. Wade Sensebaugh

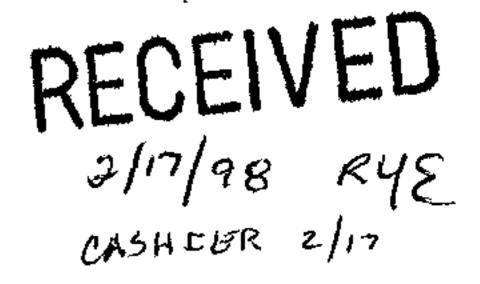
Mr. and Mrs. Lloyd Widdowson

Mr. and Mrs. Joseph M. Hagel

Mr. James Thompson

People's Counsel

MICHAEL ZULLO 3231 CANTERBURY LANE FALLSTON, MARYLAND 21047 410-557-8443



February 16, 1998

Baltimore County Board of Appeals County Courts Bldg. 401 Bosley Avenue Towson, MD 21204

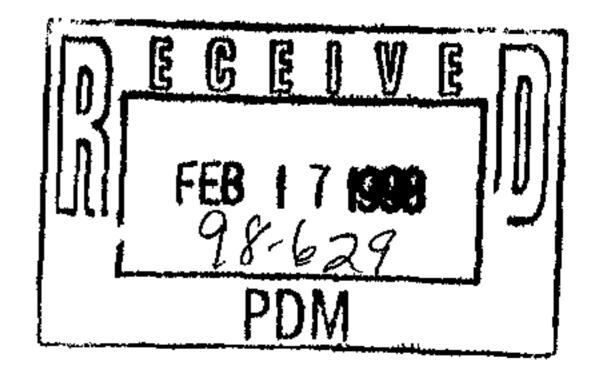
RE: Appeal to the Board of Appeals
NE/S Snyder Ave., 520' NW of the c/1 Holabird Avenue
(1957) Snyder Avenue)
12th Election District-7th Councilmanic District
Michael Zullo, et ux - Petitioners
Case No. 98-191-SPH

To Whom It May Concern:

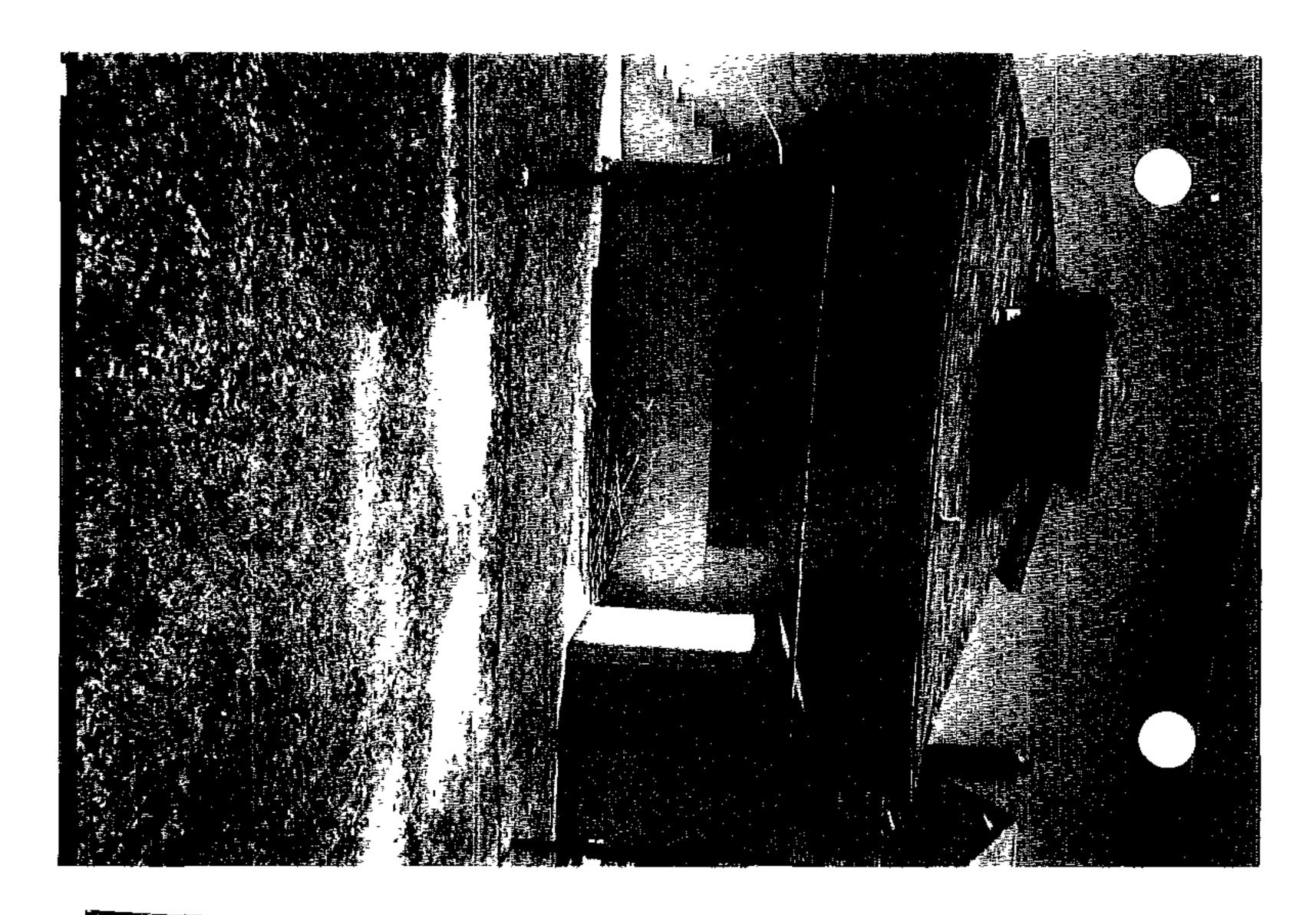
I am appealing the decision by Timothy M. Kotroco, Deputy Zoning Commission for Baltimore County, dated January 20, 1998, concerning the denial of the fifth unit in the above referenced case.

Very truly yours,

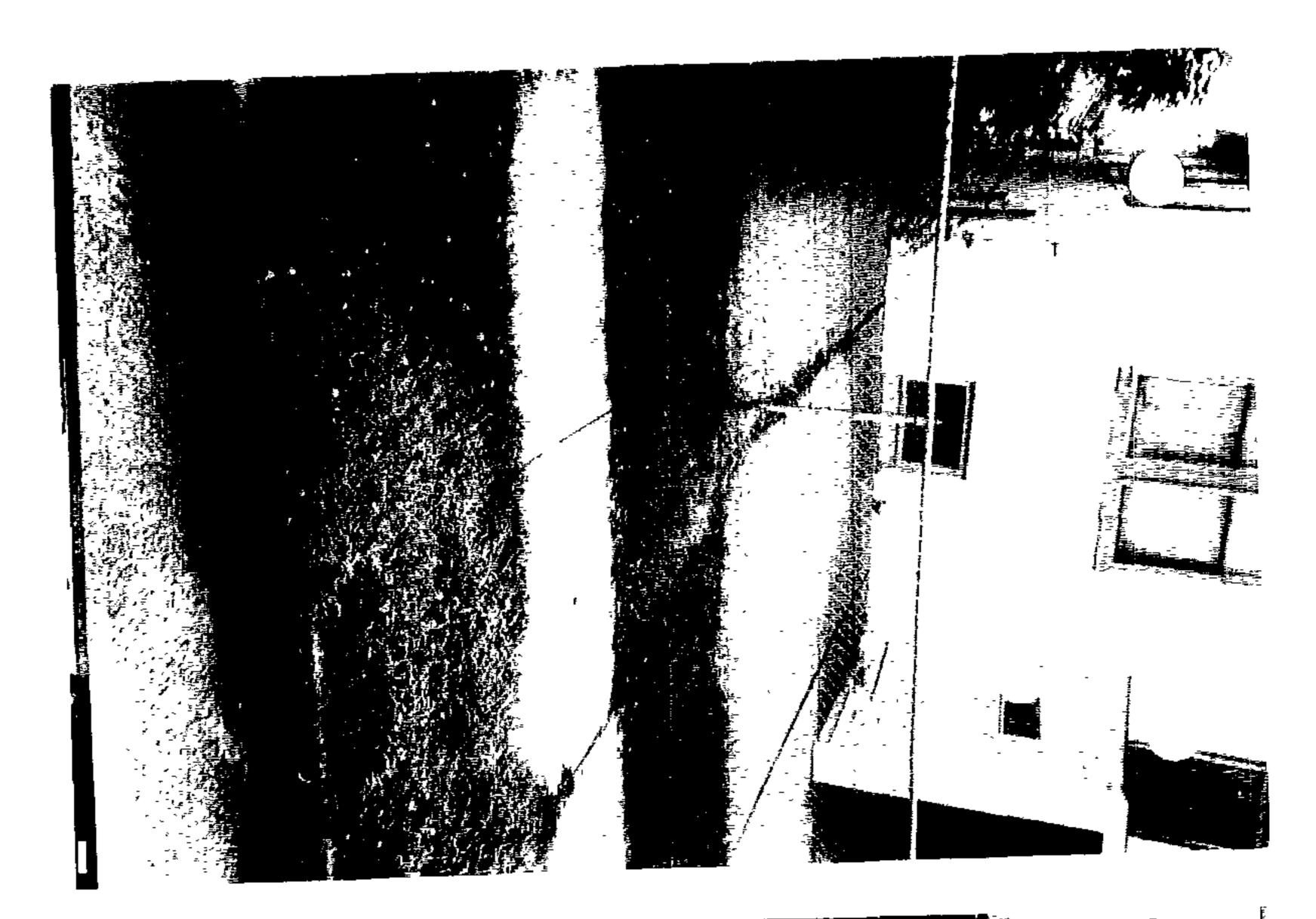
Michael Zullo, Owner



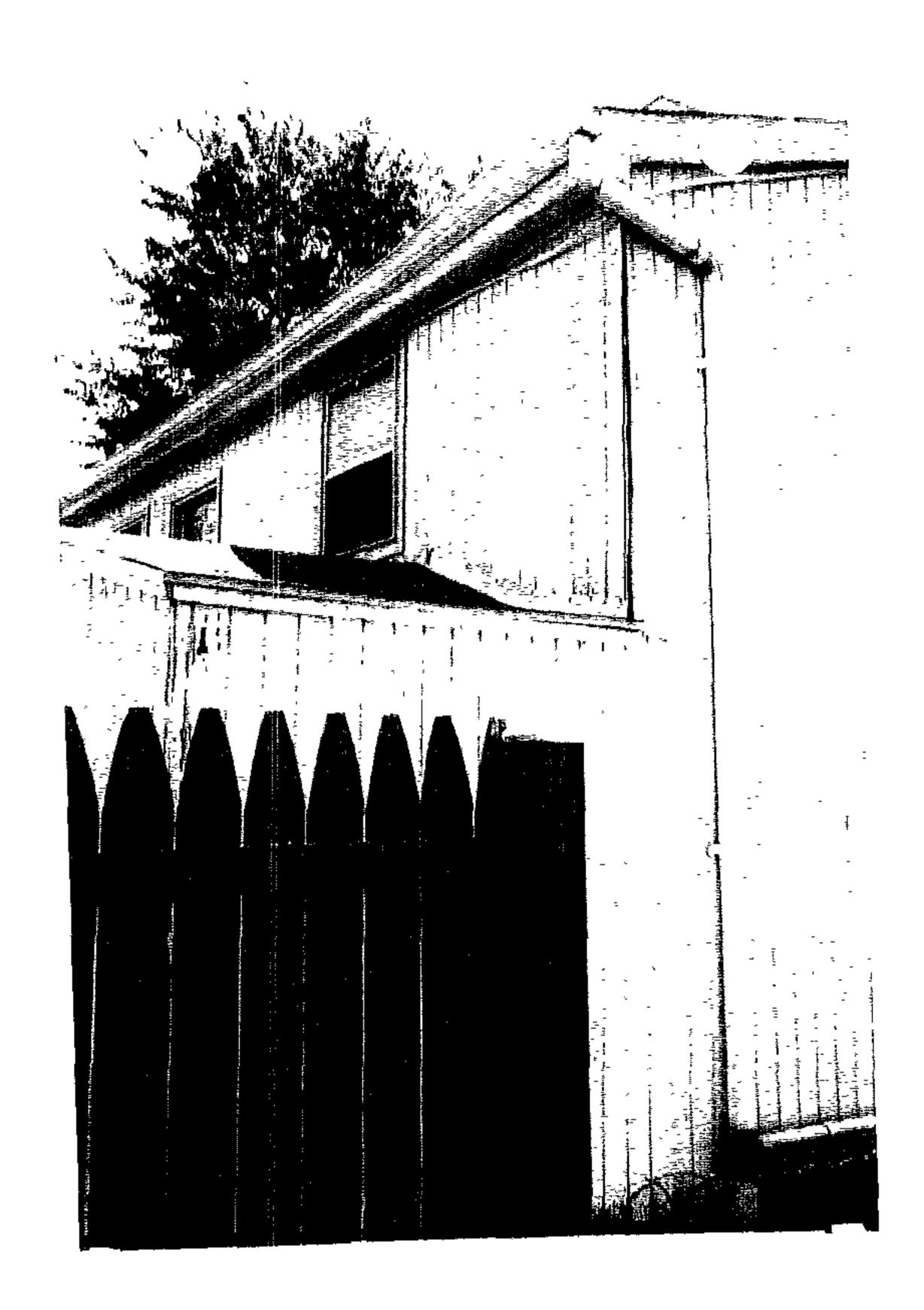












Civil Action No. 3-C-98-0010326

November 19, 19	997 Petition	for Special	. Hearing fi	iled by Mid	chael and	Carole Zullo,	to
	approve	a five-dwell	ing units a	as a legal	non-confo	rming use.	

- December 1, 1997 Entry of Appearance filed by People's Counsel for Baltimore County.
- December 18 Hearing held on Petition for Special Hearing by the Deputy Zoning Commissioner.
- January 20, 1998 Order issued by the Deputy Zoning Commissioner in which the Petition for Special Hearing was DENIED; fifth apartment shall be eliminated; four apartments which existed since 1942 are legal and nonconforming.
- February 17 Notice of Appeal filed by Michael Zullo.
- August 19 Hearing held by the Board of Appeals. Deliberation conducted at conclusion of hearing.
- September 14 Opinion and Order issued by the Board; ruling by DZC is AFFIRMED; request to approve a fifth apartment as legal and nonconforming is DENIED.
- October 13 Petition for Judicial Review filed in the Circuit Court for Baltimore County by John B. Gontrum, Esquire, on behalf of Michael and Carole Zullo.
- October 15 Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
- October 16 Certificate of Notice sent to interested parties.
- December 14 Transcript of testimony and Record of Proceedings filed in the Circuit Court for Baltimore County.
- May 19, 1999 \sqrt{E} Order issued by the Circuit Court; Request for Dismissal was filed by Petitioners; Petition for Judicial Review is DISMISSED (Robert Cadigan, J).

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 11, 1999

Permits & Development Management

FROM: Charlotte E. Radcliffe

County Board of Appeals

SUBJECT: Closed File: 98-191-SPH /Michael Zullo, et ux

Since the above captioned case was dismissed in the Circuit Court for Baltimore County, we are hereby closing our file and returning same to you herewith. The original file and exhibits will be returned by John Almond, Records Manager /CCt.

Attachment (CBA File No. 98-191-SPH and large Pet. Exh. #8)

Board of Appeals of Baltimore County Interoffice Correspondence

DATE:

January 29, 2008

TO:

Timothy Kotroco, Director

Permits & Development Management

FROM:

Linda B. Fliegel

Board of Appeals

SUBJECT:

CLOSED APPEAL CASE

The following cases have been finalized and closed in the Board of Appeal, therefore, I am returning your files to your office.

CASE NUMBER

NAME

DISPOSITION

98-191-SPH

Michael Zullo

Circuit Court Case No.:

98-191-SPH

An appeal was filed, on Oct. 13, 1998, in the Circuit Court for Baltimore County of the September 14th, 1998 decision rendered by of the Board of Appeals. (Copy of the Board's Opinion and

Order in the file)

On May 19, 1999 the Court granted a Motion to Dismiss in the

case.

Board of Appeals of Baltimore County Interoffice Correspondence

DATE: January 29, 2008

TO: Timothy Kotroco, Director

Permits & Development Management

FROM: Linda B. Fliegel

Board of Appeals

SUBJECT: CLOSED APPEAL CASE

The following cases have been finalized and closed in the Board of Appeals, therefore, I am returning the files to your office.

<u>CASE</u> <u>NUMBER</u>	NAME	DISPOSITION
CBA-00-141	DALE KIRK STAMMER LUCAS	CIRCUIT COURT AFFIRMED BOA CASE NO.: 03-C-04-4802.
97-87-SPH	EXECUTIVE AUTO PAINT & REPAIR, INC.	CIRCUIT COURT AND THE COURT OF SPECIAL APPEALS AFFIRMED THE BOA CASE NO.: 03-C-98-104.
98-191-SPH	MICHALE ZULLO, ET AL	CIRCUIT COURT GRANTED A VOLUNTARILY DISMISSAL 03-C-98-10326.
02-462-SPH	TERRY GERAHTY, ET AL	CIRCUIT COURT AND COURT OF SPECIAL APPEAL AFFIRMED THE BOARD. 03-C-04-13235.

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL ASSIGNMENT OFFICE COUNTY COURTS BUILDING 401 BOSLEY AVENUE P.O. BOX 6754 TOWSON, MD 21285-6754

County Board Of Appeals Of Baltimore County Assignment Date: 02/02/99 Old Courthouse Room 49 400 Washington Ave Baltimore MD 21204

Case Title: In The Matter of: Michael Zullo , et al

Case No: 03-C-98-010326 AE

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: Richard P. Abbott at (410) 887-3233.

You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1.	Motions to Dismiss under MD. Rule 2-322(b) are due by	02/17/99
2.	All Motions (excluding Motions in Limine) are due by	04/03/99
	TRIAL DATE is	
	Civil Non-Jury Trial: Start Time: 09:30AM: To Be Assigned: 1/2 HOUR-APPEAL	

Honorable John Grason Turnbull II Judge

<u>Postponement Policy:</u> No postponements of dates under this order will be approved except for undue hardship or emergency situations All requests for postponements must be submitted in writing with a copy to all counsel/parties involved. All requests for postponements of cases filed after October 1, 1994 must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives <u>MUST</u> attend this conference <u>in person</u> as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act. please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service, (800) 735-2258.

<u>Court Costs:</u> All court costs <u>MUST</u> be paid on the date of the settlement conference or trial.

cc: John B Gontrum Esq Issue Date 02/02/99

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

05/26/99

Case Number: 03-C-98-010326 AE

Date Filed: 10/14/98 Status: Closed/Active

Judge Assigned: To Be Assigned,

In The Matter of: Michael Zullo , et al

CASE HISTORY

OTHER REFERENCE NUMBERS

Description

Number

Administrative Agency

98-191-SPH

INVOLVED PARTIES

Type Num Name(Last,First,Mid,Title)

Entered

PET 001 Zullo, Michael CT DO 05/19/99 10/14/98

CT DO 05/19/99 10/14/98

3231 Canterbury Lane Fallston, MD 21047

Attorney,

0012404 Gontrum, John B Romadka, Gontrum & McLaughlin 814 Eastern Boulevard

Baltimore, MD 21221

(410)686-8274

10/14/98

002 Zullo, Carole PET

3231 Cantebury Lane

Fallston, MD 21047

Attorney:

0012404 Gontrum, John B

Romadka, Gontrum & McLaughlin

814 Eastern Boulevard

Baltimore, MD 21221

10/14/98

99 MAY S

500 TO THE STATE OF 03-C-98-010326

Date: 05/26/99 Time: 08:13

(410)686-8274

Type Num Name(Last, First, Mid, Title)

Entered

Page:

ITP 001 County Board Of Appeals Of Baltimore County CT 00 05/19/99 10/14/98

Old Courthouse Room 49 400 Washington Ave Baltimore, MD 21204

CALENDAR EVENTS

Date Time Dur Cer Evnt Lvl Jdg Day Of Rslt By ResultDt Jdg T Notice Rec 05/13/99 09:30A 02Q yes CIVI TBA 01 /01 VAC C 05/12/99 P

JUDGE HISTORY

JUDGE ASSIGNED Type Assign Date Removal RSN TBA To Be Assigned, 10/14/98

DOCUMENT TRACKING

					Ruling/				
Num/Seq Description	Filed	Received	Party	Routed	Closed	Closed	User	ID	Entered
0001000 Petition for Judicial Review and Pet002.	10/14/98	10/13/98 TBA	PETO01		**************************************	05/19/99	JM	MR	10/14/98
0002000 Certificate of Note	10/19/98	10/16/98 TBA	000			05/19/99	DFF	MR	10/19/98
0003000 Transcript of Record from Adm Agency *	12/15/98	12/14/98 TBA	ITP001			05/19/99	DFF	MR	12/15/98
0004000 Notice of Transcript of Record Sent	12/15/98	12/15/98 TBA	ITP001	12/15/98		12/15/98	DFF	DFF	12/15/98
0005000 Notice of Transcript of Record Sent	12/15/98	12/15/98 TBA	PETO01	12/15/98		12/15/98	DFF	DFF	12/15/98
0006000 Notice of Transcript of Record Sent	12/15/98	12/15/98 TBA	PET002	12/15/98		12/15/98	DFF	DFF	12/15/98
0007000 Stipulation for extension of time to file memorandum	01/14/99	01/13/99 TBA	000			01/14/99	PH	PH	01/14/99
0008000 Scheduling Order	02/02/99	02/02/99 TBA	000	02/02/99		02/02/99	JD	JD	02/02/99
0009000 *Stipulation for Extension of Time to File Memorandum until 04/13/99, Filed by		03/12/99 TBA ullo, Michael,				03/16/99	DR	DR	03/16/99

03-C-98-010326

Date:

05/26/99

Time: 08:13

Page:

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PET002-Zullo, Carole

Num/Seq Description	Filed	Received	Party Routed	Ruling/ Closed	Closed	User I) Entered
0010000 Motion to Dismiss	05/19/99	05/19/99 BEC	PET001	Granted	05/19/99	MR MR	05/19/99
0011000 Docket entries sent to BOA	05/26/99	TBA	000			MJ MJ	05/26/99

TICKLE

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SLTR Set List	For Trial	DONE	12/14/98	0	yes	yes	DTRA	D	003	000
SLMR Set List	For Motions	OPEN	06/10/99	22	no	no	MDIS	D	000	000
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EXPU Exhibit 1	Pickup Notic	OPEN	07/18/99	30	no	no			000	000

EXHIBITS

Line # Marked	Co	de Description	SpH Sloc	NoticeDt Di	sp Dt	Dìs By
Offered By:	ITP 001	County Board Of	Appeals Of Ba			
000	В	BOX 112/CBA TR	RANSC B			

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track: R1 Description: EXPEDITED APPEAL TRACK Custom: Yes

Assign Date: 02/02/99 Order Date: 02/02/99

Start Date : 02/02/99 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(02/17/99	05/19/99	CLOSED
All Motions (excluding Motions in Limine		04/03/99	05/19/99	CLOSED
TRIAL DATE is		05/03/99	05/19/99	CLOSED

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

NOTICE OF RECORD

Case Number: 03-C-98-010326

Old Case number:

CIVIL

In The Matter of: Michael Zullo , et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 14th day of December, 1998.

Suzanne Mensh

Clerk of the Circuit Court, per_

Date issued: 12/15/98

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Old Courthouse Room 49 400 Washington Ave Baltimore, MD 21204

38 DEC 16 PI 1: 31

COURT LOAD WILLIAMS

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

Case Number: 03-C-98-010326

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse Room 49 400 Washington Ave Baltimore, MD 21204

COUNTY SARD OF APPEALS OF BALTIMORS COUNTY MINUTES OF DELIBERATION

IN THE MATTER OF: Michael Zullo, et ux -Petitioners

Case No. 98-191-SPH

DATE : August 19, 1998 @ conclusion of hearing

BOARD / PANEL : Kristine K. Howanski, Chairman (KKH)

Charles L. Marks (CLM)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco

Administrator

PURPOSE: To deliberate Case No. 98-191-SPH /Petition for Special Hearing /Michael Zullo, et ux -Petitioners; approval as legal nonconforming use for 5th apartment (petition before Zoning Commissioner granted in part; denied as to

5th apartment; only issue on appeal).

KKH: We will go ahead and deliberate Case No. 98-191-SPH, In the Matter of Michael Zullo, et ux, on the Petition for Special Hearing, the portion of which was appealed and before us today is the denial of the 5th apartment, so to speak, or dayrooms.

Upon deliberation and review of evidence and testimony presented, following is the decision reached by the Board:

CLM: In order to determine what a nonconforming use is we need to examine statutes of BCZR; when County Council passed legislation for zoning regs, recognized fact that constitutional rights would be affected by properties already having a particular use. If the use was in existence at that time and continued uninterrupted and was not abandoned or materially changed, it could continue. All cases before the Court of Special Appeals and the Court of Appeals have indicated that nonconforming uses are generally not favored in the law and should be discontinued if in violation of the statute.

Case cited by Mr. Disney is quite familiar to me and the other members of the Board. Burden of proof is substantial; was the evidence and testimony sufficient by preponderance that (1) was the nonconforming use in existence and that it has continued through the years.

Case very simply lies on what constitutes dayrooms and what constitutes apartment; turned to <u>Black's Law Dictionary</u>; read definition; key word in definition is "independent." Dayrooms were in existence during war times; dayroom is a far cry from an apartment unit; dayrooms were plentiful during war. When converted to apartment, discontinuance so nonconforming use has been discontinued.

I would have to agree with what Mr. Kotroco indicated in his decision; no nonconforming use as to this unit.

KKH: Mr. Marks, I am going to concur. I looked at the house purchased in 1972; building remained in basically same

configuration except apartment or dayrooms altered; not in dispute; dayrooms converted to one room so boarders could get to bathroom.

I find same regulations relevant; 101 coupled with 104.1 of applicable regulations. Examined various definitions of apartment and so forth, and, of course, struck upon Black's Law Dictionary definition as well. 104.1 makes it clear that nonconforming use is a disfavored use in that it provides use may continue provided that upon any change whatsoever the right to continue or resume it terminates.

I again agree that when you look at the McKemy case current use of apartment does not reflect the nature and purpose of original nonconforming use as two dayrooms. Likewise, the current use then would be different than the original nonconforming use.

As far as the third and fourth factors, again, I probably would have to concur; from the dearth of evidence before us, I would have to agree that there was a nonconforming use and that nonconforming use was broken. Because of that, I as well would affirm reasoning below and deny the special hearing use today.

MW: I don't have a great deal to add; I came to the same conclusion. I simply, I just do not feel there is sufficient evidence presented to us by the Petitioner who has the burden to show these rooms were nothing other than day rooms, not individual apartments as defined by Black's.

KKH: We appear to be unanimous. There's nothing further at this point. We will issue a written opinion denying the 5th apartment. Anyone feeling aggrieved from that decision will have 30 days from the date of the written opinion to file an appeal.

That will close our deliberation.

These minutes indicate public deliberation in this matter was held this date in the subject matter and a final decision rendered in which the requested nonconforming use for two-apartment dwelling was granted.

Respectfully submitted,

Kathleen C. Bianco

Administrator

TO WHOM IT MAY CONCERN

- THE SITE PLAN AND DESCRIPTION REQUIREMENT TO BE SEALED HAS BEEN WAIVED BY ARNOLD JABLON CONTACT JERRY CHEN TO CONFIRM (887-3351)
- Z. PLEASE DONOT SCHEDULE HEARING FROM DEC 5 to 9, - I will BE OUT OF TOWN.

De Rullo.

18-191-5PH 1 191

Sometime in the first two weeks
of October police were called twice
to same house don't know which
apt they went into

Triday 24 th of October. Time 12:30 (pm)

Children playing in back yard thrue a bike weel over in my yard.

someone could have been hurt. I spoke to children a told them not to throw any thing over the fence.

Lunday 10/26/97 Rolice were called to down stain apt around 2: v clock 4 m also ambulance someone was bleeding. Sat 10/25/97 around 130 afternoon 4 or 5 teen age boys congergating in an out of front yard & basement apt. I don't believe Snother was at home Small Child 3 years ald playing alone out in front. Thursday- 12/1/97 Tolise a Grandelance called agrain to one

Oct 315T 1997 Seven Teenage boys hanging out at 1957 Ample line using abusine language and making moise this went on for four to June hours that night Property not kept up eye woier

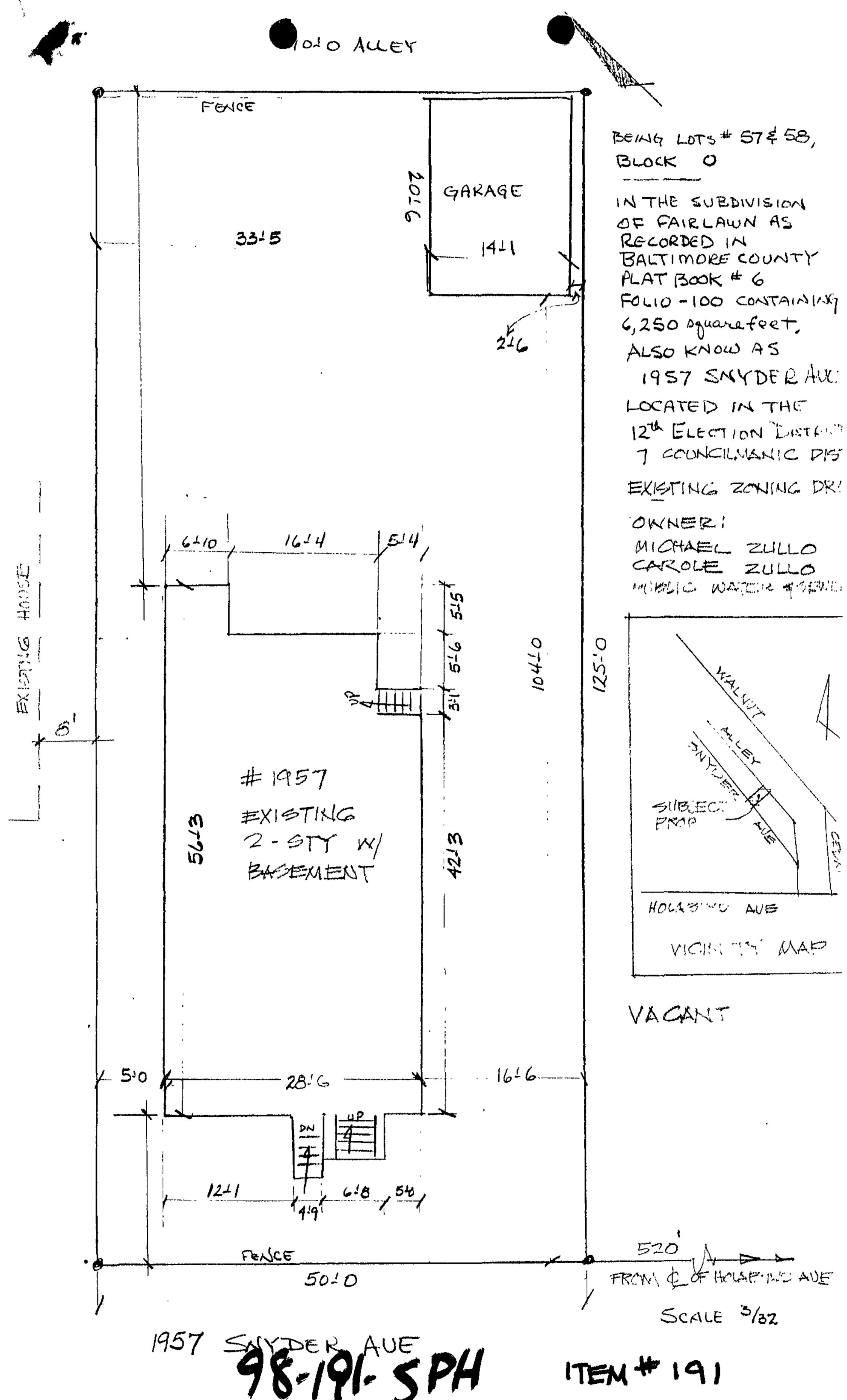


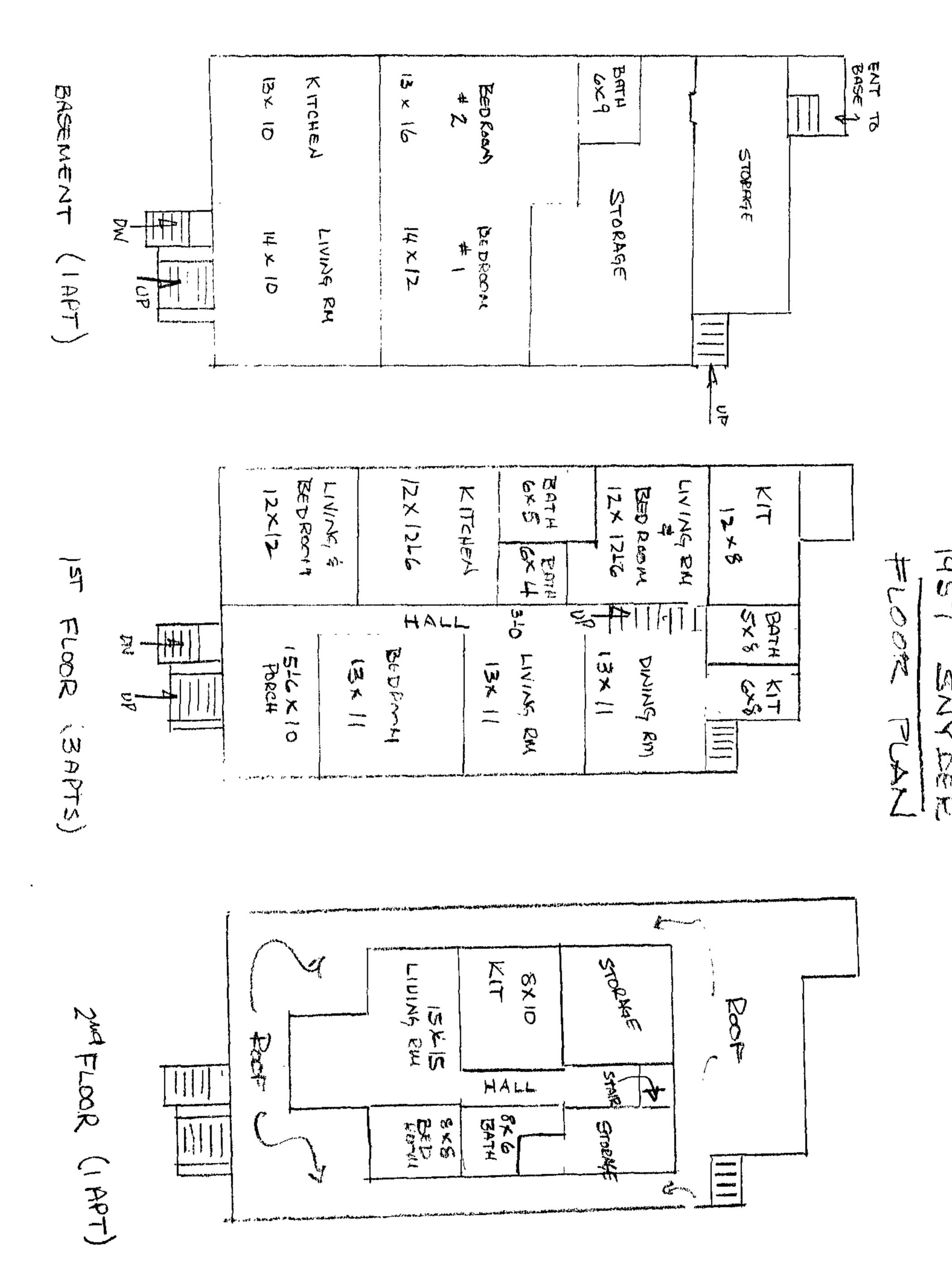


PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Linde Sensebaugh Lingd Widdowson	1949 Sayder Aug Balto Mal 21222
Dorothy W. deadson Toseph M. HAGE MANY Giordialli	1941 SWYDER AVE 21222 1949 SNYDER AVE 21222 1955 SNYDER AVE 2122
SARAH E HAGEL	1979 SHYDER LUE 21222





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Syllabus.

LEON McKEMY ET AL. v. BALTIMORE COUNTY, MARYLAND

[No. 948, September Term, 1977.]

Decided April 14, 1978.

Zoning — Non-Conforming Uses — Parking Of Commercial And Non-Commercial Vehicles — Scope Of Non-Conforming Use And Factors For Its Determination In Current Activity — The Board Of Appeals Subsequent Restriction Of A Previously Determined But Undefined Non-Conforming Use To The Parking Of Fuel Trucks On Certain Lots In The Instant Case Was Unsupported By Substantial Evidence, And Therefore Arbitrary And Capricious; And Its Determination Of The Scope Of Non-Conforming Use Solely By Reference To Activities Occurring On Another Lot Across The Street Was Erroneous — Court Set Forth Factors To Be Considered In Deciding Whether The Current Activity Is Within The Scope Of The Non-Conforming Use.

pp. 261-270

ZONING — Effect Of County Council Bill Amending Zoning Regulations Of Truck Oriented Uses Of Property As A "Trucking Facility" — With Respect To The Contention That The Use Of The Lots In Question Qualifies As A "Trucking Facility" Under Bill No. 18-76, This Court Cannot Determine Whether The Ordinance Applies Since Nothing In The Record Indicates Whether The Trucking Operations Conducted In This Case Qualify As A "Trucking Facility" And On Remand Ordered By This Court The Application Of The Bill May Be Considered.

J. A. R.

Appeal from the Circuit Court for Baltimore County (HAILE, J.).

Leon McKemy, t/a M & M Fuel Co., Inc., cited for zoning violations by an order of the Baltimore County Zoning Commissioner for operation of a truck terminal and junkyard on property in a residential area appealed to the Baltimore County Board of Appeals. Upon an evidentiary hearing the Board affirmed the Commissioner and from that order an appeal was taken to the Circuit Court for Baltimore County. From an opinion and order affirming the Board this appeal by McKemy and cross-appeal by Baltimore County to this Court followed.

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Judgment of the Circuit Court for Baltimore County affirmed in part and reversed in part; case remanded to that court for remand to the County Board of Appeals of Baltimore County for reconsideration in conformance with this opinion; costs to be divided equally between the parties.

The cause was argued before Morton, Melvin and Wilner, JJ.

Walter I. Seif, Jr., for appellants.

Peter Max Zimmerman, Assistant County Solicitor for Baltimore County, with whom were J. Carroll Holzer, County Solicitor, and Julius W. Litchter, Assistant County Solicitor, on the brief, for appellee.

WILNER, J., delivered the opinion of the Court.

Gertrude Stein once said that a rose is a rose is a rose, and no one appealed. Here, the Circuit Court for Baltimore County has held that a parking lot is a parking lot, and both sides have appealed. As a result, we are asked to determine whether Leon McKemy (t/a M & M Fuel Co., Inc.) may continue to use certain lots in the Sparrows Point area of Baltimore County in the way he heretofore has used them. The Zoning Commissioner said that some of the lots could not be used at all for such purposes and set certain conditions and limitations on the continued use of others. The county Board of Appeals affirmed those determinations, as did the Circuit Court.

The lots in question are identified as Lots 378 through 387 and Lot 442, as shown on the Plat of Sparrows Point Manor. They are located on the south side of Snyder Avenue between Marine Avenue and Sparrows Point Road, and are (and since 1945 have been) zoned for residential use. It is undisputed that the operations being conducted on those lots are not permitted under the zoning regulations applicable to residential zones. Thus, if McKemy is to be allowed to continue using the lots for such purposes, it must be by virtue either of a valid pre-existing non-conforming use or because

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of a 1976 county ordinance (Bill 18-76) regulating truck terminals. These, then, are the central issues before us:

- (1) Are the current uses made of the lots by McKemy within the scope and protective ambit of a valid non-conforming use; and
 - (2) What, if any, effect does Bill 18-76 have?

Complicating the first issue somewhat is the fact that the Board of Appeals considered that issue once before, in 1969, and made a determination then that was not appealed. In addressing the first issue, therefore, we are asked to consider whether, and to what extent, the principle of res judicata operates with respect to the 1969 Board decision.

I. Non-Conforming Use

Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations. Section II of those regulations created seven zones — four being residential, one commercial, and two industrial. The lots in question here were zoned for residential use.

Section XI of these original regulations provided for non-conforming uses. It stated:

"A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use to a conforming use, or any attempt to change from such non-conforming use to a different non-conforming use or any

^{1.} The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Md., 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations (Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945 See Kahl v. Cons. Gas El. Lt. & Pwr. Co., 191 Md. 249, 254 (1948), Calhoun v. County Bd. of Appeals, 262 Md. 265 (1971)

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Opinion of the Court.

[39 Md. App.

discontinuance of such non-conforming use for a period of one year . . . the right to continue to resume such non-conforming use shall terminate, provided, however, that any such lawful non-conforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original non-conforming use."

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On March 30, 1955, the County Commissioners adopted a new set of comprehensive zoning regulations. Non-conforming uses are dealt with in Section 104, which provides in relevant part:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever... the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used." (Emphasis supplied.)

It was within this legal framework that the activities of Mr. McKemy first came to the attention of the county zoning authorities. In February, 1969, apparently upon a complaint filed by one or more residents in the area, the Zoning Commissioner conducted a hearing to determine whether the property located at the "northwest corner of Sparrows Point Boulevard and Snyder Avenue" and Lots "Nos. 378, 381 and 384" were being used in a manner violative of the existing zoning regulations. The Commissioner concluded that the first of these properties — that on the north side of Snyder Avenue — enjoyed a non-conforming use as a service garage, and could continue to be used for that purpose. The three lots across the street, however (Nos. 378, 381, and 384), he concluded were not part of that garage business and therefore had no non-conforming use status for the parking of vehicles in conjunction with the garage business. On that 257]

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premise, he ordered that all vehicles connected with McKemy's fuel service use of the garage property be removed from those lots.

On appeal, the Board of Appeals reversed the latter determination in an opinion that is hardly a model of clarity. The Board first stated that the case came before it on appeal from a finding by the Zoning Commissioner "that the property situated at the northwest corner of Sparrows Point Boulevard and Snyder Avenue is being used in violation of the Zoning Regulations of Baltimore County in that the respondent ... is using the property in question for the parking of automobiles." This is manifestly not what the Zoning Commissioner held. As noted, he concluded that the property at the "northwest corner" of those two streets was not in violation of the regulations because it enjoyed a non-conforming use. It was the property across the street (which would have been the southwest corner) where the violation existed, and the violation did not consist of the "parking of automobiles", but rather the parking of fuel oil trucks.

These apparent misperceptions were perhaps cured by stipulation. First, the county and McKemy stipulated that the property at the northwest corner was being used as a garage for the repair of automobiles and trucks, and that it enjoyed a valid non-conforming use for that purpose. In effect, the Zoning Commissioner's determination as to that property was stipulated to be correct. It was further stipulated that Lot No. 442 and "Lots Nos. 378 through 384" were zoned residential and "are being used for the parking of trucks and other vehicles in conjunction with a fuel oil business operated by" McKemy.²

^{2.} In the 1969 proceeding, McKemy was referred to as "Leon McKenney". They appear to be the same person. There is no explanation of the fact that the Zoning Commissioner seemed to be dealing with Lots Nos. "378, 381, and 384", whereas the Board was dealing with Lots. Nos. "378 through 384". The disparity, of course, involves the status of Lots Nos. 379, 380, 382, and 383, which are separately identified on the Plat of Sparrows Point Manor. The Circuit Court, without explanation, stated that the "subject property" in the 1969 decision involved the property at the northwest corner and Lots 442, 378, 379, 380, 381, 382, 383, and 384. Neither party has raised an issue as to this, so neither will we

[39 Md. App.

The Board summarized the testimony of two witnesses that appeared before it, upon which it evidently relied in making its decision. The first was Michael Narutowitz, who, through a corporation, "owns the property in question." 8 Narutowitz stated that he purchased the property in 1936 to be used "as a parking lot in conjunction with a restaurant and bar business" owned by him on the north side of Snyder Avenue.4 He testified that such use continued until 1951, when he closed the restaurant and leased the property to a tenant who rented rooms to truckers, "and the lots in question were used for the parking of cars and trucks belonging to her roomers and others continuously until 1961." Since 1961, according to Narutowitz, "the property has been used continuously as a parking lot for vehicles and trucks used by Mr. McKenny in conjunction with his fuel oil business."

The second witness was J. Fred Welsh, Sr., who testified that "the lots in question have been used continuously as a parking lot for trucks and cars since about 1936." After reciting this summary, and noting that no one appeared before the Board to contradict that testimony, the Board concluded, and ordered, that "[f]or the reasons set forth in the aforegoing Opinion 5 ... by virtue of the legal non-conforming use existing on the property no violation of the Zoning Regulations of Baltimore County exists on the subject property...." Thus, the order of the Zoning Commissioner was reversed. Nowhere in its opinion or Order did the Board define the non-conforming use, or even suggest what its parameters were.

The Zoning Commissioner inquired again into Mr. McKemy's activities in 1974, as the result of a complaint that Lot 442 and Lots 378 through 387 were being used "for a

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^{3.} The Board did not indicate specifically what "the property in question" was. It appears from the ensuing paragraphs of the Board's opinion that it was referring to the lots in question here — those on the south side of Snyder Avenue.

^{4.} The exact location of this business in relation to the garage or the lots in question here was never made clear.

^{5.} No reasons of the Board were stated in the "aforegoing Opinion", which was merely a summary of the stipulations and testimony.

Opinion of the Court.

truck terminal, the storage of miscellaneous junk, debris, and disabled vehicles". The Zoning Commissioner noted that Lots Nos. 378 through 384 "enjoy a legal nonconforming use for the storage of trucks" but stated the issue to be whether the non-conforming use was "for the storage of trucks in general or, more specifically, the storage of trucks in conjunction with the Defendant's fuel oil business."

The Commissioner pointed out, from the evidence before him, that McKemy had "expanded his nonconforming use by storing fuel oil trucks and freight haulers on Lots Nos. 385 through 387" — lots that were not included within the non-conforming use determined by the Board in 1969. Residents testified that "the storage of trucks, other than fuel oil trucks, has come about recently and has been expanded continuously, not only in volume, but in area." McKemy testified that he began leasing Lots Nos. 378 through 387 from Mr. Narutowitz in 1960; that in addition to hauling and delivering fuel oil, he operates a freight hauling business; and that he began the freight hauling business in 1965.

The Commissioner construed the 1969 Board opinion as granting a non-conforming use as to Lots 378 through 384 "for the storage of fuel trucks only." Thus, he concluded that the storage or parking of "all other type trucks" was a violation of the zoning regulations, as was the expansion of the parking of fuel oil trucks or freight haulers onto Lots Nos. 385 through 387. Finally, he found that "these lots" have also been used "for the operation of a service garage in that vehicles have been repaired on said Lots." As to this, he ordered that no disabled vehicles be stored on Lots Nos. 378-384, under any circumstances, that they not be stored on Lot No. 442 unless it was properly screened, and no repairs take place on "that portion of the subject property in front of the service garage, facing Sparrows Point Road and/or Snyder Avenue."

Once again, McKemy appealed to the Board of Appeals which, in October, 1976, affirmed the Zoning Commissioner.6

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^{6.} The record does not disclose any explanation for the lapse of more than two years between the order of the Zoning Commissioner and its affirmance by the Board of Appeals.

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Opinion of the Court.

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The Board concluded that the Zoning Commissioner "fairly and correctly interpreted the 1969 ruling of this Board, and furthermore correctly decided the issues concerning the alleged zoning violations." With respect to the earlier opinion, the Board explained:

"This Board now states that its decision of April 30, 1969 is meant to find a nonconforming use for the parking of fuel trucks only on lots 378 through 384, and that the storage and/or parking of all other type trucks is not permitted. The distinction that the Board wishes to explain is that it is our judgment that the nonconforming use for the above described lots, and only said lots, stems from the use of these lots from 1936 through to the present day only in direct connection with the business function admittedly taking place on the lot on the north side of Snyder Avenue.

"The Board will not distinguish between the parking for the restaurant and bar business, the parking for the rooming house and the parking for the fuel oil business, considering the same to be nonconforming parking in direct relationship to the business parking in direct relationship to the north side function of the above described lot on the north side of Snyder Avenue. However, the Board will distinguish and shall not permit any extension of this existing nonconforming use in area, or in use for functions which involved businesses outside and beyond the direct business use of the lot on the north side of Snyder Avenue."

On appeal by both McKemy and the county, the Circuit Court concluded that, "[w]hat started out as an off-street parking lot prior to 1969, which was legalized as a non-conforming use by the Board's decision of 1969, remains as an off-street parking lot today." Although the "additional uses" as a truck terminal and a junkyard were illegal, the court noted that the Board's order "will result in the termination of the illegal uses, without impairment of the legal non-conforming use of the property, as an off-street

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parking lot...". In effect, the court considered the non-conforming use to permit any kind of parking on the lots included within the 1969 decision, but deemed the "truck terminal operations and junkyard purposes" to be something other than parking, and, for that reason, not permitted.

At the same time, the court ruled against the county in its cross-appeal by concluding that there was no legal error in the Board's 1969 determination of a valid non-conforming use.

The only thing that can be said with any appreciable degree of certainty from the record before us is that it is terribly confusing.

At the outset, we may dispose of the questions concerning Lots 385-387. There was sufficient evidence before the Zoning Commissioner, the board, and the court to justify their respective conclusions (expressed or implied) that a valid non-conforming use did not exist with respect to those lots, that they are therefore subject to the county zoning regulations, that the parking or storing of trucks or other motor vehicles on those lots is not permitted under the applicable zoning regulations, and that such unlawful uses must stop. Thus, paragraph number 6 of the 1974 order of the Zoning Commissioner, affirmed by the Board of Appeals in 1976 and subsequently by the Circuit Court, will be affirmed by us.

With respect to Lots 378-384, we believe that there was sufficient evidence before the Zoning Commissioner, the board, and the court to justify their respective conclusions that, whatever non-conforming use existed as to those lots, it did not include the dismantling of motor vehicles, the storage of disabled vehicles, junk, or debris, or any operations accessory to a garage. Those uses are therefore subject to control by the county; and, accordingly, paragraphs numbers 3, 4, 5, and 7 of the 1974 order of the Zoning Commissioner, affirmed by the Board of Appeals in 1976, and subsequently by the Circuit Court, will also be affirmed by us.

We turn now to what the parties are really fighting about — whether the trucking operations on Lots 378-384 and 442 are protected by a valid existing non-conforming use — and direct our attention initially to the 1969 proceeding.

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The first principle to have been applied by the Board in 1969 was the introductory clause to Article XI of the 1945 zoning regulations: "A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue..." (Emphasis supplied.) Its first task, therefore, was to determine what lawful non-conforming use existed with respect to these lots on January 2, 1945. As to this, the evidence established that, since 1936, some part of those lots had been used for the temporary parking of cars and trucks by the transient patrons of a restaurant and bar located across the street. There being nothing to suggest that this was an unlawful use, we have no difficulty in accepting the Board's conclusion that a lawful non-conforming use was in existence on January 2, 1945, with respect to at least some part of those lots.

The second principle to be applied was stated in § 104.1 of the then-applicable zoning regulations: "provided that upon any change from such nonconforming use to any other use whatsoever ... the right to continue or resume such nonconforming use shall terminate." Thus, the second task was to determine what uses had been made of the lots since January 2, 1945, and whether any of them constituted a "change... to any other use" from that existing prior to such date.

As to the post-1945 uses, the evidence showed that, in 1951, with the closing of the restaurant, some part of the lots began to be used for the parking of vehicles in connection with the rooming house. There was no evidence to suggest that this use was an intensified one, or a different one; and the Board could properly have inferred that it did not constitute a "change" from the 1945 use. It was still transient parking as an accessory to an unrelated small retail business across the street.

With respect to McKemy's operations, the 1969 opinion of the Board shows only that the parties stipulated that the lots "are being used for the parking of trucks and other vehicles in conjunction with a fuel oil business" operated by McKemy. This stipulation was also supported by Mr. Narutowitz and never contradicted. There was no evidence before the Board at thause wunger upon violatutere =

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at that time to show whether, or to what extent, McKemy's use was any different from those that preceded it. Based upon that record, its conclusion that there was no existing violation of the zoning regulations was not inappropriate. We therefore find against the county in its cross-appeal.

The basis of the non-conforming use declared at that time was the parking of trucks and vehicles generally, not just fuel trucks. Indeed, there was nothing in the record to show that fuel trucks, in particular, had ever been parked on those lots prior to 1945. Thus, upon that record, there would have been no justification for the 1969 Board to restrict the non-conforming use to the parking of fuel trucks; and had it imposed such a limitation, its action in doing so would have been unsupported by substantial evidence and therefore arbitrary and capricious. That being so, there is little, if anything, that can be said in defense of the attempt by a substantially reconstituted Board seven years later to superimpose such a limitation through the guise of explaining what it presumed the earlier Board to have intended. That is arbitrariness multiplied by itself; and thus, the decision in 1976 to declare the non-conforming use to be limited to the parking of fuel trucks was clearly erroneous, as a matter of law.

Lest Mr. McKemy become prematurely jubilant, however, we hasten to add that the 1976 Board made an even more fundamental error, requiring that the case be remanded to it for reconsideration.

The heart of the Board's 1976 decision was its statement, previously quoted, that the non-conforming use stems from the use of the lots "only in direct connection with the business function admittedly taking place" across the street; that, with respect to such use, the Board "will not distinguish between the parking for the restaurant and bar business, the parking for the rooming house and the parking for the fuel oil business, considering the same to be nonconforming parking

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^{7.} In particular, we note that there was no evidence before the Board in 1969 (or at least none that the record reflects) with respect to any freight handing activity on those lots, notwithstanding Mr. McKemy's later assertion that such operations commenced in 1965.

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in direct relationship to the business function" carried on across the street; but that it would not permit any "extension of this existing nonconforming use" either in area or for "functions which involved businesses outside and beyond the direct business use" across the street.

This declaration appears to rest upon an admixture of two dubious concepts. The first is that a parking lot is a parking lot is a parking lot, which is simply not so. The second, for want of a better description, appears to be a doctrine of "extended accessoryship"—i.e., that if, prior to zoning, these lots were used for parking as an accessory to activities conducted on a lot across the street, they may, within the protective ambit of "nonconforming use", continue to be used for parking as an accessory to the activities conducted on that other lot no matter how the actual use of either parcel has changed since the advent of zoning. That too is inappropriate.

From their inception in 1945, the county zoning regulations have rejected the notion that all parking lots are the same, and have instead drawn careful distinctions between types of parking uses. To do otherwise would blur obvious and important distinctions, given clear recognition by the courts, between the "parking" and the "storage" of vehicles, between the parking or storage of commercial vehicles and the parking or storage of non-commercial vehicles, between the business of renting parking spaces and parking as an accessory use, and between parking qua parking and

^{8.} See, for example, the original 1945 regulations: Section 1 — Definitions, 11 15, 16, and 17, distinguishing different types of garages; Section XIII-C, requiring a special exception for the use of land in a residential zone for the parking of automobiles and prohibiting thereon the parking of vehicles other than passenger cars. See also § 409 of the current county zoning regulations.

^{9.} Monument Garage Corporation v. Levy, 194 N.E. 848 (N.Y., 1935): "There is a substantial distinction, clearly cognizable, between the meaning of 'storage' and 'parking'. One has a certain degree of permanency, while the other connotes transience." See also Service Realty Corp. v. Planning and Zoning Bd. of Ap., 109 A. 2d 256 (Conn., 1954); State v. Breidenbach, 213 N.E.2d 745 (Ohio, 1964).

^{10.} Charles Land Co. v. Zoning Bd. of Review of Providence, 206 A. 2d 453 (R.I., 1965): variance for off-street parking of commercial vehicles in a residential zone denied where ordinance permitted variance only for parking of non-commercial vehicles. See also Dumais v. Somersworth, 134 A. 2d 700 (N.H., 1957); People v. Scrafano, 12 N.W.2d 325 (Mich., 1943).

^{11.} State v. Gruber, 10 So. 2d 899 (La., 1942).

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parking as part of a commercial enterprise. 12 All parking lots are not the same, and one type of parking use does not necessarily beget or permit another. 13

The Board had established, in 1969, that the non-conforming use was for the transient parking of trucks and other vehicles as an adjunct to a restaurant business, and that the 1969 use was for the parking of trucks and other vehicles in conjunction with a fuel oil business. Both findings, we have stated, were supported by the record, at that time, and therefore should not be questioned now. By affirming the Zoning Commissioner in 1976, the Board concluded that, as of 1974, Mr. McKemy had expanded his use of the lots to include the "storage" of trucks (fuel oil and other), that the adjunctive or accessory use was not only in connection with a fuel oil business but general freight hauling as well, and that the trucking operations had expanded not only in intensity and volume, but also in area.

Upon those findings, it was incumbent upon the Board to determine, factually, whether those expanded uses represented a permissible intensification of the original use or an actual change from what the 1969 Board found existed in 1945 "to any other use whatsoever." In making that determination, the Board was not required to assume, and should not have assumed, that the lowest common denominator was "parking", or even "parking" in conjunction with a business across the street. In deciding whether the current activity is within the scope of the non-conforming use, the Board should have considered the following factors: ¹⁴

- (1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;
- (2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

^{12.} City of Omaha v. Cutchall, 114 N.W.2d 6 (Neb., 1962)

^{13.} See, for example, Cleland v. City of Baltimore, 198 Md. 440 (1951);
Appeal of Yocom, 15 A. 2d 687 (Pa. Super., 1940); but cf. Kramer v. Town
of Montclair, 109 A. 2d 292 (N.J. Super., 1954).

^{11,} See New London v. Leskiewicz, 272 A. 2d 856 (N.H., 1970), Powers v. Building Inspector of Barnstable, 296 N.E.2d 491 (Mass., 1973); Board of Selectmen of Blackstone v. Tellestone, 348 N.E.2d 110 (Mass. App., 1976).

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(3) does the current use have a substantially different effect upon the neighborhood;

(4) is the current use a "drastic enlargement or extension" of the original non-conforming use. 15

The Board undoubtedly had some of these factors in mind, but its consideration of them was obviously flawed when it viewed the issue simply as "nonconforming parking in direct relationship to the business function" across the street. Because of its inappropriate reliance on that test, the Board failed to come clearly and completely to grips with these more relevant criteria. For that reason, and not because of any inherent unsoundness in the findings themselves, the conclusions of the Board as to whether the 1974 activities of Mr. McKemy with respect to Lot 442 and Lots 378-384, violate the county zoning regulations cannot stand. Instead, we shall remand that part of the case embodied in paragraphs numbers 1 and 2 of the 1974 order of the Zoning Commissioner to the Circuit Court with instructions that it, in turn, remand the case to the Board for reconsideration. The Board should consider not only whether, and to what extent, any such current uses exceed the permissible limits of the original non-conforming use, but, if it finds such excess, whether, by virtue of § 104.1 of the county zoning regulations, the entire non-conforming use has been lost.

II. Bill No. 18-76

Bill No. 18-76 was a comprehensive ordinance "to amend the Baltimore County Zoning Regulations to regulate truck oriented uses of property in Baltimore County" that was adopted by the County Council in March, 1976. Among other things, the ordinance defines and regulates "trucking facilities".

McKemy contends that, if his use of the lots in question qualifies, under Bill No. 18-76, as a "trucking facility", the county "must follow the restrictions set forth therein." There

^{15.} Jahnigen v. Staley, 245 Md. 130 (1967); Phillips v. Zoning Commissioner, 225 Md. 102 (1961).

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is nothing in the record, however, to indicate whether his operations do or do not qualify as a "trucking facility", and we are therefore unable to determine whether or not the ordinance applies. On remand, the Board of Appeals can consider the applicability of the ordinance and its effect, if applicable, upon any non-conforming use it may find to continue in existence.

Judgment of the Circuit Court for Baltimore County affirmed in part and reversed in part; case remanded to that court for remand to the County Board of Appeals of Baltimore County for reconsideration in conformance with this opinion; costs to be divided equally between the parties.

NELLIE M. MICHAEL v. LAURIE E. NEEDHAM ET AL.

[No. 956, September Term, 1977.]

Decided April 14, 1978.

EASEMENTS - Right Of Way Of Necessity - Time Of Creation And Location - Easement By Implication - Unity Of Title - In Order To Establish A Right Of Way Of Necessity It Must Have Been Created By Implication In The Original Division Of The Unitary Tract Into Its Dominant And Servient Tenements — The Date For Determining Whether A Way Of Necessity Was Created By An Implied Reservation Is That Of The Contract Between The Original Parties And Not That Of The Ultimate Deed, And In-This Case Where The Contracts Of Sale For The Dominant And Servient Tenements Were Executed Simultaneously, The Chancellor Was Correct In Finding That An Easement Of Necessity Did Exist. The More Liberal Implied Grant Rule Being Applicable - Where A Way Is Granted Without Fixing Its Location, But There Is A Way Already Located At The Time Of The Grant, Such A Way Will Be Held To Be The Location Of The Way, Unless A Contrary Intention Appears, And It Becomes As Definitely Established As If The Grant Or Reservation Had So Located It By Metes And Bounds And Can Only Be Changed By Agreement Of The Dominant And Servient Tenements -- In The Present Case The Evidence Clearly Established Not

Now comes JULIA A. MONACO, who, after being duly sworn, states that the following information is true to the best of her knowledge, information and belief.

In connection with the property known as 1957 Snyder Avenue, Dundalk, Maryland 21222, and described in the Deed made on March 10, 1972, by and between Peter J. Monaco and Julia A. Monaco and Michael Zullo, Jr. and Carole T. Zullo, presently designated in Liber 5254, page 890, the question of a nonconforming zoning use as it applies to that property is hereby addressed.

I, JULIA A. MONACO, have reviewed the floor plan of 1957 Synder Avenue as prepared for the Zoning Hearing concerning non-conforming zoning. While I cannot attest to the exact dimensions of each room shown in the floor plan, I can attest to the general layout of the rooms and apartments shown, and their use from 1942 until the property was conveyed to Michael and Carole Zullo.

With respect to each floor, my comments are as follows:

- 1. Basement apartment as outlined in yellow remains the same as it was in 1942.
- 2. First floor
 - a) The apartment on the right side of the plan (outlined in purple) and the apartment on the back left side (outlined in pink) remain as they were in 1942.
 - b) The two rooms on the left front of the house (outlined in orange) are the same size but they were used as day rooms and shared a bathroom.
- 3. Second floor apartment (outlined in blue) remains the same as it was in 1942.

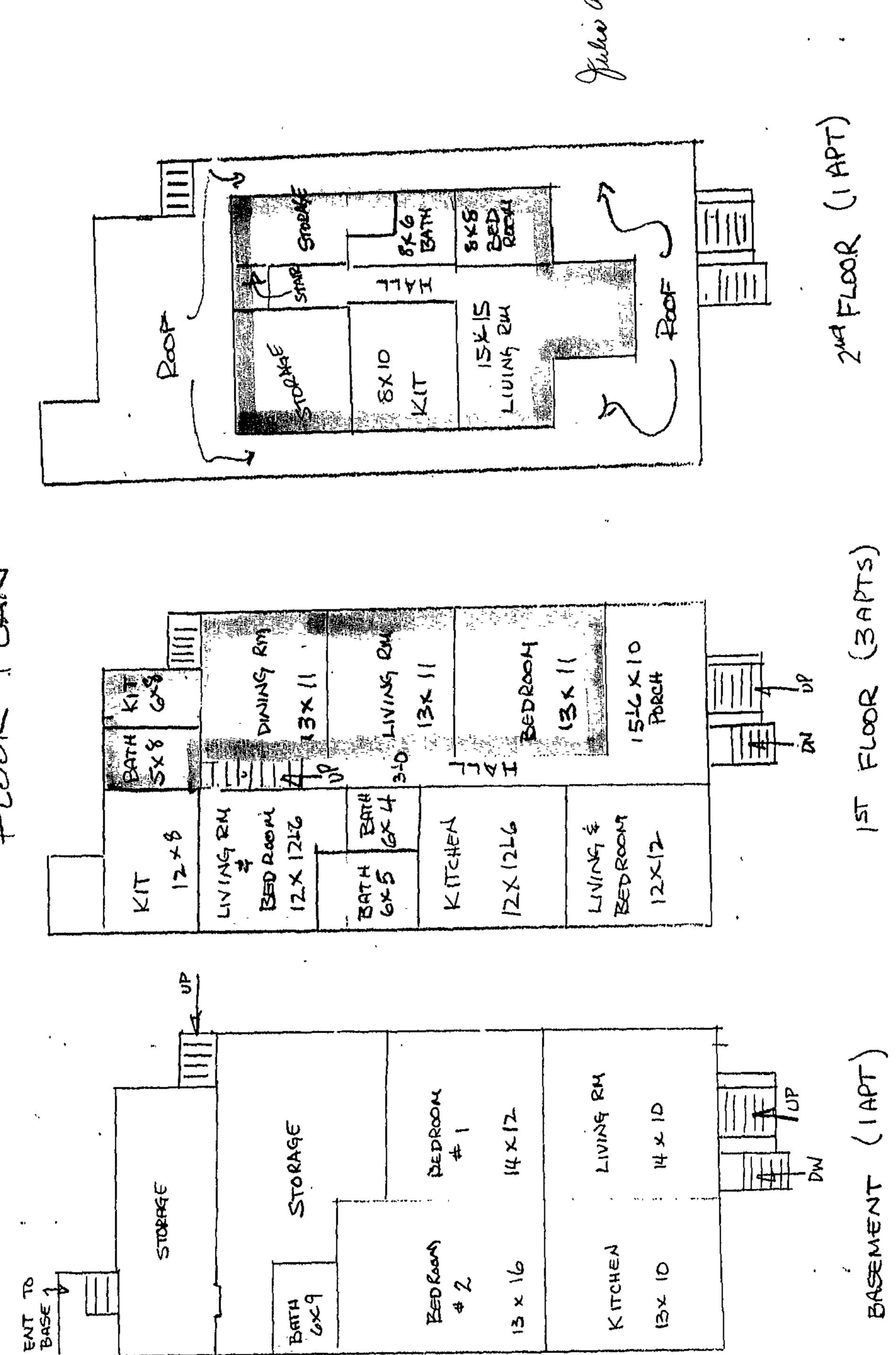
Julia A. Monaco

STATE OF MARYLAND, COUNTY OF BALTIMORE

Subscribed and sworn before me this 18^{TM} day of DECEMBER, 1997.

Notary Public

My Commission expires: 1 OCTOBER 1998



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Now comes PETER J. MONACO, who, after being duly sworn, states that the following information is true to the best of her knowledge, information and belief.

In connection with the property known as 1957 Snyder Avenue, Dundalk, Maryland 21222, and described in the Deed made on March 10, 1972, by and between Peter J. Monaco and Julia A. Monaco and Michael Zulio, Jr. and Carole T. Zulio, presently designated in Liber 5254, page 890, the question of a nonconforming zoning use as it applies to that property is hereby addressed.

I, PETER J. MONACO, have reviewed the floor plan of 1957 Synder Avenue as prepared for the Zoning Hearing concerning non-conforming zoning. While I cannot attest to the exact dimensions of each room shown in the floor plan, I can attest to the general layout of the rooms and apartments shown, and their use from 1942 until the property was conveyed to Michael and Carole Zullo.

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 - b) The two rooms on the left front of the house (outlined in orange) are the same size but they were used as day rooms and shared a bathroom.
- 3. Second floor apartment (outlined in blue) remains the same as it was in 1942.

Peter J. Monaco

STATE OF MARYLAND, COUNTY OF BALTIMORE

Subscribed and sworn before me this 18th day of DECEMBER, 1997.

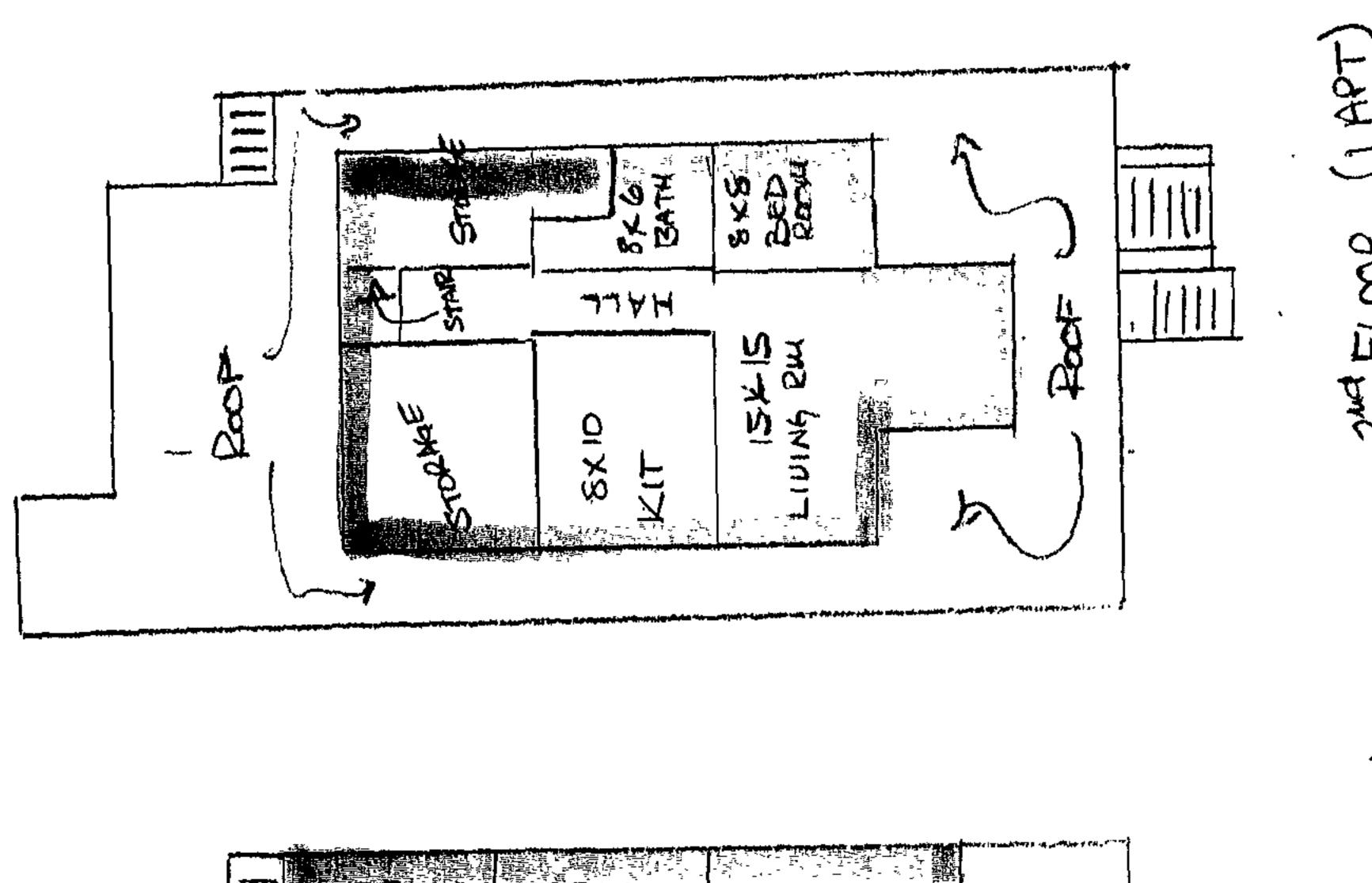
Notary Public

My Commission expires: 1 October 1998

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Now comes MICHAEL ZULLO and CAROLE T. ZULLO who, after being duly sworn, state that the following information is true to the best of their knowledge, information and belief.

In connection with the property known as 1957 Snyder Avenue, Dundalk, Maryland 21222, and described in the Deed made on March 10, 1972, by and between Peter J. Monaco and Julia A. Monaco and Michael Zullo, Jr. and Carole T. Zullo, presently designated in Liber 5254, pages 888-893, the question of a nonconforming zoning use as it applies to that property is hereby addressed.

We, MICHAEL and CAROLE, have personal knowledge of the above described property dating from March 10, 1972 when we purchased the above described property from Peter J. Monaco and Julia A. Monaco, to the present day. At the time of the purchase all six units, i.e. the apartment on the second floor, the two apartments and two day rooms on the first floor, and the apartment in the basement were rented. Under our personal management we have continuously rented these units with only one change. That change occurred in November, 1983 when during an inspection by Baltimore County, the inspector advised that the two day rooms required special provisions since the tenants shared a bath. To conform to County regulations we converted the two day rooms into one unit, eliminating the sharing of a bath. This minor renovation which involved only changing the entrance to the bath, was inspected and approved by the County. Since the conversion of the day rooms to one unit, we have rented the five units continuously.

Michael Zulle-

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Carole T. Zullo

STATE OF MARYLAND, COUNTY OF BALTIMORE

Subscribed and sworn before me this 27th day of october ,1997

Notary Public

My Commission expires: / Octobere 1998

Now comes PETER J. MONACO, who, after being duly sworn, states that the following information is true to the best of his knowledge, information and belief.

In connection with the property known as 1957 Snyder Avenue, Dundalk, Maryland 21222, and described in the Deed made on March 10, 1972, by and between Peter J. Monaco and Julia A. Monaco and Michael Zullo, Jr. and Carole T. Zullo, presently designated in Liber 5254, page 888, the question of a nonconforming zoning use as it applies to that property is hereby addressed.

I, PETER, have personal knowledge of the above described property dating back into the 1930's when I courted my wife, Julia, who livd at the above described property with her aunt, Mary C. Reale, until our marriage in 1937.

In 1942 I personally helped Mary C. Reale convert the house into multiple dwellings with an apartment in the basement, two apartments and two day rooms on the first floor (one day room with a kitchenette), and an apartment on the second floor. The units were rented to military personnel stationed at Fort Holabird. After the war, Mary continued to rent the apartments. During the period Mary Reale owned the property, it was not altered from the conversion she made in 1942, and the units were rented during the entire time she owned the house until her death in 1971.

In 1971, Mary C. Reale died, and in her Last Will and Testament, she bequeathed the property described above to my wife, Julia, and myself. It was conveyed to us by a Deed dated July 21, 1971, recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5207, Folio 309.

The above described property was fully rented at the time of Mary C. Reale's death and remained rented at the time the property was conveyed to Michael Zullo, Jr. and his wife, Carole, in March, 1972.

Peter J. Monaco

STATE OF MARYLAND, COUNTY OF BALTIMORE

Subscribed and sworn before me this 17th day of October, 1997.

Notary Public

My Commission expires: 1 OCTOBER 1998

Now comes JULIA A. MONACO, who, after being duly sworn, states that the following information is true to the best of her knowledge, information and belief.

In connection with the property known as 1957 Snyder Avenue, Dundalk, Maryland 21222, and described in the Deed made on March 10, 1972, by and between Peter J. Monaco and Julia A. Monaco and Michael Zullo, Jr. and Carole T. Zullo, presently designated in Liber 5254, page 888, the question of a nonconforming zoning use as it applies to that property is hereby addressed.

I, JULIA, have personal knowledge of the above described property dating back into the 1930's. I personally lived at 1957 Snyder Avenue with my aunt, Mary C. Reale, until I married my husband, Peter, in 1937.

In 1942 my aunt, Mary C. Reale, converted the house into multiple dwellings with an apartment in the basement, two apartments and two day rooms on the first floor (one day room with a kitchenette), and an apartment on the second floor. The units were rented to military personnel stationed at Fort Holabird. After the war, my aunt continued to rent the apartments. While my aunt owned the property it was not altered from the conversion she made in 1942, and the units were rented during her ownership until her death in 1971.

In 1971, Mary C. Reale died, and in her Last Will and Testament, she bequeathed the property described above to my husband and myself. It was conveyed to us by a Deed dated July 21, 1971, recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5207, Folio 309.

The above described property was fully rented at the time of my aunt's death and remained rented at the time the property was conveyed to Michael Zullo, Jr. and his wife, Carole, in March, 1972.

quelia a Monaco

Julia A. Monaco

STATE OF MARYLAND, COUNTY OF BALTIMORE

Subscribed and sworn before me this 17th day of OCTOBER, 1997.

Notary Public

My Commission expires: 1 October 98

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Now comes, MARY GIORGELLI, who, after being duly sworn, states that the following information is true to the best of her knowledge, information and belief.

In connection with the property known as 1957 Snyder Avenue, Dundalk, Maryland, 21222, formerly owned by Mary C. Reals and Julia and Peter Monaco, and currently owned by Michael and Carole Zullo, the question of a nonconforming zoning use as it applies to that property is hereby addressed.

I, MARY, have personal knowledge of the above described property dating back to 1954, when my parents and I moved into the house directly along side of 1957 Snyder Avenue at the address known as 1953 Snyder Avenue. My mother has lived at this address since 1954, and I have lived at the same address at various times. When I did not, I visited my parents with great frequency. Since 1954 to the present time, 1957 Snyder Avenue has been divided into various apartments and two day-rooms. The apartments were and continue to be in the basement, first floor and second floor. From 1954 to the present time, the various units have remained rented.

> Mary Grongelle's Mary Giorgelli

STATE OF MARYLAND)
COUNTY OF BALTIMORE)

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Subscribed and sworn before me this

1982.

My Commission expires:

Notary Public

Now comes LIVIA PIERORAZIO, who, after being duly sworn, states that the following information is true to the best of her knowledge, information and belief.

In connection with the property known as 1957 Snyder Avenue, Dundalk, Maryland 21222, formerly owned by Mary C. Reale and Julia and Peter Monaco, and currently owned by Michael and Carole Zullo, the question of a nonconforming zoning use as it applies to that property is hereby addressed.

I, LIVIA, have personal knowledge of the above described property dating back to 1954, when my husband, Anthony, and I purchased the property at the address known as 1953 Snyder Avenue (directly along side of 1957 Snyder Avenue).

Since 1954 to the present time, 1957 Snyder Avenue has been divided into various apartments and two day-rooms. The apartments were and continue to be in the basement, first floor and second floor. From 1954 to the present time the various units have remained rented.

Jonia Rinoraux

STATE OF MARYLAND)
COUNTY OF BALTIMORE)

Subscribed and sworn before me this day

1982.

My Commission expires:_

of Residents and Home Owners from the neighborhood surrounding 195 Snyder Avenue.

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Name: 277 A R Y (First)	<u></u> _	Giorgill	1
Address $\sqrt{953}$	SNY DER A	VE BALTO	MD 21222
Signature Ma	ry Georgilli	~^^**	
Name: 200 (First) Address 95/ Signature 200	HARDIS 5nyder alma)	Ahmer Ale	
Name: Wade (First) Address 1949 Signature Made	Snyder Av	Sense bau (Last) e Balto Md	2/222
Name: Aon (First) Address Signature	947 Snyder, Hani	AME (Last) Boff	MARKA
Name: /mon Hy Address /93 / Signature /mos	Snyber Act to cutiline	(Last) BACT. MI), 2/222), 3/222
Name: (First) Address 1941 Signature (Ty	SNIDER ACE J Widdow	Last) (Last) (BATMD)	7/27 7/27
Name: MARM (First) Address 19325, Signature Tours	MAN MANERANE E.Bah	BELS, US	

of Residents and Home Owners from the neighborhood surrounding 195# Snyder Avenue.

Name: Joseph HAGE	
Address 1979 SNYDEO AVE (Last)	
Signature Jane Da. Haye	
Name: Judith Iones	
Address Smider Aug (Last)	
Signature Juduth Jones	
Name: Mas Rulling	······································
Address 1975 Smuden (Last)	
Signature Mr. Francis Rulling	
Name: MICHAEL SHAVER	
Address 1935 SNYDER AUR. (Last)	
Signature Wichow & Shave	
Name: Shirley Neston	
(First) (Last) Address 1916 5ny dere Ave.	
Signature Shirley Menton	
Name: ama Cogae	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
Address 1950 Invelder ave (Last)	
Signature and Codar	
The state of the s	
Name AM AM	
Address (First) (198t)	
Signature Ala Signature	

of Residents and Home Owners from the neighborhood surrounding 1951 Snyder Avenue.

Name: ROBERT KIEINSMITH
Address 2021 FIFTH AUE BACTO MD 21222
Signature ////////////////////////////////////
Name: KELLY (First) (Last) (Last)
Address 702/FIFTH AUE BALTOMD
Signature Kelly Klememith
Vame: IFRESA MARTIN)
Address 7004 FIFTH AVE
lignature Texito Martin
Jame: JAMES HOWARD (Last)
Address 2005 5 / AUE (Last)
ignature Jawa
Jame: Telly HowApol (Last)
Address 7005 5 100
ignature Luy (fow and
Tame: MATIN BERRY
ddress 70005 5
ignature Malin Sim
- Finance - France -
lame: Khivif Wickele (Last)
ddress 69215th Ave. 180210 11101. 21222
ignature 2 m. 4 Machals
lack lack lack

of Residents and Home Owners from the neighborhood surrounding 195 Snyder Avenue.

Name: Buthal (First)	Washell	
Address 1914 Malmust A	zee (Last)	
Signature Sister Maffel		
Name: \	Hafner (Last)	
Address 19/6 Walnut ave		
Signature May Hafner	چې خوامور سې ۱۰۰۰ سام د د د د د د د د د د د د د د د د د د د	
Name: <u>layurel</u> T. (First) Address 1920 WALNUT AUG.	STEPANSK/ (Last)	
Address 1920 WALNUT AUG. Signature May Stay aug Mi	· parety delicans of the same of the same of the same and	
		
Name: Maurean (First)	Stefanski	
Address 1920 Walnut Ave.	(Last)()	
Signature Mauren Stefanski	᠆᠙╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸╸	
Name: Roberta	Zuk	1984 1 1 1 1 1 1 1 1 1
Address 1971 Snyder are	(Last)	
Signature Raherto M. zuk		
Name: May Herken (First)	(Last)	
Address 1969 Suyden Cine		
Signature May Linken	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	
Name: Atal	Hagel	
Address 1979 Dryder ave	(12tob)	
Signature Sarah Hagel	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	

of Residents and Home Owners from the neighborhood surrounding 1958 Snyder Avenue.

	IZABELA BOROWiez	
Address	1948 SNUPER AVE BALTU. Mol. S	21222
Signature	Bonociez	
Name: Address Signature _	(First) (Last)	
Name: Address Signature	(First) (Last)	
Name: Address Signature	(First) (Last)	
Name: Address Signature	(First) (Last)	· · · · · · · · · · · · · · · · · · ·
Name: Address Signature	(First) (Last)	
Name: Address Signature	(First) (Last)	

of Residents and Home Owners from the neighborhood surrounding 195\$ Snyder Avenue.

Name: Meld Ketteel (First) Address 7014 Halabeid ane	(Last)	
Signature Mildred Kettee		 -t
Name: MARIE Address 7023 FIFTH AVE Signature Manie Releash.	UEIVECCHIO (Last)	
Name: NARRY E. Address 1932 SNYDER NVE Signature Larry C. Below	BELS INSER	
Name: Matthew Belsinger Address 1932 Snyder Ave Signature 7 2 2	Apt. B	
Name: (First) Address Signature	(Last)	
Name: (First) Address Signature	(Last)	
(First) Address	(Last)	

Petition for Special Hearing NE/S Snyder Avenue, 520' NW of the c/l Holabird Avenue (1957 Snyder Avenue) 12th Election District - 7th Councilmanic District

Michael Zullo, et ux - Petitioners Case No. 98-191-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Protestants Sign-In Sheet

Petitioners' Exhibit: 1 ~ Site Plan and Floor Plan for 1957 Snyder Ave.

Pétition of Opposition Sign by Thirty-three People

Seven Affidavits

Log of Events at 1957 Snyder Avenue

Deputy Zoning Commissioner's Order dated January 20, 1998 (Denied in Part, Granted in Part)

Motice of Appeal received on February 17, 1998 from Michael Zullo

c: Mr. and Mrs. Michael Zullo, 3231 Canterbury Lane, Fallston,

Maryland 21047 Ms. Mary Giorgilli, 1953 Snyder Avenue, Baltimore, MD 21222

Mr. Wade Sensebaugh, 1949 Snyder Avenue, Baltimore, MD 21222 Mr. and Mrs. Lloyd Widdowson, 1941 Snyder Avenue, Baltimore,

Maryland 21222

Mr. and Mrs. Joseph M. Hagel, 1979 Snyder Avenue, Baltimore, Maryland 21222

Mr. James Thompson, Code Enforcement Division, PDM People's Counsel of Baltimore County, M.S. 2010

Timothy Kotroco, Deputy Zoning Commissioner

Arnold Jablon, Director of PDM

Case No. 98-191-SPH

SPH -Approval of a 5-apartment dwelling as a legal, nonconforming use.

1/20/98 -D.Z.C.'s Order in which Petition for Special Hearing was DENIED in part and GRANTED in part. (Denied as to 5 apartments; G -as to existing 4 apartments w/restrictions.)

5/22/98 - Notice of Assignment for hearing scheduled for Wednesday, August 19, 1998 at 10:00 a.m. sent to following:

Mr. and Mrs. Michael Zullo

Ms. Mary Giorgilli

Mr. Wade Sensebaugh

Mr. and Mrs. Lloyd Widdowson

Mr. and Mrs. Joseph M. Hagel

People's Counsel for Baltimore County

Pat Keller, Director /Planning

Lawrence E. Schmidt /Z.C.

James Thompson /Code Enforcement /PDM

Arnold Jablon, Director / PDM

Virginia W. Barnhart, County Attorney

8/19/98 -Hearing concluded; deliberated at conclusion of hearing; only issue on appeal was special hearing for 5th apartment; requested relief for 5th apartment denied by Board; Order to be issued; appellate period to run from date of written order and not today's date. (K.C.W.)