6/1/00

CC-98-6302 /Howard Conaway
CCt AFFIRMS CBA & REVERSES
CBA as to Protestant's
participation (Judge Daniel's)

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF: Howard H. Conaway, Jr. & Mai T. Conaway 16535 Yeoho Road Sparks, Maryland 21152	CIVIL
CROSS PETITION OF: CYNTHIA FRANKEL, MELISSA and HUGH BAILEY and MARLENE SIEGEL All of Yeoho Road	ACTION No. 03-C-99-11441
IN THE CASE OF: IN THE MATTER OF: HOWARD H. CONAWAY, JR. *et al*, OWNERS 16535 Yeoho Road RE: Code Inspection and Enforcement Violation	
Civil Citation Case No. CC-98-6302	

ORDER

Upon consideration of the Petition for Judicial Review filed by Howard H. Conaway, Jr. and Mai T. Conaway and the Cross-Petition filed by Cynthia Frankel *et al*, and having reviewed the record and memoranda of the parties and having considered oral argument of counsel, it is this 1ST day of JUNE, 2000 by the Circuit Court for Baltimore County, **ORDERED**, for the reasons stated in the attached oral opinion rendered in open court, that:

1. The Order of the County Board of Appeals for Baltimore County, dated October 22, 1999, affirming the July 13, 1999 Order of the Baltimore County Code Enforcement Hearing Officer be and is hereby **AFFIRMED**; and

2. The portion of the Order of the County Board of Appeals for Baltimore County, dated October 22, 1999, granting the Appellant's motion to deny participation by the citizens in the above-

FILED JUN 5 2000

referenced Code Violation proceedings be and is hereby **REVERSED**; and

3. The Motion to Intervene, filed in the alternative by Cynthia Frankel *et al* be and is hereby **GRANTED**.

LAWRENCE R. DANIELS, JUDGE

APPROVED AS TO FORM:

Howard L. Alderman, Jr., Esquire
Counsel for Petitioners

J. Carroll Holzer, Esquire
Counsel for Cross-Petitioners

Douglas N. Silber, Assistant County for
Baltimore County, Maryland

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Holzer and Lee
508 Fairmount Avenue
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2/28/00

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN RE: IN THE MATTER OF: HOWARD H. CONAWAY, JR. *et al*, *Owners* 16535 Yeoho Road RE: Code Inspection and Enforcement Violation Violation Case No. CC-98-6302	CIVIL ACTION No.: 03-C-99-11441 AE

APPELLANTS' MEMORANDUM

Howard H. Conaway, Jr. and Mai Tuisk Conaway, his wife (referred to hereafter as the "Conaways" or the "Appellants"), the alleged violators before the Baltimore County Hearing Officer for the Department of Permits and Development Management, by and through their undersigned legal counsel, Levin & Gann, P.A. and Howard L. Alderman, Jr., in accordance with Maryland Rule 7-207(a), file this Memorandum in support of their appeal of the October 22, 1999 decision of the County Board of Appeals for Baltimore County ("Board") in County Code Violation Case No. CC-98-6302, affirming the Hearing Officer's decision requiring Appellants to seek a special exception for their farm property.

BACKGROUND

The Appellants took title to the property known as 16535 Yeoho Road, Sparks, Maryland, comprised of over ten acres, all of which are zoned Resource Conservation - 2 (Agricultural) pursuant to the Baltimore County Zoning Regulations (the "Subject

Property"). The deed, dated October 21, 1997, by which the Appellants took title exists in the record before the Hearing Officer as Exhibit No. 2. The Appellants have their principal residence on the Subject Property which improvements are valued in excess of $140,000.00 as reflected on the State Department of Assessments and Taxation Real Property System Owner Information Report which exists in the record as Exhibit 1.

Also present on the Subject Property are a medium sized goat herd and more than three dogs, greater than four months in age, which belong to the Appellants. The Conaways has an economic choice to make regarding the timing of building their goat herd. The record in this case reveals that at one point, before the Appellants established a *bona fide* farm on their property, they sought a special exception pursuant to the Zoning Regulations of Baltimore County for operation of a kennel because of the presence of more than three dogs. After having received approval of a special exception for a kennel use, the decision was appealed by certain neighbors and others and, while that appeal was pending before the County Board of Appeals for Baltimore County, the Appellants dismissed their petition for special exception relief and incurred the financial costs associated with their planned farm.

The Appellants operate a *bona fide* goat farm on the Subject Property. Depending on the timing of the sale of goats and the birth of new goats, the total number of goats may exceed forty. As noted in the record, at no time does the number of goats drop below thirty on the Subject Property.

Prior to establishing the goat farm use on the Subject Property, the Appellants

inquired of Baltimore County as to whether or not the existence of more than three dogs on a farm constituted a kennel. That written inquiry, from the undersigned legal counsel to Arnold Jablon, Director of the Department of Permits and Development Management, dated January 7, 1999, exists in the record as Exhibit 7. The initial response received from Baltimore County, signed by Jun R. Fernando, Planner in the Zoning Review Section, indicated that if the Subject Property is used as a "working farm" and the property meets the definition of a 'farm' and, as per W. Carl Richards, Zoning Supervisor, the dogs are **farm dogs** used on a farm only, than this use is not a kennel and is permitted as part of a farming operation (Emphasis added.) This response exists in the record as Exhibit 8. After inquiry having been made on behalf of the Conaways as to the definition of a "farm dog," Mr. Fernando authored a second letter to the undersigned counsel, dated January 25, 1999 (which exists in the record as Exhibit 9) purportedly as "an amendment and clarification" of Mr. Fernando's January 11, 1999 correspondence. The conclusions reached in that letter were that if the dogs living on the "property contributed to the everyday operations of that farm (i.e. guarding the property), these dogs (which may exceed three), may be permitted on the farm. Therefore, the farm or amount of dogs over three will not be considered a kennel."

A site visit was made subsequently by a member of the Baltimore County Code Enforcement Section and a representative of the County's Animal Control Bureau. On March 25, 1999 a purported violation case pending against the Appellants was closed "since the County determined that no permit was necessary since this was not 'an actual

commercial dog run.'" (Board's Order at 5.) The Appellants then received a letter from James H. Thompson, an employee of Baltimore County, indicating that a special exception for a kennel was necessary if the Appellants continued to house more than three dogs. The undersigned legal counsel responded on behalf of Appellants by letter dated June 4, 1999, indicating that since the Subject Property was a farm, no kennel license was necessary. (Board's Order at 6.) In response to Appellants' legal counsel's letter, Mr. Richards responded in writing on June 8, 1999 indicating that zoning enforcement actions would not be dismissed. In describing the position of the Department of Permits and Development Management, Mr. Richards then suggested that "if the dogs are accessory only to the working farm, we do not interpret the use as a kennel." (Emphasis in original.) Mr. Richard's letter exists in the record as Exhibit 10.

Pursuant to Code Inspection and Enforcement Violation/Civil Citation No. 98-6302, and Baltimore County Code ("BCC") Section 1-7, a hearing was held before the Hearing Officer for the Department of Permits and Development Management (the "Hearing Officer") on July 13, 1999. In disposition of the charges against the Appellants, the Hearing Officer determined that the Subject Property clearly shows an agricultural use. The Hearing Officer determined that the Subject Property at present enjoys a "commercial agricultural use in as much as the goats are kept and raised on the premises." (Hearing Officer's Order at 4.) In holding that the Appellants also had to apply for special exception approval for a kennel irrespective of the acknowledged farm, the Hearing Officer determined that the dogs

existing on the Subject Property were unrelated to the raising and breeding of goats and that they "perform no function relative to the goat herd and therefore are not considered ancillary or secondary to the principal agricultural operations." (Hearing Officer's Order at 4.) The Hearing Officer determined that, though "it appears in the Baltimore County Zoning Regulations that a farm would be entitled to an exclusion, it must accordingly [*sic*] to this Hearing Officer's opinion meet the standards of actually being secondary to the principal use to enjoy such an exclusion. This condition has not been meet. [*sic*]" (Hearing Officer's at 4.) As a result of that conclusion, the Hearing Officer dismissed the fine sought against the Appellants but ordered the Appellants to seek a special exception for a kennel or reduce the number of dogs to three.

The Appellants noted a limited appeal of the decision of the Hearing Officer to the County Board of Appeals, such appeal was limited to the holding that a special exception was necessary for more than three dogs. The Appellants did not appeal the dismissal of any fines sought against them.

A hearing was held before the County Board of Appeals on September 16, 1999 pursuant to the appeal filed by the Appellants and in strict accord with BCC §1-7(g). Argument of counsel for the Appellants and the Assistant County Attorney was accepted by the Board. After receiving a written summary of testimony presented before the Hearing Officer, as offered (but not authored) by the County, counsel for the Appellants was given leave to submit a summary of testimony offered on behalf of the Conaways before the

Hearing Officer. Thereafter, the Board held public deliberation and issued its written Opinion in this matter on October 22, 1999. A Petition for Judicial Review, pursuant to Maryland Rule 7-202, was filed by the Appellants requesting review of the Board's decision. Appellants Petition was filed with this court on November 19, 1999.

ARGUMENT

Three or more dogs on a *bona fide* farm, as defined by the Baltimore County Zoning Regulations, do not constitute a kennel as defined.

The issue presented to this Court is simple and straightforward. This Court is being requested to apply the long-standing principals of statutory construction to provisions of the Baltimore County Zoning Regulations that are plain on their face. Additionally, this Court should reject any purported interpretation of the applicable regulations if said interpretation, policy or practice has not been codified as part of the Code of County Regulations ("CCR"). Whether the dogs are "farm dogs" (*see* Exhibit No. 8) or "working dogs" (*see* Exhibit No. 11) is not the issue. The single issue is that which was initially defined by the Board as "one that requires a determination as to the effect and presence of the dogs as it applies to the definition of a 'farm' as defined by the Baltimore County Zoning Regulations." (Board's Order at 8.) Unfortunately, the Board lost sight of the clear reading of properly enacted statutes and shifted its focus as to whether or not the presence of dogs on a farm are an "ancillary activity of the farm" or whether the presence of such dogs constituted the presence of a kennel within the confines of a farm. (Board's Order at 8.)

The following definitions are extracted, verbatim from the Baltimore County Zoning

Regulations and are material to the statutory construction issue pending before this court:

> **FARM** – Three acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses.
>
> **AGRICULTURE, COMMERCIAL** – The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations.
>
> **KENNEL** -- Any building, other structure or land, or any portion thereof, which is used, intended to be used or arranged for the housing of more than three dogs, not counting puppies less than four months old, for purposes of show, hunting, breeding or sale, or as pets, **excluding a farm** or pet shop. (Emphasis added.)

Baltimore County Zoning Regulations Section 101.

The evidence in this case is undisputed that the Appellants, at all times relevant to the alleged violation of the BCC, have in excess of thirty goats on the Subject Property, the sale and breeding of which generate in excess of $2500.00 of income per year. Particular

attention should be directed to Tax-Property Article, Section 8-209(g)(2) which provides that when determining if a parcel of land of less than twenty acres is actively used as a farm, the "Department may require the owner of the land to affirm, under oath, on a standard form provided by the Department that the farm or agricultural use of the land results in an average gross income of at least $2500 from the parcel or the agricultural land unit." The Appellants' use of the Subject Property, in addition to their principal residence, is for a commercial agriculture farm as defined by the Baltimore County Zoning Regulations which incorporate the income test of the State code.

In addition to operating a goat farm, the Appellants also house more than three dogs on the Subject Property. But for the fact that there is a *bona fide* farm use on the Subject Property, if the Conaways keep more than three adult dogs on that property, they would need to seek a special exception for a kennel use pursuant to Baltimore County Zoning Regulation Section 1A01.2.C.2. However, the existence of the goat farm absolutely excludes the presence of three or more dogs on the Subject Property from being considered a kennel.

It has long been held by the appellate courts of this state that a statute that has been enacted and is unambiguous on its face will be given its plain meaning. This Court, when interpreting a statute, must ascertain and carry out the intent of the legislature. The statute under review itself provides the "clearest indication" of the intent of the legislature absent any ambiguity. *United Parcel Service v. Comptroller*, 69 Md. App. 458, 469 (1986). If there is no ambiguity, a reviewing court "need not look elsewhere to ascertain the intent of

the General Assembly." *Baltimore Building and Construction Trades v. Barnes*, 290 Md. 9, 15 (1981).

The rule of statutory construction is equally applicable to administrative regulatory construction. *Dorsey v. Beads*, 288 Md. 161, 176 (1980). The Maryland Court of Appeals has long held that:

> A court may not insert or omit words to make a statute express an intention not evidenced in its original form ....

Dorsey at 176.

The County seeks to avoid the plain reading of the applicable regulations by reference to purported interpretations or policies of the Zoning Office. Mr. Carl Richards, an employee of that office, suggests that the County's interpretation as to working dogs and farm dogs has been in place since 1967. In 1990, the County Council of Baltimore County adopted Article VIII of Title 2 of the Baltimore County Code entitled "Code of County Regulations." Codified at BCC § 2-416 *et seq.*, the Council mandated a procedure by which all then existing and future policies, rules, regulations, statement, guidelines, standards, interpretations or statements of policy had to be adopted in a prescribed form for regulation of the general public. The County Council required that all department or offices of the County "compile all existing policies, rules, or regulations and comply with the requirements set forth herein within one (1) year from the effective date of this article." BCC § 2-416(c). It is not disputed that no department or office of the County has promulgated or codified any purported rule, policy interpretation or guideline pertaining to dogs on farms (be they 'farm

dogs' or 'working dogs') as part of the Code of County regulations. Therefore, the Hearing Officer's reliance on purported statements of policy which are not codified in the Code of County Regulations and the affirmation thereof by the County Board of Appeals cannot stand.

A county board of appeals' decision may be set aside by a reviewing court if the decision is premised upon an error of law or if the decision is unsupported by substantial evidence. *See, Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 503, 672 A.2d 173, *cert. denied*, 342 Md. 584 (1996); *see also, Anne Arundel County v. 2020C West Street, Inc.*, 104 Md. App. 320, 326, 656 A.2d 341, *cert. denied* 339 Md. 166 (1995). A decision also may be set aside if the county board of appeals failed to make the requisite findings of fact. *District Council of Prince George's County v. Brandywine Enterprises, Inc.*, 350 Md. 339, 711 A.2d 1346 (1998), *Turner v. Hammond*, 270 Md 41, 310 A.2d 543 (1973). In *Umerley*, the Court of Special Appeals set forth a three-step analysis that a court conducts when reviewing a decision of an administrative agency. First the court considers whether "the agency recognized and applied the correct principles of law governing the case." *Umerley, supra*, 108 Md. App. at 503-04 , *citing Comptroller v. World Book Childcraft*, 67 Md. App. 424, 508 A.2d 148 (1986). If the agency correctly determined and interpreted the applicable law, the court examines "the agency's factual findings to determine if they are supported by substantial evidence. . .". *Id.* Finally, the court examines whether the agency correctly applied the law to the facts of the case. *Id.*

A county appeals board's interpretation and application of the zoning regulations [including the definitions contained therein and a review of the decision of a code official regarding alleged violation thereof] involves legal questions. *People's Counsel for Baltimore County v. Maryland Marine Manufacturing Co., Inc.*, 316 Md. 491, 497, 560 A.2d 32 (1989) (holding that the proper interpretation of § 417 of the Zoning Regulations was a purely legal question); *see also, Harford County v. McDonough*, 74 Md. App. 119, 536 A.2d 724 (1988). When reviewing a county appeals board's interpretation and application of locally adopted regulations, the court's review is "expansive, that is, the appellate court may substitute its judgment for that of the administrative agency." *McDonough, supra*, 74 Md. App. at 122, *citing Gray v. Anne Arundel County*, 73 Md. App. 301, 309, 533 A.2d 1325 (1987). As the Court of Special Appeals explained, "the circuit court is under no constraints in reversing an administrative decision which is premised solely upon an erroneous conclusion of law." *2020C West Street, Inc., supra*, 104 Md. App. at 321.

If the administrative agency correctly determined and interpreted the law, the reviewing court proceeds to review the agency's factual findings to determine whether substantial evidence supports the administrative agency's decision. Determining whether the agency's findings are supported by substantial evidence requires that the agency make the requisite findings of fact. *Brandywine, supra; see also, Turner v. Hammond, supra.*

If the agency made the requisite findings of fact, the agency's decision may not be

upheld "unless it is sustainable on the agency's findings and for the reasons stated by the agency." *Umerley, supra*, 108 Md. App. at 504, *citing United Steel Workers of America AFL-CIO v. Bethlehem Steel Corp.*, 298 Md. 665, 472 A.2d 62 (1984). The agency's findings must be supported by substantial evidence. Substantial evidence means "more than a 'scintilla of evidence' such that a reasonable person could come to more than one conclusion." *Relay Improvement Ass'n. v. Sycamore Realty Co., Inc.*, 105 Md. App. 701, 714, 661 A.2d 182 (1995), *aff'd.* 344 Md. 57, 684 A.2d 1331 (1996). The application or interpretation of a statute by an administrative agency that is contrary to the clear and unambiguous meaning of a statute will not be given effect. *State Farm Mutual Automobile Ins. Co. v. Maryland Automobile Ins. Fund*, 277 Md. 602, 606 (1976). Even a consistent interpretation of a statute, over a long period of time, by an administrative agency charged with its enforcement does not negate the statute's plain meaning or permit the agency to expand its authority. *Falik v. Prince George's Hospital and Medical Center*, 322 Md. 409, 416 (1991); *Inlet Associates v. Assateague House Condominium Association*, 313 Md. 413, 432-33 (1988). When deciding a purely legal issue, no deference to an administrative agency decision by a reviewing court is necessary. *Baltimore and Ohio Railroad Company v. Bowen*, 60 Md. App. 299, 304-05 (1984).

The County can not assert, on appeal, that the Board applied the "rational basis standard" of review discussed in *Supervisor of Assessments for Calvert County v. St. Leonard Shores Joint Venture,* 61 Md. App. 204, 211 (1985), *aff'd* 307 Md. 441 (1986).

The rational basis standard of review is applied only when there are no questions of law apart from any administrative expertise. *St. Leonard Shores* at 212. The "substitution of judgment" standard of review is applied when, as here, only an issue of law is at issue. *Id.* The substitution of judgment standard is particularly appropriate when:

> the questions of law presented do not involve agency expertise and thus, a court need not take the deferential stance embodied in the rational basis test. The [substitution of judgment] standard is appropriate where the knowledge and expertise of the agency is of little guidance or where the case concerns 'statutory interpretation or other analysis of legal relationships about which courts have specialized knowledge and experience.' (citations omitted.) Application of this standard permits a reviewing court to substitute its own judgment for that of the agency's, even if the agency's decision had a reasonable basis in law.

Comptroller of the Treasury v. Ramsay, Scarlett & Co., Inc., 58 Md. App. 327, 340, (1984), *rev'd on other grounds, sub nom., Ramsay, Scarlett and Co., Inc. v. Comptroller*, 302 Md. 825 (1985)

The Court of Special Appeals, in identifying the statutorily required scope of review of an administrative agency, noted that if the substantive rights of an individual are prejudiced by an administrative decision "[i]n excess of statutory authority or jurisdiction of the agency; or ... [a]ffected by other error of law" a reviewing court, pursuant to the scope of judicial review, may, *inter alia*, reverse or modify the decision of the administrative agency. *Commission on Human Relations v. Washington County Community Action Council, Inc.*, 59 Md. App. 451, 454-455 (1984), *cert. denied* 301 Md. 354 (1984). In this case, the substantive rights of the public in general and farm owners/operators in particular,

especially the Conaways, are severely prejudiced by the irrational decision of the Hearing Officer and the action of the Board affirming that decision.

Issues of statutory construction have long been reviewed by the judicial branch of this State. The Court of Special Appeals has held that when a court is engaged in statutory construction:

> [I]t is well settled that not only should this Court begin its investigation with the words of the statute, but we are bound by those words if their import is clear and unambiguous.... The statutory language itself provides the clearest indication of the legislative intent and is thus the primary source for all statutory construction.

United Parcel Service v. Comptroller, 69 Md. App. 458, 469 (1986)

Likewise, the Court of Appeals has held that:

> Where words are used in one part of a statute in a definite sense it may be presumed, in the absence of a plain intent to the contrary, that they are used in the same sense in other places in the same act.

Merrill v. State Military Department, 152 Md. 474, 480 (1927) (Emphasis added.)

The County has not offered even a scintilla of "plain intent" that the definition of 'farm' (which the Conaways' property and goat herd use meets) is different in meaning than the term 'farm' as an express exclusion of a kennel use as defined in the BCZR. Moreover, neither the words in the statute nor any portion of the statutory scheme should be read "so as to render the other, or any portion of it, meaningless, surplusage, superfluous, or nugatory." *GEICO v. Insurance Com'r*, 332 Md. 124,132 (1993); *See also DeBusk v. Johns*

Hopkins, 342 Md. 432, 445, (1996); *Schlossberg v. Citizen's Bank*, 341 Md. 650, 660 (1996); *State v. Pagano*, 341 Md. 129, 134 (1996). Thus, the County Council has unambiguously acknowledged that more than three dogs on a farm is not a kennel. *Accord, State Board of Architects v. Clark*, 114 Md. App. 247 (1997).

In its desperate efforts to ignore the plain, unambiguous meaning of its own regulations, the County has suggested that in order to qualify for the 'farm' exclusion from the definition of a kennel, the dogs must contribute to the farm or be a secondary/ancillary use to the principal farm use. However, it should not go unnoticed that the County offers no portion of the Baltimore County Code, the County Code of Regulations or the Baltimore County Zoning Regulations to support its position. Not only is a court construing a statue required to interpret the words of that statue according to their common acceptance, the reviewing court" may not insert or omit words to make a statue express an intention not evidenced in its original form." *Taylor v. Mayor and City Council of Baltimore*, 51 Md. App. 435, 444-45 (1982).

The County issued a violation notice to the Conaways as a direct result of a complaint having been filed by certain of the Conaway's neighbors and others. Having adopted regulations that are plain on their face and not subject to more than one interpretation that provide that having more than three dogs on a farm is not a kennel, the County must resort to convoluted interpretations of its regulations and suggested reliance on non-existent policies, guidelines, standards and agency interpretations. Certain of the complaining

neighbors, including one called as a witness by the County in the Conaways' Code Violation hearing [the position of these neighbors and their misguided attempts to participate in this appeal will be dealt with in separate pleadings filed in accordance with the Scheduling Order of this Court], have apparently beleaguered the County with requests to continue to act against the Conaways. However, neither is in the correct forum. If the County or any of its citizens disagree with the express farm exclusion codified in the definition of a kennel, their relief is with the legislative branch and not this Court – they must seek to change the existing law through proper legislative procedure.

The Conaways have a farm, recognized by the State Department of Assessments and Taxation and the Hearing Officer. It is uncontradicted that the Conaways' farm produces in excess of $2500 in revenue per year from their goat herd. The sequence of "which came first, the goats or the dogs" is immaterial under existing law. The County suggests that certain other farms have sought a separate special exception for a kennel use, however, the County has not produced any evidence in the record of this case regarding the facts and circumstances pertaining to such acts. Clearly, the public often takes (or fails to take) action based on an incomplete understanding or knowledge of the regulations by which they are governed. Even if the County's suggestions are accurate, they do not overcome the plain and unambiguous words and meaning of the regulations applicable to the Conaways' farm.

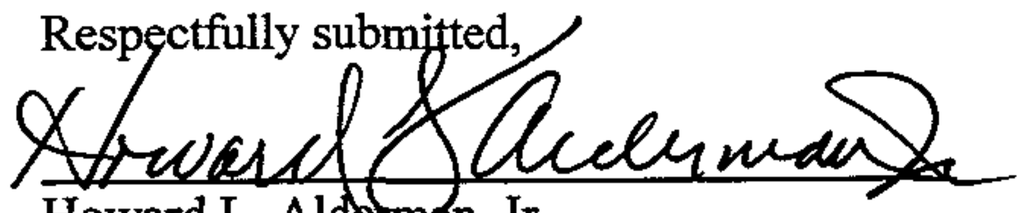
The Hearing Officer either did not understand the applicable law or he exceeded his authority by adding words, conditions or requirements to the law in requiring that the

Conaways file for a special exception for a kennel in addition to their existing farm use. The Board adopted the reasoning of the Hearing Officer and repeated that error of law. Neither can withstand the appeal to this Court.

CONCLUSION

This case is not about goats, dogs, dogs that bark, dogs that 'work' or farm dogs. This case is about the express exclusion in a defined use permitted on property zoned for agricultural purposes. Unless located on a *bona fide* farm, having three or more adult dogs on property anywhere in Baltimore County constitutes a kennel. The Baltimore County Zoning Regulations provide an absolute exclusion from the definition of a kennel, <u>without qualification, limitation or interpretation</u> when those dogs are located on a farm. This Court is required to apply the law as written and find that the Conaways are not operating a kennel and, therefore, do not need to proceed with a Petition for Special Exception as required by the Hearing Officer and affirmed by the Board. Therefore, this Court should reverse the decision of the Board and the Hearing Officer requiring the Conaways to either apply for a Special Exception for a kennel or reduce the number of dogs on their property to not more than three.

Respectfully submitted,



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410.321.0600 [voice]

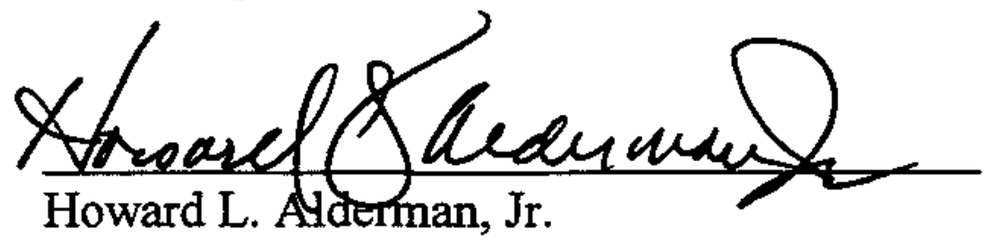
Attorneys for the Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of February, 2000, a copy of the foregoing *Appellants' Memorandum* was mailed, postage prepaid, First Class United States Mail to:

C. Robert Loskot, Assistant County Attorney
Baltimore County Office of Law
400 Washington Avenue, 2nd Floor
Old Courthouse
Towson, MD 21204

Additionally and without prejudice to challenge the right of participation or intervention in this appeal by anyone other than Baltimore County, I HEREBY CERTIFY that on this 28th day of February, 2000, a copy of the foregoing *Appellants' Memorandum* was mailed, postage prepaid, First Class United States Mail to: J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, MD 21286.



Howard L. Alderman, Jr.

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ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
Halderma@bcpl.net

COPY

RECEIVED
COUNTY BOARD OF APPEALS
00 FEB 29 AM 11:16

February 28, 2000

VIA HAND DELIVERY

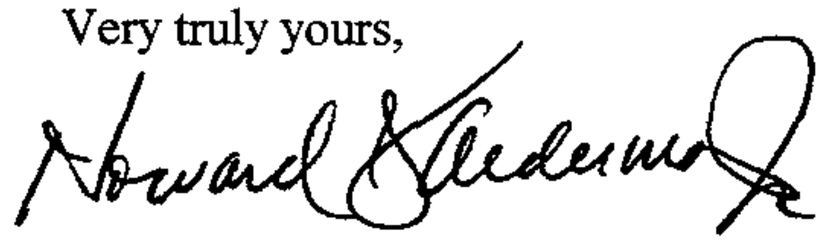
Clerk of the Court
Circuit Court for Baltimore County
401 Bosley Avenue, 2nd Floor
Towson, MD 21204

RE: In The Matter of Howard H. Conaway, et ux
16535 Yeoho Road
Appellants' Memorandum
Case No. 03-C-99-11441 AE

Dear Clerk:

Please accept for filing, on behalf of Mr. and Mrs. Howard H. Conaway, Jr.,, parties to the above-referenced case, the enclosed *Appellants' Memorandum*. Should you need additional information, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosure
c (w/encl.): Mr. and Mrs. Howard H. Conaway, Jr.
C. Robert Loskot, Assistant County Attorney
County Board of Appeals for Baltimore County
J. Carroll Holzer, Esquire (w/out prejudice)

1/18/00

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF:
HOWARD H. CONAWAY, JR. & *
MAI T. CONAWAY
16535 YEOHO ROAD *
SPARKS, MARYLAND 21152
*
FOR JUDICIAL REVIEW OF THE DECISION OF CIVIL
THE COUNTY BOARD OF APPEALS * ACTION
OF BALTIMORE COUNTY No. 3-C-99-11441
Room 49, Old Courthouse, 400 Washing- *
ton Avenue, Towson, MD 21204
*
IN THE CASE OF: IN THE MATTER OF
HOWARD H. CONAWAY, JR., ET UX *

RE: CODE INSPECTION AND ENFORCEMENT *
VIOLATIONS ON PROPERTY LOCATED IN
the 5TH ELECTION DISTRICT *
and 3RD COUNCILMANIC DISTRICT
*
CASE NO. CC-98-6302
*
* * * * * * * * * * * * *

PROCEEDINGS BEFORE THE HEARING OFFICER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Charles L. Marks, Lynn Barranger 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. CC-98-6302

July 13, 1999 Matter came before the Deputy Hearing Officer for the Department of Permits and Development Management on a citation for violations under the BCZR regarding a commercial dog kennel operating without required approvals and permits.

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00 JAN 18 PM 2:34
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

July Final Order of the Code Official; ordered that there will be no civil penalty imposed; further ordered for the respondents to apply

	for the required special exception hearing within a reasonable amount of time or reduce the number of dogs to three.
	Addendum to the Final Order issued by the Code Official to include information relative to appealing this decision.
July 13, 1999	Entry of Appearance filed by Howard L. Alderman, Jr. as counsel for the Conaways.
July 28	Notice of Appeal (limited appeal) and Petition to accompany Notice of Limited Appeal filed by Howard L. Alderman, Jr., Esquire, on behalf of Howard H. Conaway, Jr. and Mai Tuisk Conaway.
August 30	Entry of Appearance filed by J. Carroll Holzer, Esquire, on behalf of the Concerned Citizens of Sparks-Glencoe, Melissa and Hugh Bailey, Marlene Siegel and Cynthia Frankel.
September 16, 1999	Hearing held by the Board of Appeals. -At onset of hearing Mr. Holzer submitted a notice to participate (Intention of Cynthia Frankel, et al); Mr. Alderman moved to strike Mr. Holzer's appearance on the basis that the subject matter before the Board was on an appellate level, and the persons represented by Mr. Holzer had no standing in this Code Violation/Enforcement matter. -The Board sustained the Motion to strike Mr. Holzer's appearance and Notice to Participate.

Exhibits submitted at hearing:

Protestant's (I.D. only)
1A-Intention of Cynthia Frankel, etc.
B-Letter Sept. 13, 1999 from Cynthia Frankel
2 -Sign-in sheets

Balto. County's
1. Sept. 13, 1999 -Letter from Cynthia Frankel

Appellant's 1. Complete file from below

October 12	Public Deliberation conducted by the Board of Appeals.
October 22	Opinion and Order issued by the Board of Appeals; decision of the Deputy Hearing Officer is AFFIRMED.

November 19, 1999	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Howard L. Alderman, Jr., Esquire on behalf of Howard H. Conaway, Jr. and Mai T. Conaway.
November 23	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
November 24	Certificate of Notice sent to interested parties.
January 18, 2000	Transcript of testimony filed by Court Reporter.
January 18, 2000	Record of Proceedings and transcript of testimony filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted shall be forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Charlotte E. Radcliffe

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

cc: Howard L. Alderman, Jr., Esquire
Howard H. Conaway, Jr. and
Mai T. Conaway
Raymond S. Wisnom, Jr., Deputy Hearing Officer /PDM
Arnold Jablon, Director /PDM
Robert Loskot, Assistant County Attorney
Virginia W. Barnhart, County Attorney

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

N O T I C E O F R E C O R D

Case Number: 03-C-99-011441
Administrative Agency : CC-98-6302
C I V I L

In The Matter of: Howard H Conaway Jr, et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 18th day of January, 2000.

Suzanne Mensh
Clerk of the Circuit Court, per D.F.

Date issued: 01/20/00

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

RECEIVED
COUNTY BOARD OF APPEALS
00 JAN 21 AM 11:34

12/1/99

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF:
HOWARD H. CONAWAY, JR. & *
MAI T. CONAWAY
16535 YEOHO ROAD *
SPARKS, MARYLAND 21152
*
FOR JUDICIAL REVIEW OF THE DECISION OF CIVIL
THE COUNTY BOARD OF APPEALS * ACTION
OF BALTIMORE COUNTY No. 3-C-99-11441
Room 49, Old Courthouse, 400 Washing- *
ton Avenue, Towson, MD 21204
*
IN THE CASE OF: IN THE MATTER OF
HOWARD H. CONAWAY, JR., ET UX *

RE: CODE INSPECTION AND ENFORCEMENT *
VIOLATIONS ON PROPERTY LOCATED IN
the 5TH ELECTION DISTRICT *
and 3RD COUNCILMANIC DISTRICT
*
CASE NO. CC-98-6302
* * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Charles L. Marks, Lynn Barranger 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, Howard L. Alderman, Jr., Esquire, and LEVIN & GANN, P.A., 305 West Chesapeake Avenue, Suite 113, Towson, Maryland 21204, Counsel for Petitioners, Howard H. Conaway, Jr. and Mai T. Conaway, 16535 Yeoho Road, Sparks, Maryland 21152, Petitioners; and Robert Loskot, Assistant County Attorney, Baltimore County Office of Law, 400 Washington Avenue, 2nd Floor, Towson, MD 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

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99 NOV 24 PM 1:32

Charlotte E. Radcliffe

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

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Howard L. Alderman, Jr., Esquire, and LEVIN & GANN, P.A., 305 West Chesapeake Avenue, Suite 113, Towson, Maryland 21204, Counsel for Petitioners, Howard H. Conaway, Jr. and Mai T. Conaway, 16535 Yeoho Road, Sparks, Maryland 21152, Petitioners; and Robert Loskot , Assistant County Attorney, Baltimore County Office of Law, 400 Washington Avenue, 2nd Floor, Towson, Maryland 21204, this 24th day of November, 1999.

Charlotte E. Radcliffe

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

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

November 24, 1999

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
Suite 113
305 W. Chesapeake Avenue
Towson, MD 21204

RE: Civil Action No. 3-C-99-11441
HOWARD H. CONAWAY, JR., ET UX

Dear Mr. Alderman:

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

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Mr. & Mrs. Howard H. Conaway, Jr.

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on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

November 24, 1999

Robert Loskot, Assistant
County Attorney
Baltimore County Office of Law
400 Washington Avenue, 2nd Floor
Towson, MD 21204

RE: Civil Action No. 3-C-99-11441
HOWARD H. CONAWAY, JR., ET UX

Dear Mr. Loskot:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on November 19, 1999, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-99-11441.

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

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: J. Carroll Holzer, Esquire
Cindy Frankel
Joe Verrett
Stanley J. Schapiro /Code Official
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co. Atty

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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-99-011441

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COUNTY BOARD OF APPEALS
NOV 23 PM 1:04
99

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

11/19/99

AGENCY COPY

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:	**Howard H. Conaway, Jr. & Mai T. Conaway** **16535 Yeoho Road** **Sparks, Maryland 21152**	**CIVIL**
FOR JUDICIAL REVIEW OF THE DECISION OF THE:		**ACTION**
	County Board of Appeals of Baltimore County **Old Courthouse, Room 49** **400 Washington Avenue** **Towson, Maryland 21204** **(410) 887-3180**	**NO.** C-99-11441
IN THE CASE OF:	**IN THE MATTER OF:** **HOWARD H. CONAWAY, JR. *et al*,** **OWNERS** **16535 Yeoho Road** **RE: Code Inspection and Enforcement Violation** **Case No. CC-98-6302**	

PETITION FOR JUDICIAL REVIEW

Howard H. Conaway, Jr. and Mai T. Conaway, his wife, Appellants and parties before the County Board of Appeals for Baltimore County in the above-referenced case, by Howard L. Alderman, Jr. and Levin & Gann, PA, their legal counsel, in accordance with Maryland Rule 7-202 hereby requests judicial review of the October 22, 1999 Decision of the County Board of Appeals of Baltimore County in the above-captioned matter.

Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204
(410) 321-0600

Attorneys for Appellants

FILED ~~Oct~~ Nov 19 1999

10/22/99

IN THE MATTER OF	*	BEFORE THE
HOWARD H. CONAWAY, JR. ET AL -		
LEGAL OWNERS /DEFENDANTS	*	COUNTY BOARD OF APPEALS
CIVIL CITATION /PROPERTY		
LOCATED AT 16535 YEOHO ROAD	*	OF
5TH ELECTION DISTRICT		
3RD COUNCILMANIC DISTRICT	*	BALTIMORE COUNTY
RE: CODE INSPECTION AND	*	CASE NO. CC-98-6302
ENFORCEMENT VIOLATION		

* * * * * * * * *

O P I N I O N

This case comes to the Board of Appeals based on a Code Inspection and Enforcement Violation /Civil Citation No. 98-6302 (BCC Section 1-7). A public hearing was held on September 16, 1999. Howard L. Alderman, Jr., Esquire, represented the Appellant /Legal Owner. Baltimore County was represented by Robert Loskot, Assistant County Attorney. J. Carroll Holzer, Esquire, had filed on August 30, 1999 a "Notice of Appearance" on behalf of Concerned Citizens of Sparks-Glencoe, Melissa and Hugh Bailey, Marlene Siegel and Cynthia Frankel. An "Intention of Cynthia Frankel, et al to Participate" in Case No. CC-98-6302, was filed with the Board at the time of public hearing.

At the commencement of the hearing, Mr. Alderman moved to strike Mr. Holzer's appearance on the basis that the subject matter before the Board was on an appellate level, and the persons represented by Mr. Holzer had no standing in this Code violation /enforcement matter. Also objected to was Mr. Holzer's submission of Ms. Frankel's "Testimony Summary" submitted as Exhibit No. 1, admitted for identification purposes only. The Board heard oral argument from counsel. Mr. Loskot had no objection to Mr. Holzer's entry in the case.

Hearing argument, the Board sustained the Motion to Strike Mr.

Holzer's appearance and Notice to Participate. While the Board supports public participation, this Board is limited in scope to the specific authority given to it by the County Council. In the instant matter, the authority of the Board is derived from BCC Section 1-7(g)(1), Appeal:

> Within fifteen (15) days of a final order issued at the conclusion of a code enforcement hearing, a violator may appeal to the board of appeals.

In accordance with Section 1-7(g)(2), Mr. Alderman filed a "Petition to Accompany Notice of Limited Appeal" on July 28, 1999, within 15-days of the final order date (Addendum to the Final Order). The Appellant's appeal was limited to:

> ...those portions of the Final Order which find and/or conclude that the Respondents are operating a "kennel" on the subject property and those portions ordering or otherwise requiring the Respondents "to apply for the required special exception hearing within a reasonable time or reduce the number of dogs to three....

No appeal was taken relative to "...there will be no civil penalty imposed."

Under BCC Section 1-7(g)(3), any appeal is heard in accordance with the Rules of Procedure adopted by this Board. Under the appellate procedures enacted by the County Council (Section 1-7(g)(4):

> The board hearing shall be limited to the record created before the code official. The record shall include, but not be limited to, the recording of the testimony presented to the code official, all exhibits and other papers filed in the code enforcement hearing, and the written findings and order of the code official. The unavailability of a recording is not grounds for dismissal of the final order. If a transcription of the recording is requested by the appellant, the appellant shall pay the cost. In lieu of a recording, the violator and the division of code inspection and enforcement may

present written summaries of the testimony presented to the code official.

In this case, the Hearing Officer neglected to press a button that would have initiated a recording. Therefore, no recording exists. The Board is in possession of "all exhibits...." While the lack of a recording is not grounds for dismissal, the Board finds itself lacking the actual testimony of the hearing and relying on the "written summaries of the testimony presented to the code official."

In denying the appearance of Mr. Holzer, the Board concludes that the only parties to the action are the Appellant and Baltimore County. While Mr. Holzer asserts the presence of Ms. Frankel at the original Code hearing, her testimony there, and the issue involving land use as vesting citizen participation rights, this Board takes a different posture. The "Concerned Citizens" had ample opportunity at the de novo hearing involving the Code violation to register their testimony and concerns. On appeal, this Board is obligated by statute to be the reviewing body. Additionally, if the "Concerned Citizens" have difficulty with the land usage by the Appellant, there are provisions within the Baltimore County Code that allow for special hearings to air their grievances. Indeed, reference is made to Case No. 98-247-XA in which an appeal was made to this Board from a final order of the Zoning Commissioner wherein a Petition for Special Exception was granted to this Appellant, with restrictions limiting the number of animals kept on the property, and a variance request to permit an exercise area was denied. On the day of that hearing, an agreement

was mutually stipulated on the record. Thereafter, Mr. Alderman, on behalf of the Appellant, withdrew the Petition without prejudice.

Mr. Holzer, on behalf of the protestants, sought to have the Board enforce the agreement, which authority this Board does not enjoy. The Board in its Dismissal Order stated:

> If a question of the appropriateness of a "farm" is present, in the minds of the Appellants, the appropriate course of action would be in a request for a special hearing.

The appropriateness of whether or not the site is a "kennel" or a "farm" is one that will be determined by this Board in the Code violation case between the Appellant and Baltimore County. Accordingly, the Board concludes there is no standing for the citizens represented by Mr. Holzer. Mr. Holzer objected for the record and made a proffer concerning Ms. Frankel's testimony to preserve the record.

Oral argument was offered to the Board concerning the limited appeal. Mr. Alderman contends that the "final order" issued by the Hearing Officer was dated July 13, 1999. An Addendum to the Final Order was subsequently issued containing the same provisions, but advising the Appellant of his appellate rights to this Board. The Board concludes that no harm or injury was caused to the Appellant by the Addendum and will not dismiss the action because of the Addendum notifying the Appellant of his appeal rights.

The real substance of this action is whether the Appellant's site is being used as a "kennel" or a "farm." Both carry distinct differences. The Code violation arose due to complaints lodged

against the Appellant concerning the issuance of a permit for a fence (B363057) -Commercial Dog Kennel under date of December 28, 1998. On December 29, 1998, after inspection, a Stop Work Order #109500 was issued. Upon re-inspection on January 19, 1999, the inspector was informed by Mr. Conaway that the Appellant had a zoning hearing that would define the property to be a farm.

On January 29, 1999, the inspector noted that the case should be rescheduled in March 1999. On March 17, 1999, as per the inspector's report, another subsequent visit was made with Linda Flavin of Animal Control. The inspector noted that the property consisted of a rancher with an outbuilding. There were present numerous goats with babies. The owner, Mr. Conaway, stated that they were being used for income. Inside the rancher basement were dogs (eight French Bulldogs with some puppies). The dogs were in crates, with fresh water and clean conditions. The inspector indicated that the kennel was okay and would be approved. There was no problem with the presence of goats. That particular visit was for kennel approval, and not from a neighbor's complaint.

On March 25, 1999, the case was closed since the County determined that no permit was necessary since this was not "an actual commercial dog run." On April 27, 1999, following dismissal of the pending Board of Appeals case filed by the Appellant for a special exception, Mr. James H. Thompson wrote Mr. Conaway concerning the dismissal. He noted that, having dismissed the action, the special exception was needed since four or more adult dogs were housed at 16535 Yeoho Road, in an R.C. 2 zone, which

required approval of a special exception. Mr. Conaway was advised that if he contended that his property was a farm, a special hearing petition would be needed, and the Appellant was required to take action on the special hearing matter by May 11, 1999, or face a fine of $200.00 per day. Also withdrawn was the March 17, 1997 approval of the Appellant's fancier kennel license (#172-F) under Title 6, Section 6-8, of the Baltimore County Code.

Mr. Alderman responded to that letter on June 4, 1999 alleging use of the property as a "farm," precluding any further action on the part of the Appellant. A Code hearing was held on July 13, 1999 for violation of the Baltimore County Zoning Regulations (BCZR), Sections 101, 102.1, 1A01.2C.2, 502 and 421. Citation No. 98-6302 cites the Appellant "with operating a kennel without a special exception approval."

At the hearing before the Hearing Officer, Mr. Alderman submitted the following exhibits, also accepted as evidence in this case:

Respondent's Exhibit	1	Real Property Information dated July 13, 1999
	2	Deed, dated October 21, 1997
	3	General Provisions of BCZR, dated 1998 edition through July 6, 1998 1-21
	4	General Provisions of BCZR, dated 1998 edition through July 6, 1998 1-15
	5	General Provisions of BCZR, dated 1998 edition through July 6, 1998 1-5
	6	1998 Supplement, two pages
	7	Letter from Howard L. Alderman, Jr., Esquire, to Arnold Jablon, dated January 7, 1999
	8	Letter from Jun R. Fernando, to Howard L. Alderman, Jr., Esquire,

dated January 11, 1999
9 Letter from Jun R. Fernando, to Howard L. Alderman, Jr., Esquire, dated January 25, 1999
10 Letter from W. Carl Richards, Jr., to Howard L. Alderman, Jr., Esquire, dated June 8, 1999

The Hearing Officer agreed that the exhibits reflected the property fulfilling an agricultural use. However, he discounted the "farm" use and determined that the property "more closely resembled and was used as a kennel pursuant to a visible inspection and not a viable agricultural use." Unfortunately, the Hearing Officer neglected to press the correct recorder button; therefore, no recorded testimony is present.

Under BCZR Section 101:

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

Mr. Alderman subsequently submitted "A Summary of Testimony Before County Code Official" on September 29, 1999 without prejudice that the issue on appeal did not waive the Appellant's position that the only issue is one of statutory construction. That summary essentially acknowledges that there were in excess of 30 goats on the subject property, and that the Inspector visually

inspected the site, and in addition to the goats, observed 9 dogs and 7 puppies. Testimony was also offered that other dogs in the neighborhood are louder in noise than those of the Appellant's. The subject property consists of approximately 9 acres, all zoned R.C. 2 (Agricultural) and that the enforcement officer was aware of the Petitioner's keeping of goats for income production.

The issue before this Board is one that requires a determination as to the effect and presence of the dogs as it applies to the definition of a "farm" as defined by the Baltimore County Zoning Regulations. Under BCZR Section 101, a farm is defined as follows: "A farm is 3 acres or more of land, and any improvements thereon, used primarily for commercial agriculture, as defined in these regulations, or for residential and associated agricultural uses." It is undisputed that the subject property contains roughly 9 acres (more or less), all of which is zoned R.C. 2 (Agricultural). The Appellant's Exhibit No. 1 indicates that the Maryland Department of Assessments and Taxation has the use of the property as "agricultural," and is subject to the Agriculture Transfer Tax.

The essential question is one of determining whether or not the presence of the dogs on the "farm" is an "ancillary activity of the farm"; or, more appropriately, constitutes the presence of a "kennel" within the confines of a "farm."

Under BCZR Section 101, a "kennel" is defined as:

> Any building, other structure or land, or any portion thereof, which is used, intended to be used, or arranged for the housing of more than three dogs, not counting puppies less than 4 months, for the purpose of show, hunting, breeding, or

sale, or as pets, excluding a farm or pet shop. [Bill No. 85-1967]

To avoid any future issues, public deliberation took place on October 12, 1999, in light of what was a land issue, and an interpretive matter. A substantial number of factors lead the Board to the conclusion that the Code Enforcement Officer was correct in his determination that the Appellant must file for special exception under Section 1A01.2.C.2 for a dog kennel in an R.C. 2 zone. The Board places considerable weight on the admitted facts of this case. There is no doubt that the goats were not acquired until months after the special exception petition was dismissed by the Petitioner, without prejudice, on February 23, 1999, by Board Order at the request of the Appellant. It is also apparent to this Board that despite the mutual agreement made on the record concerning the "kennel" use, the Appellant continued the "admitted" kennel use under the guise of marketing a "farm" operation with the dogs being necessary for goat protection and maintenance as an "ancillary activity" under the BCZR definition of "commercial agriculture."

There was no evidence produced or submitted before the Hearing Officer to substantiate the fact that the presence of the nine dogs and seven puppies (most of which were in crates) contributed to the management or protection of the goats or "farm." No evidence was produced that the English and French Bulldogs (and one Bull Mastiff with puppies) are dogs normally or customarily functionally used in "farm" activities. One must also remember that the principal purpose of the enforcement officer's visit was to consider the

"premise of approving a fancier kennel license." More importantly, while the BCZR in a definition of commercial agriculture permits ancillary activities as specified, the Board is unable to establish the relationship between the presence of the dogs and any "ancillary activity." Indeed, if any exists, only the "managing" aspect is closest to the goat activity, and based on the total circumstances, the Board concludes that that would be an outrageous stretch of definition that the dogs in any manner contribute to the "management" of the goats or farm security.

While the Board has questions concerning whether or not the property qualifies for the agricultural assessment as "land that is actively used for farm or agricultural use," and enjoys a commercial agricultural use, which was determined by the Hearing Officer, the sole question before the Board is the ancillary usage. The Code Enforcement Officer determined that "the kennel use does not appear to be an ancillary activity in that it does not originate from the primary agricultural use (the rearing of goats and associated animal husbandry practices). The dogs are an entity unrelated to the raising and breeding of goats. They perform no function relative to the goat herd and therefore are not considered ancillary or secondary to the principal agricultural operations."

The Code Enforcement Officer held that, while a farm would be entitled to an exclusion, it must meet the standards of actually being secondary to the principal use to enjoy such an exclusion, and that condition had not been met since there was no evidence that the dogs were bred, trained, or raised to guard the goats or

herd the goats.

Therefore, this Board shall affirm the findings of the Deputy Hearing Officer.

O R D E R

THEREFORE, IT IS THIS 22th **day of** October, **1999 by** the County Board of Appeals of Baltimore County

ORDERED that the decision of the Deputy Hearing Officer dated July 13, 1999 be and the same is **AFFIRMED.**

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

Charles L. Marks, Chairman

Lynn Barranger

Margaret Worrall

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

October 22, 1999

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
305 W. Chesapeake Avenue
Suite 113
Towson, MD 21204

RE: In the Matter of Howard H. Conaway, Jr.
Case No. CC-98-6302 (Civil Citation)

Dear Mr. Alderman:

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, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** 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,

Charlotte E. Radcliffe for

Kathleen C. Bianco
Administrator

encl.

cc: Howard H. Conaway, Jr. and
Mai Tuisk Conaway
J. Carroll Holzer, Esquire
Ms. Cindy Frankel
Joe Verret
Stanley J. Schapiro, Code Official
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney
Robert Loskot, Assistant County Attorney

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on Recycled Paper

1/24/79

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

IN THE MATTER OF: **Howard H. Conaway, Jr.** **and** **Mai Tuisk Conaway,** ***Respondents*** **Property Address: 16535 Yeoho Road**	**Case No.: CC-98-6302**

RECEIVED
COUNTY BOARD OF APPEALS
99 SEP 29 PM 3:12

SUMMARY OF TESTIMONY BEFORE COUNTY CODE OFFICIAL

In accordance with *Baltimore County Code* §1-7(g)(4), and the verbal direction received from the County Board of Appeals for Baltimore County at the hearing held on the limited appeal in the above-referenced case, Howard H. Conaway, Jr. and Mai Tuisk Conaway, Respondents in the above-captioned limited appeal of Civil Citation, through their undersigned legal counsel, hereby submit a summary of testimony that was offered before the Baltimore County Code Official on the hearing held on the Civil Citation.

1. The Respondents have located on the subject property in excess of 30 goats.

2. Ms. Donna Thompson, the County Code Enforcement Inspector visited the subject property and in addition to the goats saw 9 dogs and several puppies.

3. The County Code Enforcement Inspector acknowledged that the Respondents' Property contained approximately 9 acres, all zoned RC-2 (Agricultural).

4. The complainant offered testimony that other dogs in the neighborhood produce more noise than any dogs located on the subject property.

5. The County Code Enforcement Inspector was aware of the Respondents' keeping of goats for production of income.

6. The County Code Enforcement Inspector indicated that upon her visit to the subject property, she did not recall any barking of the Respondents' dogs.

7. After her initial visit to the subject property, the County Code Enforcement Inspector advised the Respondents to obtain a "fanciers" license, which they did and which was later rescinded by the County.

8. The County Code Enforcement Inspector introduced a copy of a letter from W. Carl Richards (Exhibit No. 10) to counsel for the Respondents, suggesting that the County had a "position" which dated back to the 1960's that modified the farm exclusion contained in the adopted definition of kennel.

9. On cross-examination, the County Code Enforcement Inspector was asked if the County had an "adopted policy regarding dogs that would exclude them from the adopted definition 'kennel' contained in the Baltimore County Zoning Regulations" and her answer was that there was no such adopted policy.

10. On cross-examination, the County Code Enforcement Inspector indicated that she was unaware of commercial burglar alarms that produce a "silent alert" rather than or in addition to the sounding of a siren.

11. On cross-examination, the County Code Enforcement Inspector was asked why the Respondents' property did not meet the definition of "farm" contained in the Baltimore County Zoning Regulations and her answer was that "it does."

12. On cross-examination, the County Code Enforcement Inspector was asked how property that qualifies as a farm use that also had more than 3 dogs can be considered a kennel and she responded that, except for the "position" described by Mr. Carl Richards in his letter (Exhibit

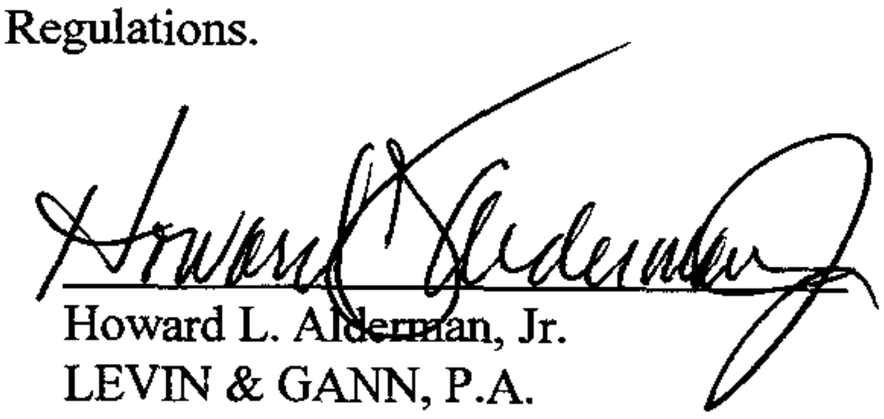
No. 10) she did not know why such use would be deemed a kennel.

13. On cross-examination, the County Code Enforcement Inspector was asked what regulation she or the Code Official could rely on to modify the otherwise express farm exclusion contained in the definition of 'kennel' and she advised that the only thing that she was aware of was Mr. Richards' letter (Exhibit 10).

14. On cross-examination, the County Code Enforcement Inspector was unable to produce any definitional reference to the terms "farm dog" or "working dog".

15. On cross-examination, the County Code Enforcement Inspector did not dispute the determination by the State of Maryland that the Respondents' property is a farm.

16. On cross-examination, in her capacity as a Baltimore County official responsible for the enforcement of the laws and regulations of Baltimore County, the County Code Enforcement Inspector conceded that the issue pending before the Code Official was the application of the law as enacted by the County Council, i.e. the express farm exclusion contained in the definition of "kennel" in the Baltimore County Zoning Regulations.

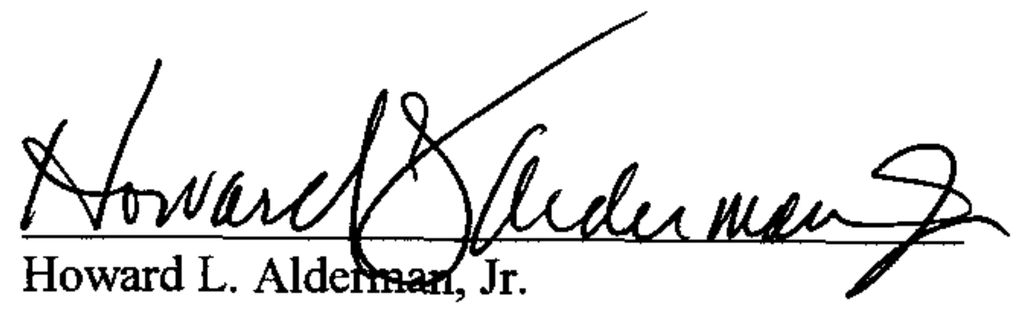


Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204
(410) 321-0600
Attorney for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of September, 1999, a copy of the foregoing *Summary of Testimony Before County Code Official* was mailed, postage prepaid, First Class United States Mail to:

C. Robert Loskot, Assistant County Attorney
Baltimore County Office of Law
400 Washington Avenue, 2nd Floor
Old Courthouse
Towson, MD 21204



Howard L. Alderman, Jr.

BALTIMORE OFFICE
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BALTIMORE, MARYLAND 21201
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LEVIN & GANN
A PROFESSIONAL ASSOCIATION
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TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
halderma@bcpl.net

September 29, 1999

RECEIVED
COUNTY BOARD OF APPEALS
99 SEP 29 PM 3:12

VIA HAND DELIVERY
Charles L. Marks, Chairman
County Board of Appeals for Baltimore County
400 Washington Avenue
Old Court House, Room 49
Towson, Maryland 21204

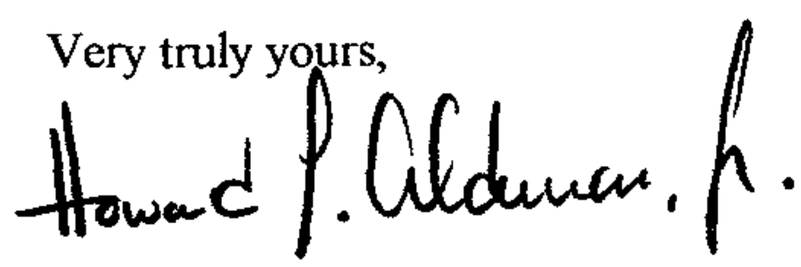
Re: Howard H. Conaway, Jr. et al
Case No. CC-98-6302
Summary of Testimony before County Code Official

Dear Chairman Marks:

At the recent hearing held on the above-referenced **limited appeal** to the County Board of Appeals for Baltimore County, you provided my clients, Mr. and Mrs. Howard H. Conaway, Jr., the opportunity to provide a written summary of testimony that was offered before the County Code Official. I am forwarding the enclosed summary to you, which was prepared using my notes taken during the conduct of the hearing before the Code Official and the notes taken by my clients. This information is being submitted in accordance with the verbal offer of the Board. The submission of the enclosed information in no way waives my clients' position that the issue pending on appeal is solely one of statutory construction. In addtion to reciting the evidence offered before the County Code Official on the construct of the relevant statutes, we have included a summary of testimony related to facts introduced into evidence before this Board by the County (written letter from Ms. Frankel).

Thank you for the opportunity to submit this information and should you or any member of the Board desire additional information, as always, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA,Jr./dmh
Enclosure
cc: Mr. and Mrs. Howard H. Conaway, Jr.
C. Robert Loskot, Assistant County Attorney

C:\WPWIN\HLA.LTR\Conaway\ltr to marks re summ of test

9/10/99

BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY, MARYLAND	*	
	*	
IN THE MATTER OF:		
Howard H. Conaway, Jr.	*	APPEAL OF CIVIL CITATION NO. 98-6302
and	*	
Mai Tuisk Conaway	*	
Respondents	*	
Property Address: 16535 Yeoho Road	*	

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

INTENTION OF CYNTHIA FRANKEL, ET AL TO PARTICIPATE IN THE ABOVE CAPTIONED APPEAL

Cynthia Frankel, et al. by J. Carroll Holzer and Holzer and Lee, hereby indicate their intention as "interested parties" to participate in the above captioned appeal from the decision of the Baltimore County Code Official in regard to the above captioned matter.

Cynthia Frankel testified as a witness in the proceedings before the Code Official on July 13th, 1999, as a witness for the County concerning violations under the Baltimore County Zoning Regulations. Ms. Frankel appeared and testified before Raymond S. Wisdom, Jr., Deputy Hearing Officer, insofar as the facts related to this case.

Cynthia Frankel submits herewith a summary of her testimony in the above matter as permitted by the Baltmore County Code, Sec. 1-7 (g) (4), attached hereto and incorporated herein as **Exhibit #1**.

Frankel's right to participate before the CBA is based upon an administrative proceeding open to the public that has been recognized by Maryland's Appellate Courts in Morris v. Howard

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX· (410) 825-4923

Research and Development Corporation, 278 Md. 417 (1976) and Sugarloaf Citizens' Association, et al. v. Department of the Environment, et al., 344 Md. 271 (1996).

The history of this case represents "gamesmanship" by the Respondents in attempting to manipulate the system to their advantage.

Two years ago the Respondents, recognizing the BCZR requirement for zoning approval, filed a Petition for Special Exception in Case No. 98-247-XA, to permit a dog kennel under BCZR, Sec. 1A01.2C.2 in order for them to breed and keep more than three dogs on their property. Respondents testified to the Zoning Commissioner to their intent to breed and raise dogs on their property. After receiving limited approval subject to certain restrictions, this case was appealed to this Board of Appeals.

At the CBA, Respondents entered into an Agreement on the record with the party Protestants, including the same Cynthia Frankel. This Agreement was abrogated by the Respondents subsequently dismissing their Petiton without prejudice over the objections of the Protestants and Ms. Frankel. (See CBA Opinion of February 23, 1999).

Respondents then began operating a kennel on their property claiming the addition of "goats" made their property on Yeoho Road a "farm" under the BCZR. This claim was rejected by the Final Order of the Deputy Hearing Officer on July 13, 1999.

This Board should affirm the findings below based upon precedent in Case No. 99-326 SPHX, Barbara Cochran Petitioner, wherein the Zoning Commissioner granted Special Exception status for dog kennel in a RC-2 zone. See also this Board's decision in Case No. 97-494 SPH, Mary Pat Marzullo, Petitioner, involving the interpretation of the word "farm" where there is a specific category within the zoning regulation to fit the "use" of the Respondent.

Specifically, in the instant case, Frankel, et al. responds to the Petition to Accompany the Appeal as follows:

1. Paragraphs 1- 4 - Admit
2. Paragraph 5 – Deny
3. Paragraph 6 – BCC, Sec. 1-7 (g) (4) "The unavailability of a recording is not grounds for dismissal of the final order."
4. Paragraphs 7 – 14 – Deny

WHEREFORE, this Board should affirm the findings of the Deputy Hearing Officer.

Respectfully submitted,

J. Carroll Holzer
508 Fairmount Ave.
Towson, MD 21286
410-825-6961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of September, 1999, a copy of the foregoing Intention of Cynthia Frankel to Participate was hand delivered to Howard Alderman, Esquire of Levin & Gann, 305 West Chesapeake Ave., Towson, MD 21204; and Robert Loskot, Esquire, Assistant County Attorney, Old Courthouse, Towson, MD 21204.

J. Carroll Holzer

My Documents\Intentions\Cynthia Frankel – Intention to Participate

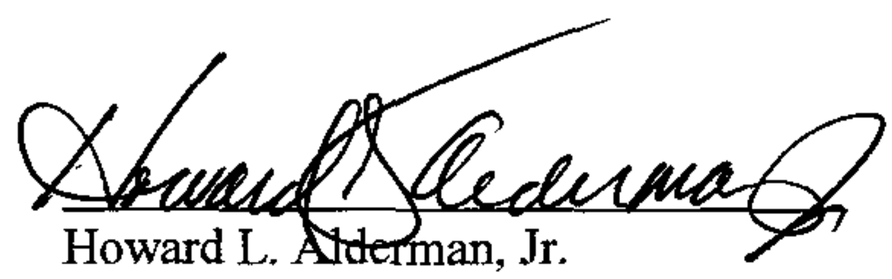
7/23/99

BEFORE THE CODE OFFICIAL FOR BALTIMORE COUNTY

IN THE MATTER OF: **Howard H. Conaway, Jr.** **and** **Mai Tuisk Conaway,** ***Respondents*** **Property Address: 16535 Yeoho Road**	**CIVIL** **CITATION** **NO.: 98-6302**

LIMITED APPEAL of *FINDINGS OF FACT AND CONCLUSIONS OF LAW OF FINAL ORDER OF THE CODE OFFICIAL* and of *ADDENDUM TO THE FINAL ORDER*

In accordance with *Baltimore County Code* §1-7(g)(1), Howard H. Conaway, Jr. and Mai Tuisk Conaway, Respondents in the above-captioned Civil Citation, through their undersigned legal counsel, hereby note a **limited appeal** (as described herein and in the Petition to Accompany this limited appeal, which is incorporated herein by reference) of the *Findings of Fact and Conclusions of Law Final Order of the Code Official*, dated July 13, 1999, and of the *Addendum to the Final Order*, dated July 13, 1999 (collectively the "Final Order"). Respondents' check No. 1830, in the amount of One Hundred Fifty Dollars and 00/100 is enclosed herewith as required by §1-7(g)(2) of the *Baltimore County Code*. **Respondents' appeal is limited to** those portions of the Final Order which find and/or conclude that Respondents are operating a "kennel" on the subject property and those portions ordering or otherwise requiring the Respondents "to apply for the required special exception hearing within a reasonable amount of time or reduce the number of dogs to three", together with all findings of fact and conclusions of law of the Code Official/Hearing Officer for the Department of Permits and Development Management in support thereof. No appeal is noted or taken of the Final Order of the Code Official/ Hearing Officer that "there will be no civil penalty imposed."



Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204
(410) 321-0600
Attorney for Respondents

7/13/99

IN RE: **HOWARD H. CONAWAY, JR. and MAI TUISK CONAWAY 16535 Yeoho Road Sparks, Maryland**	**BEFORE THE COUNTY CODE OFFICIAL FOR BALTIMORE COUNTY**
Howard H. Conaway & Mai Tuisk Conaway,	
Owners/Respondents	**Case No. 98-6302**

ENTRY OF APPEARANCE

Mr. Schapiro:

Please enter the appearance of the undersigned counsel on behalf of the Owners/Respondents in the above-captioned case.

Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204

(410) 321-0600

Attorneys for the Owners/Respondents

Date: July 13, 1999

7/3/99

BEFORE THE CODE OFFICIAL FOR BALTIMORE COUNTY

IN THE MATTER OF: **Howard H. Conaway, Jr.** **and** **Mai Tuisk Conaway,** ***Respondents*** **Property Address: 16535 Yeoho Road**	**CIVIL** **CITATION** **NO.: 98-6302**

PETITION TO ACCOMPANY NOTICE OF LIMITED APPEAL

In accordance with *Baltimore County Code* §1-7(g)(2), Howard H. Conaway, Jr. and Mai Tuisk Conaway, Respondents in the above-captioned Civil Citation, through their undersigned legal counsel, hereby submit the required Petition to Accompany the **limited appeal** filed by them of the *Findings of Fact and Conclusions of Law Final Order of the Code Official*, dated July 13, 1999, and of the *Addendum to the Final Order*, dated July 13, 1999 (collectively the "Final Order") and in support thereof state:

1. The Respondents are the owners of the property identified as 16535 Yeoho Road ("Respondents' Property").

2. The Respondents, by virtue of the above-referenced Civil Citation, were charged with: i) the "operation of kennel on Respondents' Property without a special exception"; and ii) unlawfully violating, on Respondents' Property, the "following Baltimore County laws or regulations": "1A01(RC2)" and "B.C.Z.R. 101, 102.1, 1A01.2.C.2, 502, 421" (collectively, the "Charges").

3. The Respondents appeared personally and through legal counsel at the hearing held in Room 106 of 111 West Chesapeake Avenue, on July 13, 1999 (the "Hearing") by the Baltimore

County Code Official/Hearing Officer for the Department of Permits and Development Management (hereafter referred to as the "Code Official") in response to the Charges.

4. During the Hearing, testimony was taken and written evidence submitted regarding the Charges.

5. The Final Order fails to recite accurately and/or completely the testimony of Donna Thompson, Code Enforcement Officer offered at the Hearing.

6. Due to a purported mistake by the Code Official, there is no recording of the testimony offered at the Hearing.

7. The findings of fact and conclusions of law of the Code Official regarding any perceived "ancillary activity" or "secondary" use on Respondents' Property have no basis in the law or regulation applicable to the Charges brought against the Respondents.

8. The Code Official relied on a purported "interpretation" that is contrary to the law and regulation applicable to the Charges brought against the Respondents and the uses conducted on Respondents' Property.

9. The Final Order of the Code Official mandating that Respondents apply for a special exception or reduce "the number of dogs" is contrary to applicable law and regulation and contravenes the testimony of the Code Enforcement Officer.

10. The Final Order of the Code Official exceeds the statutory authority of the Code Official.

11. The Final Order of the Code Official exceeds the jurisdiction of the Code Official.

12. The Final Order of the Code Official is unsupported by competent, material and substantial evidence in light of the entire record, including without limitation the testimony offered at the Hearing.

13. The Final Order of the Code Official is arbitrary and capricious.

14. The Final Order of the Code Official is contrary to the applicable common law of this State and otherwise affected by errors of law.

Respondents, therefore, request that the County Board of Appeals for Baltimore County:

A. DISMISS, with prejudice, the Charges;

B. REVERSE that portion of the Final Order requiring the Respondents to apply for a special exception;

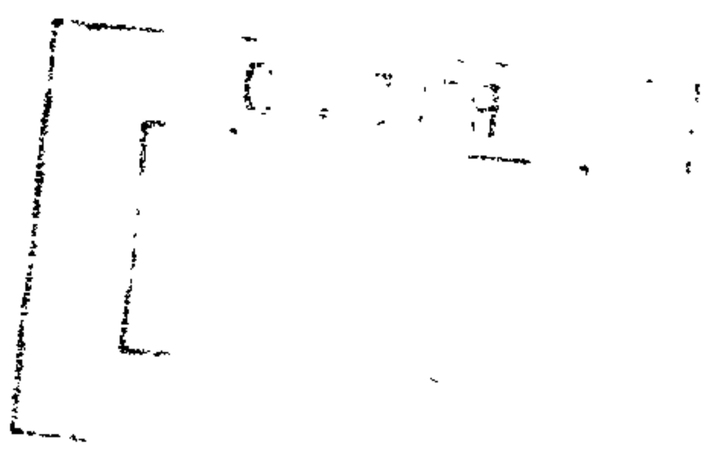
C. REVERSE all portions of the Final Order which conclude that the Respondents are operating, on Respondents' Property, a "kennel" as defined in the *Baltimore County Zoning Regulations*;

D. REVERSE all portions of the Final Order which find, conclude and/or order that the uses on Respondents' Property fail to qualify as a *bona fide* "farm" as that term is defined in the *Baltimore County Zoning Regulations* or that the Respondents have failed to meet any condition associated with such definition of "farm";

E. REVERSE any and all portions of the Final Order which find, conclude and/or order that the Respondents must "reduce the number of dogs to three" on Respondents' Property; and

F. GRANT such further relief as the nature of this case, the evidence in the record and the issues argued on appeal to this Board may require.

Respectfully submitted,



Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204
(410) 321-0600
Attorney for Respondents

2/23/99

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF		
HOWARD H. CONAWAY, JR., ET UX	*	COUNTY BOARD OF APPEALS
FOR SPECIAL EXCEPTION AND		
VARIANCE ON PROPERTY LOCATED	*	OF
2800' NW OF C/L BENSON MILL		
ROAD IN THE CENTER OF YEOHO	*	BALTIMORE COUNTY
ROAD (16535 YEOHO ROAD)		
5TH ELECTION DISTRICT	*	CASE NO. 98-247-XA
3RD COUNCILMANIC DISTRICT		

* * * * * * * * *

ORDER OF DISMISSAL OF PETITION

This case was originally opened on the record on November 18, 1998 based on an appeal of the Zoning Commissioner's Opinion and Order dated March 31, 1998 in which a Petition for Special Exception was granted, with restrictions limiting the number of animals kept on the property; and the variance request to permit an exercise area was denied. A timely appeal was filed on April 30, 1998 to this Board.

No testimony or evidence was taken by the Board on November 18, 1998. The parties and counsel worked diligently to effect a mutual settlement. The Board convened and the settlement was read into the record. All parties affirmatively agreed to the settlement which was to have been reduced to writing, submitted for signatures, and ultimately provided to this Board. Since that date, efforts to finalize the written settlement have not been fruitful. J. Carroll Holzer, Esquire, at the request of the Appellants, requested the case to be rescheduled before the Board.

On January 27, 1999, Howard L. Alderman, Jr., Esquire, submitted "Withdrawal of Petitions Without Prejudice"; and a proposed order for the consideration of the Board, pursuant to Rule 3(b) of the Rules of Procedure adopted by the Board:

> "An appeal may be withdrawn or dismissed at any time prior to the conclusion of the hearing on said appeal."

On the hearing date, no one representing the Petitioners appeared.

Mr. Holzer was in attendance with a substantial number of the Appellants. At that time, he related that the Petitioners had secured a permit from the County (#B363057) for a fence; and a subsequent Stop Work Order (#10950) for the fence had been issued. He indicated that the Petitioner was now alleging use of the property as a "farm" with 12 goats, as distinguished from a "kennel" as approved by the Zoning Commissioner.

Counsel was essentially seeking an enforcement order by this Board based on the recorded agreement as stipulated in the hearing transcript of November 18, 1998; and, if withdrawal was to be permitted, that should be done "with prejudice" in order to prevent the Petitioner from filing another special exception before the expiration of 18-month period. (See BCZR 500.12.)

The Board considered the request and reached the following conclusions:

1) The rules of the Board are quite explicit concerning the right to withdraw or dismiss appeals prior to the conclusion of the matter. In this de novo hearing, jurisdiction is conferred upon the Board. The prior decisions of the Zoning Commissioner are of no effect. While the case was opened on the record, no testimony or evidence was submitted for the Board's review. The Board has taken a liberal view toward such dismissals /withdrawals, even to the point of deliberation commencement as long as a decision has not been reached. The Board is constrained, therefore, to recognize the request made by Counsel for the Petitioner, and also recognize the withdrawal as one "without prejudice." To withdraw has the effect of rendering the Zoning Commissioner's Order "null and void" and of no effect.

2) While Counsel's request for enforcement of the agreement

based on the transcript of November 18, 1998, is interesting this Board lacks such authority, and any such request is more appropriately made through the Circuit Court for Baltimore County.

3) If a question of the appropriateness of "farm" is present in the minds of the Appellants, the appropriate course of action would be in a request for special hearing.

4) Because Section 500.12 of the BCZR references a denial of the special exception, and the Board is not denying the special exception (not having heard the case), but approving the withdrawal without prejudice, this section is not applicable to this matter.

For the reasons so stated, the Board will approve the Petitioner's request for a withdrawal and dismissal of the case without prejudice.

O R D E R

THEREFORE, IT IS this 23rd day of February, 1999 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing filed in Case No. 98-247-XA is **WITHDRAWN AND DISMISSED** without prejudice, and that the Zoning Commissioner's Order of March 31, 1998, including the relief granted therein, is rendered null and void.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Chairman

Thomas P. Melvin

Lawrence S. Wescott

County Board of Appeals of Baltimore County

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

February 23, 1999

J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, MD 21286

RE: Case No. 98-247-XA
Howard H. Conaway, Jr., et ux

Dear Mr. Holzer:

Enclosed please find a copy of the Board's Order of Dismissal of Petition issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrator

Enclosure

cc: Concerned Citizens of Sparks-
Glencoe and Marlene Siegel c/o
J. Carroll Holzer, Esquire; and
Melissa and Hugh Bailey
Howard L. Alderman, Jr., Esquire
Mr. and Mrs. Howard H. Conaway, Jr.
People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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1/21/99

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE **16535 Yeohon Road** **5th Election District** **3rd Councilmanic District** **Howard H. Conaway, Jr., *et ux*,** **Owners/Petitioners**	**BEFORE THE** **COUNTY BOARD** **OF APPEALS** **FOR** **BALTIMORE COUNTY** **Case No.: CBA-98-247-XA**

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COUNTY BOARD OF APPEALS

WITHDRAWAL OF PETITIONS WITHOUT PREJUDICE

Howard H. Conaway, Jr. and Mai T. Conaway, the Petitioners and property owners of the property which is the subject of the above-captioned case, by and through their authorized, undersigned legal counsel, pursuant to Rule 3.b of the Rules of Procedure adopted by this Board, hereby withdraw without prejudice, the Petition for Special Exception and the Petition for Variance filed in the above-captioned case.

LEVIN & GANN, P.A.

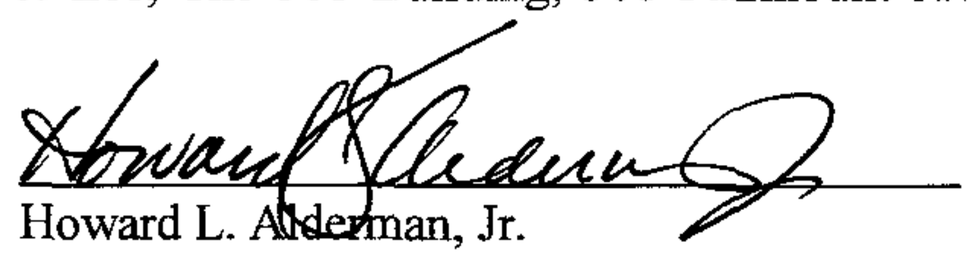
By: Howard L. Alderman, Jr.

Howard L. Alderman, Jr.
305 West Chesapeake Avenue
Suite 113
Towson, MD 21204
(410) 321-0600
Attorneys for Petitioners/Owners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of January, 1999, a copy of the foregoing Withdrawal of Petitions Without Prejudice and the proposed Order included therewith, was sent via

telefax to J. Carroll Holzer, Esquire (at 410-825-4923)and was mailed via First-Class, United States Mail to J. Carroll Holzer, Esquire, Holzer & Lee, The 508 Building, 508 Fairmount Avenue, Towson, Maryland 21286.



Howard L. Alderman, Jr.

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE **16535 Yeohon Road** **5th Election District** **3rd Councilmanic District** **Howard H. Conaway, Jr., *et ux*,** **Owners/Petitioners**	**BEFORE THE** **COUNTY BOARD** **OF APPEALS** **FOR** **BALTIMORE COUNTY** **Case No.: CBA-98-247-XA**

ORDER

Upon the filing, pursuant to Rule 3.b of the Rules of Procedure adopted by this Board, and prior to the conclusion of the hearing on the above-captioned appeal, of the Withdrawal of Petitions Without Prejudice by the Petitioners and property owners in this case, subject matter jurisdiction is no longer vested in this Board on the Petitions. Therefore, the appeal pending before this Board must be dismissed as moot.

THEREFORE, IT IS THIS _____ day of January, 1999, by the County Board of Appeals for Baltimore County:

ORDERED that the Petition for Special Exception and the Petition for Variance, having been withdrawn without prejudice by the Petitioners, be and the same is DISMISSED as moot; and it is further

ORDERED that the appeal filed in the above-captioned case by the Concerned Citizens of Sparks-Glencoe, Marlene Siegel and Melissa and Hugh Bailey, be and the same is DISMISSED as moot.

Any petition for judicial review of 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 FOR
BALTIMORE COUNTY

_____

_____

_____

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
Halderman@counsel com

99 JAN 27 PM 12:04
RECEIVED
COUNTY BOARD OF APPEALS

January 27, 1999

VIA HAND DELIVERY

Ms. Kathleen Bianco, Administrative Assistant
County Board of Appeals for Baltimore County
400 Washington Avenue
Old Courthouse, Room 49
Towson, Maryland 21204

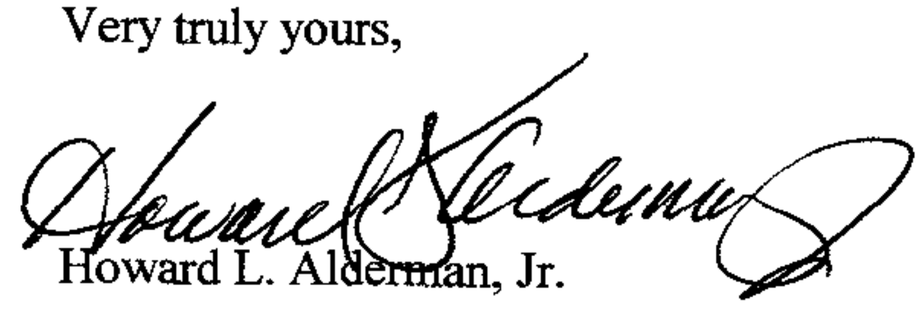
RE: Case No.: CBA 98-247-XA
Howard H. Conaway, Jr., *et ux*, Petitioners

Dear Ms. Bianco:

My clients have authorized me to file with this Board the enclosed Withdrawal of Petitions Without Prejudice and the proposed Order. A hearing on this matter was scheduled before the Board, tomorrow at 10:00 a.m. With the filing of the enclosed Withdrawal, that hearing should be removed from the Board's docket.

Should you or the Board desire any additional information in this regard, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosures
c (w/encl.): Mr. and Mrs. Howard H. Conaway, Jr.
J. Carroll Holzer, Esquire

4/30/98

4/30/98
8
R03

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE.	*	BEFORE THE
2800 ft. NW of c/1 Benson Mill Road in the Center of Yeoho Road	*	ZONING COMMISSIONER
16535 Yeoho Road	*	OF BALTIMORE COUNTY
5th Election District		
3rd Councilmanic District	*	Case No. 98-247-XA
Howard H. Conaway, Jr., et ux		
Petitioners	*	

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

NOTICE OF APPEAL

Concerned Citizens of Sparks-Glencoe, Melissa and Hugh Bailey and Marlene Siegel, by and through their attorney J. Carroll Holzer, Holzer and Lee, hereby note an appeal to the County Board of Appeals from the decision of the Zoning Commissioner granting the Petition for Special Exception in the above captioned matter.

Appellants were parties below and fully participated in the hearing before the Zoning Commissioner. Enclosed is a check to cove the cost of the appeal and sign.

Respectfully submitted,

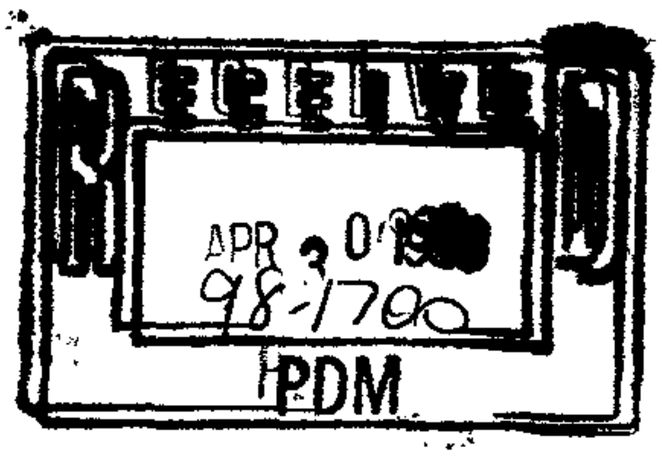
J. Carroll Holzer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 30th day of April, 1998 a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to Howard Alderman, Jr., Levin & Gann, P.A., 305 Washington Avenue, Suite 113, Towson, Maryland 21204.

J. Carroll Holzer

a:notices\yeoho.noa



LAW OFFICE
HOLZER AND LEE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MARYLAND
21204

(410) 825-6961
FAX (410) 825-4923

3/31/98

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE.	*	BEFORE THE
2800 ft. NW of c/l Benson Mill Road in the center of Yeoho Rd.	*	ZONING COMMISSIONER
16535 Yeoho Road	*	OF BALTIMORE COUNTY
5th Election District		
3rd Councilmanic District	*	Case No. 98-247-XA
Howard H Conaway, Jr., et ux		
Petitioners	*	

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on Petitions for Special Exception and Variance, for the property located at 16535 Yeoho Road in northern Baltimore County. The Petitions were filed by Howard H. Conaway, Jr., and Mai T. Conaway, property owners. Special Exception approval is requested for a dog kennel in an R.C.2 zone, pursuant to Section 1A01.2.C.2 of the Baltimore County Zoning Regulations (BCZR). Variance relief is requested from Section 421.1 of the BCZR, to permit an exercise area, as part of the dog kennel, to be enclosed with a 6 ft. fence and to be located 14 ft. from the nearest property line. The subject property and requested relief are more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petitions for Special Exception and Variance.

Appearing at the requisite public hearing held for this case was Howard H. Conaway, Jr., property owner. He was represented by Howard L. Alderman, Jr., Esquire. Numerous individuals from the surrounding locale appeared in opposition. Their names and addresses appear on the Protestants' Sign-In Sheet which was circulated at the hearing (copy attached hereto). Mr. and Mrs. Hugh S. Bailey, who reside across the street at 16534 Yeoho Road, also appeared as Protestants and were represented by J. Carroll Holzer, Esquire. In addition, a Petition was submitted at the hearing signed by numerous individuals who were unable to attend but who also indicated their opposition to the request.

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Date 3/31/98
By

Mr. Conaway testified in support of the Petitions. He indicated that the subject property is approximately 9.3 acres in area, zoned R.C.2. As noted above, the property is located on Yeoho Road within a rural community in northern Baltimore County. The property is irregularly shaped and is improved with a one story brick and frame dwelling. Vehicular access to the dwelling is by way of a stone driveway which leads from Yeoho Road. In addition to the dwelling, the site also features a small storage shed.

Mr. Conaway testified that he has owned the property for approximately 4 months. He described the property as containing significant site constraints which limit the actual acreage which is usable. The property rises in grade from Yeoho Road to a small plateau area on which the house and proposed kennel are located. The rear and the side of the property are steep in grade and heavily wooded. Additionally, a small stream meanders through the rear and side of the property. These steep slopes, woods and stream limit the buildable and usable area of the property.

Mr. Conaway further testified that he and his wife presently own five dogs which also live at the property. These include two French bull dogs, an English bull dog and two bull Mastiffs. Although employed as a commercial real estate agent, Mr. Conaway testified that he has long been interested in dogs and spends significant time in the pursuit in his avocation of raising and showing these animals. He testified that the dogs are like his children and, pursuant to the Petition for Special Exception filed, he wishes to operate a kennel from the subject site.

A "kennel" is defined within Section 101 of the BCZR. That definition is, "Any building, other structure or land, or any portion thereof which is used, intended to be used, or range for the housing of more than three dogs, not counting puppies less than 4 months, for the purposes of show, hunting, breeding, or sale, or as pets, excluding a farm or pet shop."

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Date 3/31/97
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It is important to note that this definition is inclusive in character. That is, any property owner who keeps more than 3 dogs, even merely as pets, is operating a kennel, pursuant to the BCZR. Thus, Mr. Conaway's present keeping of 5 pet dogs on his property is a kennel operation, notwithstanding the fact that same is not commercial in nature or for profit.

Moreover, Mr. Conaway proposes to expand the number of dogs kept on the site. Although he was vague as to the number of animals which might ultimately be kept on the property, he once indicated during the hearing that he "could not imagine" keeping any more than 12 dogs on the premises. Later, he revised this number up to 20 dogs. He also indicated that it was possible that he may board other individuals' dogs for the purposes of breeding and/or training. He does not propose a "boarding operation", per se, but is interested only in the raising and training of certain breeds (English Bull dogs, French Bull Dogs and Bull Mastiffs) for the purpose of producing show champions.

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Date 3/31/97
By

Presently, Mr. Conaway's 5 dogs live in the house. Additionally, he has constructed a temporary 4 ft. high fence in the rear of the property which is used as an exercise area for the dogs. As more particularly shown on the site plan, a proposed 20 ft. x 40 ft. kennel building is proposed. The kennel building will be connected to 10 4 ft. x 10 ft. dog runs. Additionally, a large exercise area, approximately 200 ft. x 80 ft. is proposed.

As noted above, there was significant community opposition to the request. Testifying at the hearing was Melissa Bailey, who resides immediately across Yeoho Road from the subject property. She noted that she resides in an old house which was constructed many years ago and is located very close to Yeoho Road. In her judgment, due to the topography and closeness of her house to the road, the sights and sounds associated with

the kennel will adversely impact her and her property. Her testimony was echoed by her husband, Hugh S. Bailey, who also produced photographs of the area.

Additional testimony was received from William G. Bonas, Albert Perry and Lisa Kamps, who all reside nearby. They are particularly concerned about the noises associated with the dogs barking, which will be an inconvenience and bother to the enjoyment of their property. Concerns were also expressed as to the potential of Mr. Conaway's dogs escaping and causing harm to neighborhood children.

Testimony was also offered by Harriet Kamps, who lives approximately 1/2 mile away. Interestingly, she operates a cocker spaniel kennel with approximately 25 dogs. She indicated that she has been at that location for 25 years and expressed concerns about the safe operation of Mr. Conaway's kennel.

In addition to the testimony and evidence offered, including photographs of the site, site plans, etc., I conducted a site visit to the property. I drove onto the property and walked the grounds. It appeared that no one was home at the time of my visit. I neither saw nor heard any evidence of Mr. Conaway's animals when I visited the site. Instead, I did hear dogs barking from the other side of Yeoho Road, most probably either the Bailey or Young property.

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Date 3/31/95
By

A kennel operation is permitted in the R.C. zone only by special exception. In many jurisdictions outside of Baltimore County, special exception uses are labeled "conditional uses". That is, they are a middle ground, neither absolutely prohibited by the zoning ordinance nor permitted by right. A special exception use is permissible only after the property owner submits to a public hearing, wherein it must be demonstrated that the

use can be carried on without detrimental impact to the health, safety or general welfare of the locale.

The seminal case in Maryland on special exception is Schultz v. Pritts, 291 Md. (1981). Therein, the Court of Appeals opined that, "a special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, is in the interest of the general welfare, and, therefore, valid." page 325. Moreover, the Court concluded that a special exception must be denied only when it is determined that the grant of the special exception use would result in an adverse affect upon adjoining and surrounding properties unique and different from the adverse affect it would otherwise result from the special exception use elsewhere in the zone. See page 1327.

The Court of Special Appeals expressed similar reasoning in Mossberg v. Montgomery County, 107 Md. App 1. In that case, the Court was called upon to consider a special exception request for a solid waste transfer station in Montgomery County. The Court noted that all solid waste transfer stations cause impacts on adjacent properties. The Court concluded that it was not the existence of those impacts which was dispositive in considering whether the special exception should be granted. Rather, it was whether those impacts at the particular location involved would be greater than the impacts ordinarily associated with the particular use.

In applying these standards to the Petition before me, I am persuaded that the Petition for Special Exception should be granted. The dogs which will occupy Mr. Conaway's kennel will no doubt bark, produce odor and, otherwise, cause impact on the community. However, those impacts will be the same here than if the kennel was located in an R.C.2 zone in Dundalk, Towson or Catonsville. In my judgment, there is no particularly unique adverse impact which will result here which warrants the denial the Peti-

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Date 3/3/93
By

tion for Special Exception and presumptive permissibility thereof. Thus, the Petition for Special Exception shall be granted.

The Petition for Variance is quite another matter. The County Council, within Section 421 of the BCZR, has enacted specific standards for the operation of kennels. Section 421.1 provides that when a kennel is allowed in a residential zone, either by special exception or by right, no part of the use can be located within 200 ft. of the property line. Obviously, this regulation was enacted so as to provide an appropriate buffer between the kennel use and adjacent residential uses.

The Petition for Variance which has been filed requests relief to permit a portion of the use to be within 14 ft. of the property line. The line at issue, as referenced in the Petition, is that boundary line which separates the subject property from the adjacent site owned by the Susquehanna Transmission Company. That company apparently owns a strip of land adjacent to the property across which transmission lines have been built. There are residences on the other side of those transmission lines.

Although not specifically referenced in the Petition, an issue which warrants closer consideration is the proposed distance to be maintained from the front property line. As shown on the site plan, the outdoor exercise area will be located within 76 ft. of the front property line immediately across the street from the Bailey home.

Variance relief must be considered in accordance with Section 307 of the BCZR. Moreover, as is often noted, the Court of Special Appeals has discussed the grant of variances in Baltimore County in Cromwell v. Ward, 102 Md. App 691 (1995). Therein, the Court established that three tests must be met in order for a variance to be granted. First, the property owner must show that the property is unique. Second, the Petitioner must establish that a practical difficulty would be caused if the variance was

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Date 3/31/98
By

denied. Third, relief can only be granted if there will be no detrimental impact to the adjacent properties. I am satisfied that the Petitioner has met the uniqueness test by virtue of the unusual configuration and site constraints on the property. Indeed, I am appreciative of the fact that Mr. Conaway's options are limited due to the steep slopes, woodlands and streams. However, I am not persuaded that the practical difficulty requirement has been met, nor am I persuaded that there will be no detrimental impact on surrounding properties.

In my judgment, the concerns of the neighbors located on the other side of Yeoho Road are well founded and appropriate. Indeed, locating any portion of the proposed kennel in the front yard of the subject property could cause a detrimental impact on those neighboring homes. This is truly a case where enforcement of the County Council's decision to require a 200 ft. buffer is appropriate. Thus, the Petition for Variance must be denied.

However, although denying the variance, as presented, the following comments are offered. Relief can be granted to permit a 50 ft. setback from the side property line which abuts the Susquehanna Transmission Company's property. In my judgment, maintenance of a 50 ft. buffer in that direction, coupled with the transmission company's strip, will adequately shield properties to the east and the homes located on the other side of the transmission lines. To the front (south) the full 200 ft. must be maintained. Thus, a kennel can be operated on the property which maintains a 50 ft. side yard setback and 200 ft. front yard setback.

ORDER RECEIVED FOR FILING
Date 8/31/98
By [illegible]

Additionally, in granting the Petition for Special Exception, I will limit the number of animals kept on the property to 12. Mr. Conaway offered uncertain testimony as to his ultimate plans in the number of animals which he envisions being kept on the site at anyone time. At one point of the hearing, he stated that 12 was an appropriate limitation (later revised

it to 20) and I am inclined to accept same. Obviously, this is a limitation which might ultimately be altered by amendment depending on the impact of the use. However, at the present, based on the testimony and evidence offered, a limitation of 12 animals appears appropriate.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 31st day of March, 1998 that a Petition for Special Exception for approval of a dog kennel in an R.C.2 zone, pursuant to Section 1A01.2.C.2 of the Baltimore County Zoning Regulations (BCZR), be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 421.1 of the BCZR, to permit an exercise area, as part of a dog kennel, to be enclosed with a 6 ft. fence and to be located 14 ft. from the nearest property line be and is hereby DENIED; and, in lieu thereof,

IT IS FURTHER ORDERED that the special exception use is limited to permit no more than 12 animals on the property at any one time, and that any and all parts of the kennel must be set back a minimum of 50 ft. from the side (east) property line and 200 ft. from the front property line, be and is hereby GRANTED, subject, however, to the following restriction:

> 1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

ORDER RECEIVED FOR FILING
Date 3/31/98
By Mr. Grant

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

Petition for Special Exception
to the Zoning Commissioner of Baltimore County

for the Property located at 16535 Yeoho Road

which is presently zoned RC - 2

This Petition shall be filed with the Department of Permits and Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for:

SEE ATTACHED

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

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

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zip Code

Legal Owner(s):

Howard H. Conaway, Jr.
(Type or Print Name)

Signature

Mai T. Conaway
(Type or Print Name)

Signature

16535 Yeoho Road 410-472-0033
Address Phone No.

Sparks , MD 21152
City State Zip Code

Name, address, and phone number of legal owner, contract purchaser or representative to be contacted.

Howard H. Conaway, Jr.
Name

16535 Yeoho Road 410-472-0033
Address Phone No.

Sparks, MD 21152

Attorney for Petitioner:

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
(Type or Print Name)

Signature

305 W. Chesapeake Avenue, Suite 113 410-321-0600
Address Phone No.

Towson, MD 21204
City State Zip Code

247

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING 1.00 hr.
unavailable for Hearing the following dates
Next TWO months
ALL ✓
REVIEWED BY:

OTHER
DATE 12-30-97

98-247-XA

Petition for Special Exception
[continuation sheet]

LEGAL OWNERS: Howard H. Conaway and Mai T. Conaway

Property Address: 16535 Yeoho Road

Special Exception Use Requested:

A Dog Kennel pursuant to BCZR § 1A01.2.C.2

247

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 16535 Yeoho Road

which is presently zoned RC-2

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

SEE ATTACHED

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County

Contract Purchaser/Lessee

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner
Howard L. Alderman, Jr.,Esq.
Levin & Gann, PA
(Type or Print Name)

Howard L. Alderman, Jr.
Signature

305 W. Chesapeake Avenue, Suite 113

Address 410-321-0600 Phone No.

Towson, MD 21204
City State Zipcode

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

Legal Owner(s):

Howard H. Conaway, Jr.
(Type or Print Name)

Howard H. Conaway, Jr.
Signature

Mai T. Conaway
(Type or Print Name)

Mai Tuide Conaway
Signature

16535 Yeoho Road 410-472-0033
Address Phone No

Sparks, MD 21152
City State Zipcode

Name, Address and phone number of representative to be contacted

Howard H. Conaway, Jr.
Name

16535 Yeoho Road
Sparks, MD 21152 410-472-0033
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

NEW FORMS
1/27/98

Zoning Administration & Development Management

Printed with Soybean Ink on Recycled Paper

98-247-XA

Petition for Variance
to the Zoning Commissioner of Baltimore County

for the Property located at 16535 Yeoho Road

which is presently zoned RC - 2

This Petition shall be filed with the Department of Permits and Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty):

SEE ATTACHED

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zip Code

Legal Owner(s):

Howard H. Conaway, Jr.
(Type or Print Name)

Signature

Mai T. Conaway
(Type or Print Name)

Signature

16535 Yeoho Road 410-472-0033
Address Phone No.

Sparks , MD 21152
City State Zip Code

Attorney for Petitioner:

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
(Type or Print Name)

Signature

305 W. Chesapeake Avenue, Suite 113 410-321-0600
Address Phone No.

Towson, MD 21204
City State Zip Code

Name, address, and phone number of legal owner, contract purchaser or representative to be contacted.

Howard H. Conaway, Jr.
Name

16535 Yeoho Road 410-472-0033
Address Phone No.

Sparks, MD 21152

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING See sp. EK
unavailable for Hearing the following dates
Next TWO months
ALL ✓
REVIEWED BY:

OTHER
DATE 12-31-97

247

98-241-XA

Petition for Variance
[continuation sheet]

LEGAL OWNERS: Howard H. Conaway, Jr., and Mai T. Conaway

Property Address: 16535 Conaway Road

Variance Relief Requested:

- from BCZR § 421.1 to permit an exercise area, as part of a dog kennel, to be enclosed with a six foot fence and to be located 14 feet from the nearest property line.

Justification:

- existing topography of the subject property;
- irregular shape of existing lot;
- existing, extensive wooded cover of the subject property;
- configuration of existing improvements; and
- such further justification as will be presented at the time of the hearing on this Petition.

247

ZONING DESCRIPTION
12/04/97

Beginning at a point in the center of Yeoho Road at a distance of approximatey 2,800 feet northwest of the centerline of Benson Mill Road; thence North 69 degrees 39 minutes 30 seconds West 80.05 feet; thence North 69 degrees 31 minutes 32 seconds West 197.41 feet; thence North 59 degrees 46 minutes 02 seconds West 403.74 feet; thence North 59 degrees 46 minutes 02 seconds West 24.76 feet; thence South 86 degrees 16 minutes 00 seconds West 52.80 feet; thence South 87 degrees 54 minutes 00 seconds West 121.50 feet; thence North 42 degrees 13 minutes 17 seconds East 173.94 feet; thence North 20 degrees 11 minutes 00 seconds West 66.00 feet; thence North 69 degrees 38 minutes 58 seconds East 401.06 feet; thence North 69 degrees 38 minutes 58 seconds East 233.74 feet; thence South 6 degrees 18 minutes 40 seconds East 76.79 feet; thence South 52 degrees 20 minutes 44 seconds East 295.17 feet; thence North 63 degrees 40 minutes 00 seconds East 28.81 feet; thence South 79 degrees 20 minutes 00 seconds East 188.13 feet; thence South 37 degrees 29 minutes 00 seconds West 551.89 feet to the place of beginning. Containing 9.34 acres, 407,003 square feet of land more or less. Being known as 16535 Yeoho Road.

98-247-XA

247

Exhibit B

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 98-247-XA

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD.

PLACE: _____

DATE AND TIME: _____

Per Sect. 1A01.2.C.2.

REQUEST: A Petition for a Special Exception for a Dog Kennel in an RC-2 zone and a Variance of Sect 421.1 to permit an exercise area (as part of the dog Kennel) enclosed with a left fence ~~to be located~~ with a 14' setback to the property line in lieu of the minimum required 200'.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

9/96
post.4.doc

NOTICE OF
ZONING 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: #98-247-XA
16535 Yeoho Road
beginning at a point in center of Yeoho Road, 2800' NW of centerline Benson Mill Road
5th Election District
3rd Councilmanic District
Legal Owner(s):
Howard H. Conaway, Jr. & Mai T. Conaway

Special Exception: for a dog kennel.

Variance: to permit an exercise yard, as part of a dog kennel, to be enclosed with a six foot fence and to be located 14 feet from the nearest property line.

Hearing: Tuesday, March 3, 1998 at 2:00 p.m. in Room 407, County Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.
(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

2/142 Feb. 12 C206361

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2-12, 1998

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2-12, 1998.

THE JEFFERSONIAN,

A. Henrikson

LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 04693

DATE 12-30-97 ACCOUNT R-001-6150

AMOUNT $ 550.00

RECEIVED FROM: H. Conaway and Howard Alderman

FOR: Commercial special Exception & Variance
16535 Yeoho Rd.

98-247-XA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTUAL TIME
12/30/1997 12/30/1997 09:23:16
REG W005 CASHIER BIRY BKT DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 043&2
CR NO. 04693?
550.00 CHECK
Baltimore County, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 050824

DATE 5/1/98 ACCOUNT R-001-6150

AMOUNT $ 285.00

RECEIVED FROM: J. Carroll Holzer, Esq.

FOR: Appeal - Case # 98-247-XA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

R4E

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTUAL TIME
5/01/1998 5/01/1998 09:40:21
REG W503 CASHIER UMIL MLM DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 044653
CR NO. 050824
285.00 CHECK
Baltimore County, Maryland

ZONING DESCRIPTION
12/04/97

Beginning at a point in the center of Yeoho Road at a distance of approximatey 2,800 feet northwest of the centerline of Benson Mill Road; thence North 69 degrees 39 minutes 30 seconds West 80.05 feet; thence North 69 degrees 31 minutes 32 seconds West 197.41 feet; thence North 59 degrees 46 minutes 02 seconds West 403.74 feet; thence North 59 degrees 46 minutes 02 seconds West 24.76 feet; thence South 86 degrees 16 minutes 00 seconds West 52.80 feet; thence South 87 degrees 54 minutes 00 seconds West 121.50 feet; thence North 42 degrees 13 minutes 17 seconds East 173.94 feet; thence North 20 degrees 11 minutes 00 seconds West 66.00 feet; thence North 69 degrees 38 minutes 58 seconds East 401.96 feet; thence North 69 degrees 38 minutes 58 seconds East 233.74 feet; thence South 6 degrees 18 minutes 40 seconds East 76.79 feet; thence South 52 degrees 20 minutes 44 seconds East 295.17 feet; thence North 63 degrees 40 minutes 00 seconds East 28.81 feet; thence South 79 degrees 20 minutes 00 seconds East 186.13 feet; thence South 87 degrees 29 minutes 00 seconds West 551.89 feet to the place of beginning. Containing 9.34 acres, 407,003 square feet of land more or less. Being known as 16535 Yeoho Road.

98-247-XA

247

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

September 21, 1999

NOTICE OF DELIBERATION

IN THE MATTER OF: HOWARD H. CONAWAY, JR., AND MAI TUISK CONAWAY - OWNERS/APPELLANTS - CASE NO. CC-98-6302

Having heard argument in this matter on September 16, 1999, deliberation has been scheduled as follows:

DATE AND TIME : Tuesday, October 12, 1999 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

NOTE: ANY SUBMITTAL MADE BY COUNSEL AS INDICATED AT HEARING IS TO BE SUBMITTED BY 10/01/99 (ORIGINAL AND THREE (3) COPIES).

Kathleen C. Bianco
Administrator

cc: Counsel for Appellant /Legal Owner : Howard L. Alderman, Jr., Esq.
Appellant /Legal Owner : Howard H. Conaway
and Mai Tuisk Conaway

Mr. Joe Verret
Ms. Cindy Frankel

Lawrence E. Schmidt /Zoning Commissioner
Stanley J. Schapiro, Code Official /Hearing Officer
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney
Robert Loskot, Assistant County Attorney

Lynn - fyi and calendar!
Note 9:00 a.m. start & 10:30 a.m.
does there appear these deliberations between two but not yours!?
Lynn

Copied: C.B.W.

Printed with Soybean Ink
on Recycled Paper

CERTIFICATE OF POSTING

RE: Case No.: 98-247-XA

Petitioner/Developer: HOWARD CONAWAY, ETAL

Date of Hearing/Closing: 3/3/98

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 #16535 YEOHO RD.

The sign(s) were posted on 2/8/98
(Month, Day, Year)

Sincerely,

2/11/98
(Signature of Sign Poster and Date)

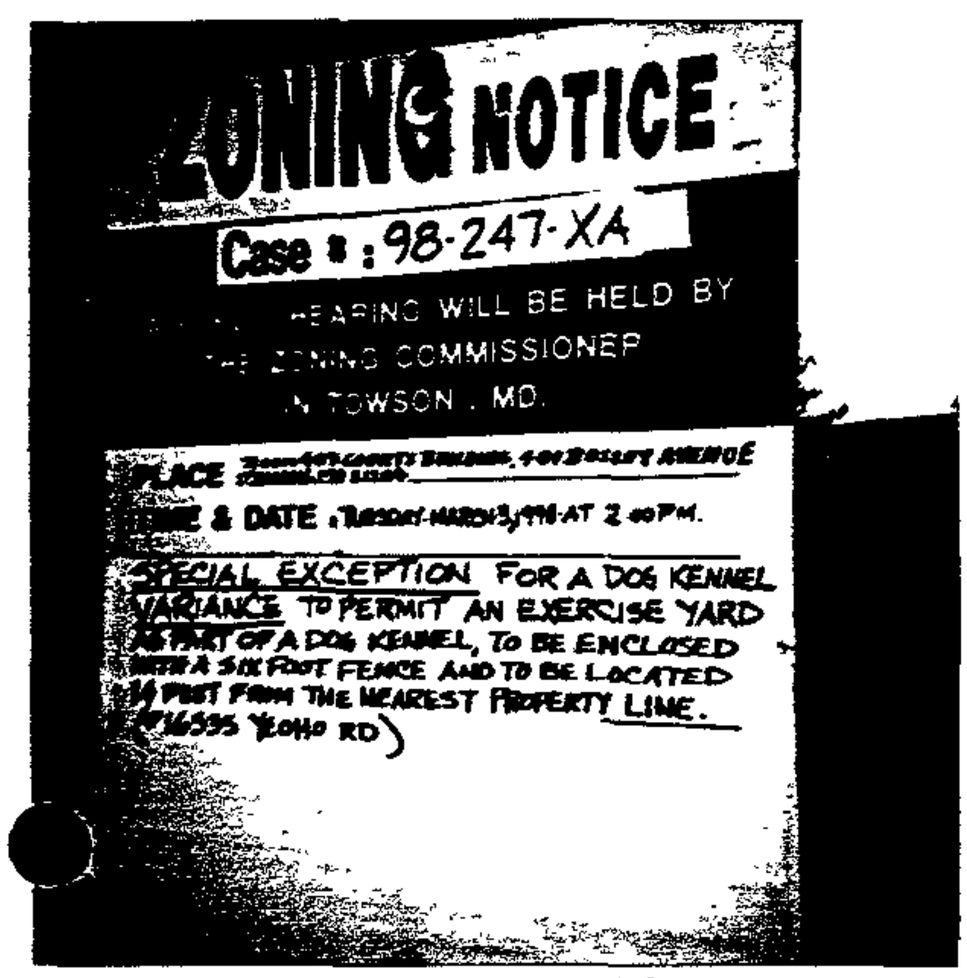
Patrick M. O'Keefe
(Printed Name)

523 Penny Lane
(Address)

Hunt Valley, MD 21030
(City, State, Zip Code)

(410) 666-5366 Pager (410) ~~666-8554~~ 905-8571
(Telephone Number)

9/96
cert doc



98-247 XA
HOWARD CONAWAY, ETAL
#16535 YEOHO RD
3/3/98

CERTIFICATE OF POSTING

RE: Case No.: 98-247-XA

Petitioner /Developer:

HOWARD H. CONAWAY

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 16535 YEDHO RD.

The sign(s) were posted on 6/5/98
(Month, Day, Year)

Sincerely,

Gary C Freund 6/5/98
Signature of Sign Poster and Date

GARY C. FREUND
Printed Name

Address

City, State, Zip Code

Telephone Number

Baltimore County
Department of Permits and
Development Management

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

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

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

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

PAYMENT WILL BE MADE AS FOLLOWS:

1) Posting fees will be accessed and paid to this office at the time of filing.

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

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

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 247 Petitioner: Howard H. Conaway, Jr. & Mai T. Conaway

Location: 16535 Yeoho Road

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Mr. and Mrs. Howard H. Conaway, Jr.

ADDRESS: 16535 Yeoho Road

Sparks, MD 21152

PHONE NUMBER: 410.472.0033

98-247-XA

Printed with Soybean Ink
on Recycled Paper

Baltimore County
Department of Permits and
Development Management

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

January 28, 1998

NOTICE OF ZONING 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: 98-247-XA
16535 Yeoho Road
beginning at a point in center of Yeoho Road, 2800' NW of centerline Benson Mill Road
5th Election District - 3rd Councilmanic District
Legal Owner: Howard H. Conaway, Jr. & Mai T. Conaway

Special Exception for a dog kennel. Variance to permit an exercise yard, as part of a dog kennel, to be enclosed with a six foot fence and to be located 14 feet from the nearest property line.

HEARING: Tuesday, March 3, 1998 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon
Director

c: Howard L. Alderman, Jr., Esquire
Mai & Howard Conaway, Jr.

NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY FEBRUARY 16, 1998.**
(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.

Printed with Soybean Ink
on Recycled Paper

TO: PATUXENT PUBLISHING COMPANY
February 12, 1998 Issue - Jeffersonian

Please forward billing to:
Mr. & Mrs. Howard H. Conaway, Jr. 410-472-0033
16535 Yeoho Road
Sparks, MD 21152

NOTICE OF ZONING 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: 98-247-XA
16535 Yeoho Road
beginning at a point in center of Yeoho Road, 2800' NW of centerline Benson Mill Road
5th Election District - 3rd Councilmanic District
Legal Owner: Howard H. Conaway, Jr. & Mai T. Conaway

Special Exception for a dog kennel. Variance to permit an exercise yard, as part of a dog kennel, to be enclosed with a six foot fence and to be located 14 feet from the nearest property line.

HEARING: Tuesday, March 3, 1998 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt sci

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.

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

August 24, 1998

NOTICE OF ASSIGNMENT

CASE #: 98-247-XA

IN THE MATTER OF: HOWARD H. CONAWAY, JR., ET UX - Petitioners 16535 Yeoho Road 5th E; 3rd C

(Petitions for Special Exception and Variance GRANTED in part; DENIED in part by ZC)

ASSIGNED FOR: WEDNESDAY, NOVEMBER 18, 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: Counsel for Appellants /Protestants: J. Carroll Holzer, Esquire
Appellants /Protestants : Concerned Citizens of Sparks-Glencoe and Marlene Siegel c/o J. Carroll Holzer, Esquire; and Melissa and Hugh Bailey

Counsel for Petitioners : Howard L. Alderman, Jr., Esq.
Petitioners : Mr. and Mrs. Howard H. Conaway, Jr.

People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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on Recycled Paper

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

December 29, 1998

NOTICE OF ASSIGNMENT

CASE #: 98-247-XA

IN THE MATTER OF: HOWARD H. CONAWAY, JR., ET UX - Petitioners 16535 Yeoho Road 5th E; 3rd C

(Petitions for Special Exception and Variance GRANTED in part; DENIED in part by ZC)

ASSIGNED FOR: THURSDAY, JANUARY 28, 1999 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: Counsel for Appellants /Protestants: J. Carroll Holzer, Esquire
Appellants /Protestants : Concerned Citizens of Sparks-Glencoe and Marlene Siegel c/o J. Carroll Holzer, Esquire; and Melissa and Hugh Bailey

Counsel for Petitioners : Howard L. Alderman, Jr., Esq.
Petitioners : Mr. and Mrs. Howard H. Conaway, Jr.

People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

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CWB

(W) B

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

August 23, 1999

NOTICE OF ASSIGNMENT

CASE #: CC-98-6302 **IN THE MATTER OF:** PROPERTY OF HOWARD H. CONAWAY, JR. AND MAI TUISK CONAWAY 16535 Yeoho Road
5th E; 3rd C

Code Inspections and Enforcement Violation /Civil Citation No. 98-6302 (BCC Section 1-7)

ASSIGNED FOR: **THURSDAY, SEPTEMBER 16, 1999 at 11:30 a.m.**

NOTICE: **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). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.**

Kathleen C. Bianco
Administrator

---

cc: Counsel for Appellant /Legal Owner : Howard L. Alderman, Jr., Esq.
Appellant /Legal Owner : Howard H. Conaway
and Mai Tuisk Conaway

Counsel for Protestants (Entered appearance 8-30-99) : J. Carroll Holzer, Esq.
Concerned Citizens for Sparks-Glencoe, etal - PROTESTANTS
Mr. Joe Verret
Ms. Cindy Frankel

Lawrence E. Schmidt /Zoning Commissioner
Stanley J. Schapiro, Code Official /Hearing Officer
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney
Robert Loskot, Assistant County Attorney

R.C. 2 - Animal Kennel by special exception
Wesley Chapel - ~~Land Use~~ ~~issue~~ ~~should~~ ~~out~~ any issue involving land should be will Public Deliberated.

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Baltimore County
Department of Permits and
Development Management

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

February 25, 1998

Howard L. Alderman, Jr., Esq.
Levin & Gann, PA
305 W. Chesapeake Avenue, Suite 113
Towson, MD 21204

RE: Item No.: 247
Case No.: 98-247-XA
Petitioner: Howard H. Conaway,

Dear Mr. Alderman:

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 December 31, 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)

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: POM

DATE: 2/20/93

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: Feb. 9, 93

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

Item #'s: 247

RBS:sp

BRUCE2/DEPRM/TXTSBP

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

INTEROFFICE CORRESPONDENCE

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

Date: February 10, 1998

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

SUBJECT: Zoning Advisory Committee Meeting
for February 9, 1998
Item Nos. 247, 269, 270, 271, 274,
277, and ~~CASE~~ NUMBER R-98-150

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

RWB:HJO:jrb

cc: File

ZONE0209.NOC

AO
3/3

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
and Development Management

Date: February 25, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 16535 Yeoho Road **Amended Comment**

INFORMATION

Item Number: 247

Petitioner: Conaway Property

Zoning: RC 2

Requested Action: Special Exception and Variance

Summary of Recommendations:

Based upon the information provided and analysis conducted, staff offers the following comments:

Although not identified by the petitioner as specifically requiring variance relief, the exercise area is closer to the front property line (Yeoho Road frontage) than the required 200 ft. setback stated in Section 421.1 of the Baltimore County Zoning Regulations. Due to the presence of several homes directly across Yeoho Road, it is recommended that the exercise area maintain the required 200 ft. setback from the front property line. This requirement will allow appropriate separation from nearby homes, as well as provide spacing for supplemental landscape buffering, if deemed necessary by the Zonig Commissioner.

Prepared by: Jeffrey W. Long

Division Chief: Jeffrey W. Long for Gary Kerns

AFK/JL

C:\MSOFFICE\WINWORD\ZAC\247.DOC

Scriptos
3/3

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Dept. of Permits & Development Management

DATE: February 11, 1998

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 No. 247

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: Jeffrey W. Long

Division Chief: Gary Kerns

AFK/JL

C:\MSOFFICE\WINWORD\ZAC\NOCOM\247.DOC

Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

February 4, 1998

RECEIVED
FEB 5 1998
PDM

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

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF February 2, 1998

Item No.: See Below Zoning Agenda:

Gentlemen:

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

G. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

247, R-98-150, 270, 271, 276, 277, and 278

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

cc: File

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on Recycled Paper

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary

Parker F. Williams
Administrator

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

RE: Baltimore County 1/30/98
Item No. 247 JJS

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

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

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

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: C. Marks
L. Barranger
M. Worrall

DATE: October 1, 1999

FROM: Kathi

SUBJECT: In the Matter of Howard H. Conaway, Jr., et al
Case No. CC-98-6302 /Summary of Testimony before
County Code Official

Attached for your review and information is a copy of the Summary of Testimony Before County Code Official as provided by Howard Alderman. This summary, as indicated in his cover letter also attached, was prepared using his notes and those of his clients taken at the hearing before the Code Official.

As you are aware, oral argument in this matter was received by the Board on September 16, 1999, and public deliberation is scheduled for Tuesday, October 12, 1999 at 9:00 a.m.

Should you have any questions, please let me know.

kathi

Attachment

FILE

RE: PETITION FOR SPECIAL EXCEPTION PETITION FOR VARIANCE 16535 Yeoho Rd, beginning at a point in the center of Yeoho Rd, 2800' NW of c/l Benson Mill Rd 5th Election District, 3rd Councilmanic Howard H. and Mai T. Conaway, Jr. Petitioners	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 98-247-XA

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of February, 1998, a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esq., Levin & Gann, 305 W. Chesapeake Avenue, Suite 113, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** September 29, 1999
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File:
98-247-XA /Howard H. Conaway, Jr., et ux

Since no further appeal was taken in the above captioned case, which was dismissed by Order of Dismissal of Petition dated February 23, 1999, we are hereby closing the file and returning same herewith.

Attachment (File No. 98-247-XA)

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: February 15, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **Howard H. Conway, Jr.**
Case No.: 98-247-XA
Circuit Court Case No.: 03-C-99-11441

Judge Daniels of the Circuit Court issued an Order on June 5, 2000 AFFIRMING the Board of Appeals. No further appeals have been taken in this matter. The Board of Appeals is closing and returning the file that is attached herewith.

Attachment: SUBJECT FILE ATTACHED

Baltimore County
Department of Permits and
Development Management

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

May 6, 1998

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
305 W. Chesapeake Avenue, Suite 113
Towson, MD 21204

RE: Petitions for Special
Exception and Variance
Case No.: 98-247-XA
16535 Yeoho Road
5c3
Howard H. Conaway, Jr.,
et ux - Petitioners

Dear Mr. Alderman:

Please be advised that an appeal of the above-referenced case, special exception only, was filed in this office on April 30, 1998 by J. Carroll Holzer, Esquire on behalf of concerned citizens of Sparks-Glencoe, Melissa and Hugh Bailey and Marlene Siegel. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ:rye

c: People's Counsel

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APPEAL

Code Inspections and Enforcement Violation
16535 Yeoho Road
5th Election District – 3rd Councilmanic District
Howard H. Conaway, Jr., Mai Tuisk Conaway – Legal Owners/Defendants
Civil Citation No. 98-6302

✓ Findings of Fact and Conclusions of Law dated, March 31, 1998

✓ Two Code Enforcement Reports, dated December 28, 1998

✓ General Permit Application, dated December 28, 1998

✓ Uniform Code Violation Notice, dated December 28, 1998

✓ Violation Inquiry Notice, dated January 1, 1999

✓ Order of Dismissal of Petition, dated February 23 1999 (98-247-XA)

✓ Code Enforcement Report, dated March 17, 1999

✓ Letter from James H. Thompson, to Mr. Howard H. Conaway Jr., dated April 27, 1999

* ✓ Uniform Code Enforcement Citation, dated May 26, 1999

✓ Letter from Howard L. Alderman Jr., Esquire to James H. Thompson, dated June 4, 1999

✓ Entry of Appearance from Howard L. Alderman Jr., dated July 13, 1999

Respondent's Exhibits:
✓ 1 Real Property Information, dated July 13, 1999
✓ 2 Deed, dated October 21, 1977
✓ 3 General Provisions of BCZR, dated 1998 edition through July 6, 1998 1-21
✓ 4 General Provisions of BCZR, dated 1998 edition through July 6, 1998 1-15
✓ 5 General Provisions of BCZR, dated 1998 edition through July 6, 1998 1-5
✓ 6 1998 Supplement, two pages
✓ 7 Letter from Howard L. Alderman Jr., Esquire, to Arnold Jablon, dated January 7, 1999
✓ 8 Letter from Jun R. Fernando, to Howard L. Alderman Jr., Esquire, dated January 11, 1999
✓ 9 Letter from Jun R. Fernando, to Howard L. Alderman Jr., Esquire, dated January 25, 1999
✓ 10 Letter from W. Carl Richards Jr., to Howard L. Alderman Jr., Esquire, dated June 8, 1999

*/ County (PE) Ex. - 1 - Uniform Code Enforcement Citation - 5-26-99

✓ Two Standard Assessment Inquiries, dated July 15 1999

✓ Final Order of the Code Official, dated July 13, 1999

✓ Addendum to the Final Order, dated July 13, 1999

✓ Notice of Appeal with Petition, dated July 28, 1999 (Limited)

✓ Letter from Arnold Jablon, to Ms. Cindy Frankel and Mr. Joe Verret, dated August 5, 1999

✓ Interoffice Correspondence from Donna Thompson to the Board of Appeals, dated August 17, 1999

✓ Letter from Donna Thompson to Howard H. Conaway and Mai Tuisk Conaway, dated August 17 1999

RESPONSE / SUMMARY from Conaway rec'd _____

* C: Howard L. Alderman Jr., Esquire, Levin & Gavin, Suite 113, 305 W. Chesapeake Ave., Towson, Md. 21204
Howard H. Conaway Jr., and Mai Tuisk Conaway, 16535 Yeoho Rd., Sparks, Md. 21152
Mr. Joe Verret, 16548 Yeoho Rd., Sparks, Md. 21152
Ms. Cindy Frandel, 16548 Yeoho Rd., Sparks, Md. 21152
Honorable Vincent J. Gardina, Fifth District Councilman, M.S. 2201
Larry E. Schmidt, Zoning Commissioner, M.S. 3401
Stanley J. Schapiro, Code Official

J. Carroll Holzer, Esq., (entered appearance
HOLZER & LEE on 8/30/99)

RECEIVED
COUNTY
BOARD OF APPEALS
99 AUG 17 AM 10:43

Case No. 98-247-XA

SE -To approve a dog kennel in R.C. 2 zone; VAR - exercise area as part of kennel to be enclosed w/6' fence and located 14' from nearest property line.

3/31/98 -Zoning Commissioner's Order in which Petition for Special Exception was GRANTED with restrictions; Petition for Variance DENIED.

8/24/98 -Notice of Assignment for hearing scheduled for Wednesday, November 18, 1998 at 10:00 a.m. sent to following:

J. Carroll Holzer, Esquire
Concerned Citizens of Sparks-
Glencoe and Marlene Siegel c/o
J. Carroll Holzer, Esquire; and
Melissa and Hugh Bailey
Howard L. Alderman, Jr., Esq.
Mr. and Mrs. Howard H. Conaway, Jr.
People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

11/18/98 -Parties reached agreement prior to hearing; indicated same on the record; to submit proposed order for signature by the Board. (C.B.M.)

11/28/98 -T/C from C. Holzer's office regarding this case; no agreement has been provided to date by either the Petitioner or his attorney on his behalf; in response to calls from his clients, Mr. Holzer is requesting that matter be set before the Board; will provide this request in writing.

11/29/98 -Letter from J. Carroll Holzer requesting scheduling before the Board as indicated above.
- Notice of Assignment sent to parties; scheduled for Thursday, January 28, 1999 at 10:00 a.m.

1/27/99 -Withdrawal of Petitions Without Prejudice and proposed Order filed by Howard Alderman, Jr. via hand delivery this date. Mr. Alderman further indicates that with the withdrawal of the instant petitions, the hearing should be removed from Board's docket.
- Mr. Holzer, by T/C, indicated his opposition to this request and also that he would be appearing on Thursday, 1/28/99 as scheduled to argue same before the Board.
-T/C with H. Alderman -- he indicated that he would not be appearing inasmuch as his client was withdrawing his petitions.

1/28/99 -Board convened as scheduled. Mr. Alderman did not appear; Mr. Holzer appeared with protestants /appellants. Upon argument by Mr. Holzer, Board concluded that the withdrawal of petitions would be accepted; Board would dismiss the petitions; decision below then null and void. Would issue written Order reflecting same. (C.S.M.)

July 13, 1999	Matter came before the Deputy Hearing Officer for the Department of Permits and Development Management on a citation for violations under the BCZR regarding a commercial dog kennel operating without required approvals and permits.
July 13	Final Order of the Code Official; ordered that there will be no civil penalty imposed; further ordered for the respondents to apply for the required special exception hearing within a reasonable amount of time or reduce the number of dogs to three. Addendum to the Final Order issued by the Code Official to include information relative to appealing this decision.
July 13, 1999	Entry of Appearance filed by Howard L. Alderman, Jr. as counsel for the Conaways.
July 28	Notice of Appeal (limited appeal) and Petition to accompany Notice of Limited Appeal filed by Howard L. Alderman, Jr., Esquire, on behalf of Howard H. Conaway, Jr. and Mai Tuisk Conaway.
August 30	Entry of Appearance filed by J. Carroll Holzer, Esquire, on behalf of the Concerned Citizens of Sparks-Glencoe, Melissa and Hugh Bailey, Marlene Siegel and Cynthia Frankel.
Sep. 16, 1999	Hearing held by the Board of Appeals. -At onset of hearing Mr. Holzer submitted a notice to participate (Intention of Cynthia Frankel, et al); Mr. Alderman moved to strike Mr. Holzer's appearance on the basis that the subject matter before the Board was on an appellate level, and the persons represented by Mr. Holzer had no standing in this Code Violation/Enforcement matter. -The Board sustained the Motion to strike Mr. Holzer's appearance and Notice to Participate.
October 12	Public Deliberation conducted by the Board of Appeals.
October 22	Opinion and Order issued by the Board of Appeals; decision of the Deputy Hearing Officer is AFFIRMED.
Nov. 19, 1999	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Howard L. Alderman, Jr., Esquire on behalf of Howard H. Conaway, Jr. and Mai T. Conaway.
November 23	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.
November 24	Certificate of Notice sent to interested parties.
January 18, 2000	Record of Proceedings and Transcript of testimony filed in the Circuit Court for Baltimore County.
June 5, 2000	Order issued by the CCt for Baltimore County; CBA decision is AFFIRMED; a portion of the CBA decision is REVERSED relative to the granting of the motion to deny participation by the citizens.

TO: BOARD MEMBERS

Charles L. Marks, Chairman
Lynn Barranger
Donna M. Felling
Thomas P. Melvin
Lawrence M. Stahl
Lawrence S. Wescott
Margaret Worrall

RE: STATUS OF UPPER COURT DECISIONS

→ 3-C-97-5479 /Country Ridge Shopping Center -#96-226-X

7/21/99 - **CSA** REVERSED judgment; case remanded to the CCt with direction to REMAND to the CBA for further proceedings in accordance with CSA opinion (majority board Levero & Buchheister denied SE -pawn shop use; dissent by C. Marks)

9/8/99 -**CCt** issues ruling REMANDING case to CBA pursuant to CSA's mandate.

3-C-99-000495 /Towson Unitarian Universalist Church- #97-404-X

7/15/99 - **CCT** affirmed CBA decision; CBA granted SE /use of property for the construction of a memorial garden and columbarium subject to restrictions.

PLEASE SEE CHARLOTTE IF YOU WISH TO REVIEW ANY OF THESE CASES.

Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of	Civil Citation No. 98-6302
Howard H. Conaway, Jr.	16535 Yeoho Road
Mai Tuisk Conaway	
Respondents	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINAL ORDER OF THE CODE OFFICIAL

This matter came before the Hearing Officer for the Department of Permits and Development Management on July 13, 1999, for a hearing on a citation for violations under the Baltimore County Zoning Regulations §101; 102.1; 1A01.2 C.2; 502 and 421. The property is zoned RC2.

Donna Thompson, code enforcement officer employed by Baltimore County Permits and Development Management testified in regards to citation #98-6302 which charges Howard H. Conaway and Mai Tuisk Conaway with operating a kennel without a special exception approval.

Ms. Thompson, stated a complaint was received by the department December 28, 1998 regarding a commercial dog kennel operating without required approvals and permits. A letter requesting that all licenses and permits be obtained was issued on February 9, 1999. On March 17, 1999, Ms. Thompson inspected the property with a representative of animal control. The inspection revealed an abundant amount of "goats with many babies" and numerous dogs as stated by Ms. Thompson.

Inside the house, in the basement, were approximately eight adult dogs which are English and French bulldogs and 1 Bullmastiff with puppies. Most dogs were caged in crates and appeared to be well kept with fresh water and clean conditions. This inspection was made under the premise of approving a fancier kennel license.

Howard L. Alderman, Jr. entered his appearance on behalf of the owners/respondents in this case.

Mr. Alderman entered the following exhibits on the record:

REx1: Maryland Department of Assessments and Taxation form which notes the use of the property as agricultural.

REx2: Copy of property Deed.

REx3: 101 General provisions of the BCZR specifically the definition of a Kennel.

REx4: 101 General provisions of the BCZR definition of a Farm.

REx5: 101 General provisions of BCZR definitions including accessory use, ancillary use and agricultural, commercial.

REx6: §8-209 Tax Property Article assessing of farm or agricultural land use.

REx7: Letter from Mr. Alderman to Arnold Jablon requesting Zoning verification: Farm Use vs. Kennel.

REx8: Letter dated January 11, 1999 from Jun R. Fernado to Mr. Alderman regarding Farm Use vs. Kennel.

REX9: Letter dated January 25, 1999 from Jun R. Fernando to Mr. Alderman amending the January 11, 1999 letter.

REx10: Letter dated June 8, 1999 from W. Carl Richards, Jr. regarding the unlimited number of dogs on a farm.

Ms. Thompson made reference to the Petition's for Special Exception and Variance #98-247-XA which granted the special exception for a dog kennel in a RC2 zone pursuant to §1A01.2.C.2 of the Baltimore County Zoning Regulations (BCZR) and the denial of the variance from set back requirements as set forth in §421.1 of the BCZR.

Mr. Alderman explained that an appeal was filed, however, on January 27, 1999, he submitted a "Withdrawal of Petitions Without Prejudice" which was approved, which rendered the Zoning Commissioner's Order of March 31, 1998, Null and Void.

Mr. Alderman entered into evidence exhibits which in my opinion clearly show the property fulfilling an agricultural use, however, it seems equally clear that the property more closely resembled and was used as a kennel prior to a visible and viable agricultural use. The general provisions of the Baltimore County Zoning Regulations §101 defines a farm as three acres or more of land used primarily for commercial agriculture. The Zoning Regulations defines Agriculture, Commercial as the use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment, pursuant to §8-209 of the Tax Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture included the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquaculture, apiculture, viticulture, forestry, animal and poultry husbandry, horse breeding and horse training and also includes ancillary activities such as processing, packing, sorting, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations (Bill No. 51-1993).

It appears that the property qualifies for the agricultural use assessment and at present enjoys a commercial agricultural use in as much as the goats are kept and raised on the premises. The kennel use does not appear to be an ancillary activity in that it does not originate from the primary agricultural use (the rearing of goats and associated animal husbandry practices). The dogs are an entity unrelated to the raising and breeding of goats. They perform no function relative to the goatherd and therefore are not considered ancillary or secondary to the principal agricultural operations.

Though it appears in the Baltimore County Zoning Regulations that a farm would be entitled to an exclusion, it must accordingly to this hearing officer's opinion meet the standards of actually being secondary to the principal use to enjoy such an exclusion. This condition has not been meet. If the dogs were bred, trained and raised to guard the goats and or herd the goats, then the exclusion would be allowed. It appears that this interpretation has been in effect at least since 1967 and possibly beyond, and is supported by the content of the correspondence introduced into evidence by Mr. Alderman.

The Hearing Officer must apologize to all concerned regarding this hearing due to the absence of recorded testimony. Evidently, the hearing officer failed to push the correct buttons on the recorder and consequently there is no recorded testimony, again, my apologies.

The facts concerning the violations of the Baltimore County Zoning Regulations, having been substantiated, it is this 13th day of July, ORDERED that there will be no civil penalty imposed.

IT IS FURTHER ORDERED, for the respondents to apply for the required special exception hearing within a reasonable amount of time or reduce the number of dogs to three.

Failure to correct the violation could result in the imposition of future civil penalties and or court proceedings.

Signed: _____
Raymond S. Wisnom, Jr.
Deputy Hearing Officer

Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of	Civil Citation No. 98-6302
Howard H. Conaway, Jr.	16535 Yeoho Road
Mai Tuisk Conaway	
Respondents	

ADDENDUM TO THE FINAL ORDER

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Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

The facts concerning the violations of the Baltimore County Zoning Regulations, having been substantiated, it is this 13th day of July, ORDERED that there will be no civil penalty imposed.

IT IS FURTHER ORDERED, for the respondents to apply for the required special exception hearing within a reasonable amount of time or reduce the number of dogs to three.

Failure to correct the violation could result in the imposition of future civil penalties and or court proceedings.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Deputy Hearing Officer

The violator is advised that pursuant to §1-7(g)(1), Baltimore County Code (effective June 6, 1997), an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

Baltimore County
Department of Permits and
Development Management

Code Inspections and
Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmenforce@co.ba.md.us
pdminspect@co.ba.md.us

August 5, 1999

Mr. Joe Verret
Ms. Cindy Frankel
16548 Yeoho Road
Sparks, Maryland 21152

Dear Mr. Verret/Ms. Frankel:

Re: In the Matter of Civil Citation No. 98-6302, 16535 Yeoho Road,

Please be advised that an appeal of the above-referenced matter was filed in this office on July 28, 1999, by, Howard L. Alderman, Jr., Esquire, on behalf of Mr. Howard H. Conaway, Jr. and Mrs. Mai Tuisk Conaway. All relative materials will be forwarded to the Baltimore County Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,

ARNOLD JABLON
Director

AJ/kp

Printed with Soybean Ink
on Recycled Paper

VIOLATION INQUIRY NOTICE

JANUARY 1, 1999

MR. VERRET this is to advise that your inquiry concerning 16535 YEOHO RD, GLENCOE, MD 21152 has been assigned to GRANT KIDD with case number 98-6302. After an inspection of the property, a correction notice will be issued if warranted to the property owner.

In a small number of cases, the property owner cannot be located and a lengthy search can ensue. In other cases, the owner may dispute the violation notice and file various appeals and requests for extensions. Legal action by the county also is subject to court scheduling and appeals.

We realize these delays can be frustrating to you and to others affected by the violation(s), but due process requires numerous safeguards to prevent possible abuses whenever government accuses a citizen of breaking the law. It does not mean the case has been ignored or that the county is not pursuing it if no physical progress is apparent.

Please contact inspector GRANT KIDD at 410-887-3953 if you have a question or concern about the status of case number 98-6302. Although the outcome may be delayed, every violation is pursued until resolved. Baltimore County is dedicated to effectively enforcing the codes in a manner which will protect the rights of everyone.

CODE ENFORCEMENT REPORT

RE-INSPECTION SHEET CONTINUED

DATE: 3/17/99 - Inspected site w/ animal control (Linda Flavin)
Property consists of rancher w/out building rear yard. Site has pasture land south side, pine trees (N) and rear slope wooded. Numerous goats many babies. Owner - Mr. Conway will be using goats for income.
Inside house were (basement) dogs. Approx. 8 French Bulldogs which included (some puppies).
In another room was another dog w/ puppies. All dogs in crates had

DATE: fresh water and clean conditions. Animal control stated that kennel was OK and will approve. Ms. Flavin also had ~~not~~ no problem w/ conditions of goats. This inspection was done only for approval of former kennel and did not stem from complaint
Also Mr. Conway mailbox shot at (Police Report 990410579)

DATE: 3/25/99 - Spoke w/ Grant Kidd + Mr. Conway re: permit for dog run - no permit necessary since this is not an ~~actual~~ actual commercial dog run. ~~Also explained to him that~~

Case Closed.

DATE:

Internet for Mr. Conway -
Piedmont Bullmastiff Club of Greater Washington D.C.
accolade@abs.net

DATE:

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Code Enforcement: 410- 887-3351 Extension_____
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE VIOLATION NOTICE

VIOLATION(S) OF TITLE 3, 7, 18, 24, OR 26 OF THE BALTIMORE COUNTY CODE, ZONING, OR OTHER CODES, REGULATIONS, AND POLICIES AS INDICATED BELOW:

Violation Notice No. 109500

Case No.: 98-6302

Election District 5 Permit No. —

Name (s) HOWARD CONWAY (OWNER)

Address 16535 YEOHO RD

Location of Violation (if different than address) _____

Vehicle License No.: _____ Vehicle ID: _____

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

County Code:
§§ _____
§§ _____

Zoning Regulations:
§§ _____
§§ _____

Building Code (BOCA):
§§ _____
§§ _____

Livability Code (18-66):
§§ _____
§§ _____

Investment Property Act (7-66):
§§ _____

Electrical Code (NEC):
§§ _____

Plumbing Code (NSPC):
§§ _____

Dwelling (CABO):
§§ R 111.1

Other: §§ _____

COMMENTS OR OTHER VIOLATIONS:

OBTAIN BUILDING PERMIT FOR COMMERCIAL DOG KENNEL.

ANY QUESTIONS CALL ME: 8:00-8:30
3:30-4:00

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE _____ FAILURE TO COMPLY WILL RESULT IN THE PENALTIES DESCRIBED ON THE REVERSE SIDE OF THIS VIOLATION NOTICE.

DATE ISSUED: _____ **INSPECTOR:** _____

STOP WORK NOTICE

PURSUANT TO INSPECTION AND IDENTIFICATION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT.

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN: 1/11/99

DATE ISSUED: 12/29/98 **INSPECTOR:** GRANT KIDD

IMPORTANT INFORMATION ON FINES AND PENALTIES PRINTED ON REVERSE SIDE. PLEASE READ CAREFULLY.

AGENCY

TO THE PERSON(S) CHARGED:

1. It is important that you read this document very carefully, as it charges you with the commission of a crime.

2. If you fail to correct the violations noted by the date dictated, you could be penalized by a fine or imprisonment, or both.

3. A lawyer can give important assistance to you (a) on how to correct the violation(s) in order to avoid trial, or (b) at trial if you fail to correct the violation(s) noted. He can help to determine whether there are any defenses to the charges against you or any circumstances helpful to you that should be brought at the trial. A lawyer can help you by developing and presenting information which could affect how you correct the violation(s) cited.

4. You have been ordered on the reverse side to correct the violation(s) cited by a date certain. Failure to comply with the deadline stated is a misdemeanor. A conviction for each violation subjects you to potential fines of $200, $500, or $1000 per day per violation, depending on the violation, or 90 days in jail, or both.

5. It is your responsibility to obtain any required permit(s) to correct the cited violation(s). All repairs must be in accordance with applicable laws, Code of Baltimore County Regulations, and standards.

6. Upon correction of these violations, contact the inspector for a reinspection. If you have any questions, contact the inspector promptly.

FOLLOW UP INSPECTIONS (include date and time of each):

DATE CLOSED: _____

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Code Enforcement: 410- 887-3351, Extension 7295
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

PE Ex

SERVE ON RESIDENT AGENT/CORPORATE OFFICER (IF APPLICABLE)

Citation/Case No 98-6302

Name (s) HOWARD H. CONAWAY, JR.
MAI TUISK CONAWAY TBE

Address 16535 YEOHO RD., SPARKS, MD 21152

Owner ☑ Occupant ☐ Related Citations

Location and Date (s) of Violation: 16535 YEOHO RD., SPARKS, MD 21152

03/17/99 + 05/24/99

Vehicle License No.: Vehicle ID:

IT IS FORMALLY CHARGED BY BALTIMORE COUNTY THAT THE ABOVE NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS **(CIRCLE RELEVANT ZONE BELOW, IF APPLICABLE)**:

§ 1B01(DR) (§ 1A01(RC2)) § 1A02(RC3)

§ 200(RAE) § 202(ROA) § 204(RO)

§ 207(O3) § 210(SE) § 216(BMM)

§ 230(BL) § 233(BM) § 236(BR)

§ 253(ML) § 256(MH)

PE EX (COUNTY) per R WISNEM R)

1) OPERATION OF KENNEL WITHOUT A SPECIAL EXCEPTION

2) B.C.Z.R. 101, 102.1, 1A01.2C.2, 502, 421

3)

4)

5)

6)

7)

8)

(Unless otherwise noted, all references are to zoning regulations.)

IMPORTANT TO READ REVERSE FOR IMPORTANT INFORMATION AND DIRECTIONS

AGENCY

NOTICE TO DEFENDANT

1) Pursuant to Section 1-B, Baltimore County Code, a penalty has been assessed as a result of the violation cited herein in the amount indicated

$ 400.00

If you do not contest this citation, you must pay this penalty by check or money order, payable to the director of finance, Baltimore County, Maryland, and return a copy of this citation with payment to

Director of Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

2) If you contest this citation or proposed assessment of penalty, you must file a written request for a quasi-judicial hearing before the code official or designee within fifteen (15) days from the date of service of this citation A quasi-judicial hearing has been pre-scheduled for

7/13/99 @ 9:00 A.M. Rm. 116

At this hearing, you are entitled to be represented by an attorney, present witnesses and evidence, and cross-examine any witnesses against you. An attorney can be helpful to you by: (a) explaining the charges in this citation, (b) helping you at trial, and (c) helping you to get a fair penalty if found in violation

3) This pre-scheduled hearing will be canceled if you choose to pay the assessed penalty or if you fail to request the hearing in writing within the time required. Failure to contest the citation or proposed assessment of penalty, if any, by either not paying the penalty or by not requesting the quasi-judicial hearing, shall result in the citation and its penalty becoming a non-appealable, final order of the code official. Failure to appear at the requested hearing will also result in the citation and civil penalty becoming a non-appealable, final order of the code official.

4) If you are the owner of the property, failure to pay the assessed penalty shall constitute a lien on the property and shall be collectible in the same manner and to the same extent as real estate taxes In addition, failure to correct the violation(s) shall result in appropriate judicial action for enforcement, including civil contempt, which could result in imprisonment.

I do solemnly affirm that the contents stated above are correct to the best of my knowledge, information and belief

5/26/99 — Donna Thompson

Date — Inspector's Signature

Citation must be served by 6/10/99

Detach and send the completed form below to:

Director of Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Citation Number: 98-6302

NOTICE OF INTENTION TO DEFEND

I hereby elect to stand trial before the code official or designee for the violation(s) charged in this citation

Date _____ Defendant (Please Print Your Name and Sign) _____

Address _____

PANEL BP1004M

TIME: 13:05:24 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 12/21/98
DATE: 12/28/98 GENERAL PERMIT APPLICATION DATA PDM 11:24:51

PERMIT #: B363057 PROPERTY ADDRESS
RECEIPT #: A374883 16535 YEOHO RD
CONTROL #: MR SUBDIV: 4100 NW BENSON MILL RD
XREF #: B363057 TAX ACCOUNT #: 0504035690 DISTRICT/PRECINCT 05 01
OWNERS INFORMATION (LAST, FIRST)
FEE: 10.00 NAME: CONAWAY, HOWARD H JR
PAID: 10.00 ADDR: 16525 YEOHO RD 21152
PAID BY: APP
DATES APPLICANT INFORMATION
APPLIED: 12/21/98 NAME: HOWARD H CONAWAY JR
ISSUED: 12/21/98 COMPANY:
OCCPNCY: ADDR1: 16525 YEOHO RD
ADDR2: SPARKS MD 21152
INSPECTOR: 05B PHONE #: 410-472-0033 LICENSE #:
NOTES: CM

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M

TIME: 13:05:29 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 00/00/00
DATE: 12/28/98 BUILDING DETAIL 1 PDM 11:25:45

DRC#
PERMIT # B363057 PLANS: CONST PLOT PLAT DATA EL PL
TENANT HOWARD H CONAWAY
BUILDING CODE: CONTR: SCHOATKA FARM SERVICES
IMPRV ENGNR:
USE SELLR:

FOUNDATION BASE WORK: INSTALL 1750LFT X 4FT STOCK FENCE ON FARM

CONSTRUC FUEL SEWAGE WATER

CENTRAL AIR
ESTIMATED COST
PROPOSED USE: FARM & FENCE
OWNERSHIP: EXISTING USE:
RESIDENTIAL CAT:
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:
1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

CODE ENFORCEMENT REPORT

DATE: 12/28/98 INTAKE BY: JMA CASE #: INSPEC: G. KIDD

COMPLAINT LOCATION: 16535 YEOHO Rd

ZIP CODE: 21152 DIST: 5

COMPLAINANT NAME: JOE Verret / CINDY FRANKEL PHONE #: (H) 771-4748 (W)

ADDRESS: 16548 YEOHO Rd ZIP CODE: 21152

PROBLEM: COMMERCIAL DOG KENNEL UNDER CONSTRUCTION - PERMIT FOR FENCE ONLY B363057 RESPOND ON/- 12/29/98

OWNER/TENANT INFORMATION:

TAX ACCOUNT #: ZONING:

INSPECTION:

REINSPECTION: 2/8/99 - Left message for Mr. Conaway to call me. [illegible] regarding obtaining "Holding Facility / Kennel" permit. See attached letter.

REINSPECTION:

REINSPECTION:

CO[redacted]E ENFORCEMENT REPORT [redacted] NCF

DATE: 12/28/98 INTAKE BY: JMA CASE #: 98-6302 INSPEC: [redacted] G. KIDD

COMPLAINT LOCATION: 16535 YEOHO Rd

ZIP CODE: 21152 DIST: 5

COMPLAINANT NAME: JOE Verret / CINDY FRANKEL PHONE #: (H) 771-4748 (W)

ADDRESS: 16548 YEOHO Rd ZIP CODE: 21152

PROBLEM: COMMERCIAL DOG KENNEL UNDER CONSTRUCTION - PERMIT FOR FENCE ONLY B363057 RESPOND ON/- 12/29/98

OWNER/TENANT INFORMATION:

TAX ACCOUNT #: ZONING:

INSPECTION: 12/29/98 - ISSUED STOP WORK # 109500, OBTAIN PERMIT FOR DOG KENNEL. CALLED COMPLAINTANT ABOUT RESULTS. [redacted] Grant Kidd GRANT KIDD

REINSPECTION: 1/19/99 - TALKED TO MR. CONAWAY, HAS ZONING HEARING, (1/28) CONVERTING TO FARM. RE-CHECK 1/29/99 Grant Kidd GRANT KIDD

REINSPECTION: 1/29/99 - HEARING [redacted] WITHDRAWN. DONNA THOMPSON HAS SAME CASE, [redacted] OWNER WITHDREW CASE. RE-CHECK 2/26/99. Grant Kidd GRANT KIDD

REINSPECTION:

RA1001B

DATE: 07/15/1999 STANDARD ASSESSMENT INQUIRY (1)
TIME: 15:14:35

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
05 04 035090	05	2-1	05-00	D	NO		07/07/99

CONAWAY HOWARD H,JR
CONAWAY MAI TUISK
16535 YEOHO RD

DESC-1.. IMPS7.378 AC NES YEOHO
DESC-2.. 3100 NW BENSON MILL RD
PREMISE. 16535 YEOHO RD
00000-0000

SPARKS MD 21152-3014 FORMER OWNER: KAUFMAN WILLIAM H

---------- FCV ----------			---------- PHASED IN ----------		
	PRIOR	PROPOSED		CURR FCV	CURR ASSESS	PRIOR ASSESS
LAND:	42,540	52,540				
IMPV:	140,870	145,890	TOTAL..	188,416	75,620	80,640
TOTL:	183,410	198,430	PREF...	2,540	1,270	0
PREF:	2,540	2,540	CURT...	185,123	74,040	80,640
CURT:	180,130	195,110	EXEMPT.		0	0
DATE:	04/99	07/98				

---- TAXABLE BASIS ----		FM DATE
99/00 ASSESS:	75,620	05/04/99
98/99 ASSESS:	80,640	06/05/98
97/98 ASSESS:	79,560	05/29/97

RA1001C

DATE: 07/15/1999 STANDARD ASSESSMENT INQUIRY (2)
TIME: 15:14:42

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
05 04 035090	05	2-1	05-00	D	NO		07/07/99

LOT....	BOOK.... 0000	MAP..... 0027	LOT WIDTH.....	.00
BLOCK..	FOLIO... 0000	GRID.... 0002	LOT DEPTH.....	.00
SECTION..		PARCEL.. 0214	LAND AREA..	7.370 A
PLAT..			YEAR BUILT.....	57

---------TRANSFER DATA--------		----------EXEMPT DATA----------	
NUMBER.....	123346	STATUS.....	
DATE.....	11/18/97	CLASS CODE.....	000
PURCHASE PRICE.....	229,000	STATE EXEMPT CODE.....	000
GROUND RENT.....	0	COUNTY EXEMPT CODE.....	000
DEED REF LIBER.....	12503	CURR STATE EX ASMT....	0
DEED REF FOLIO.....	0651	PRIOR STATE EX ASMT...	0
CONVEYED IND.....	9	CURR COUNTY EX ASMT...	0
TOT-PART TRAN IND.....	T	PRIOR COUNTY EX ASMT..	0
GRANTOR ACCT NO..	05-04-035090		

CRITICAL AREAS CODE	NEW CONST YEAR	CARD NO
		00998

------STRUCTURE-----	
CODE	SQ. FEET
	2580

ENTER-INQUIRY2 PA1-PRINT PF2-INQUIRY1 PF4-MENU PF5-QUIT PF7-CROSS REF

RA1001D

DATE: 07/15/1999 STANDARD ASSESSMENT INQUIRY (3)
TIME: 15:14:47

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
05 04 035090	05	2-1	05-00	D	NO		07/07/99

----------STATE----------		GEO CODE	N/A	LAND-USE
REC CREATE DATE..	10/23/92	81	NO	A
DELETE CODE.....				
DATE DELETED.....				
LAST FM DATE.....	05/04/99			
LAST FM TYPE.....	R			
PREV FM DATE.....				
PREV FM TYPE.....				

--------- COUNTY ---------	
LAST LOAD DATE...	07/07/99
PRIOR LOAD DATE..	06/22/99

STATE TAXABLE ASSESS	
99/00 ASSESS:	75,620
98/99 ASSESS:	80,640
97/98 ASSESS:	79,560

ENTER-INQUIRY1 PA1-PRINT PF2-INQUIRY2 PF4-MENU PF5-QUIT PF7-CROSS REF

RA1001B

DATE: 07/15/1999 STANDARD ASSESSMENT INQUIRY (1)
TIME: 15:13:56

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
05 25 045100	05	2-1	05-00	N	NO		07/07/99

CONAWAY HOWARD H,JR
CONAWAY MAI TUISK
16535 YEOHO RD

DESC-1.. [illegible] AC NES YEOHO
DESC-2.. 3000 W OF BENSON MILL R
PREMISE. 00000 YEOHO RD
00000-0000

SPARKS MD 21152-3014 FORMER OWNER: KAUFMAN WILLIAM H

FCV	PRIOR	PROPOSED	PHASED IN	CURR FCV	CURR ASSESS	PRIOR ASSESS
LAND:	700	700				
IMPV:	0	0	TOTAL..	700	350	9,200
TOTL:	700	700	PREF...	700	350	0
PREF:	700	700	CURT...	0	0	0
CURT:	0	0	EXEMPT.		0	0
DATE:	04/99	07/98				

TAXABLE BASIS		FM DATE
99/00 ASSESS:	350	05/04/99
98/99 ASSESS:	9,200	06/05/98
97/98 ASSESS:	9,200	05/29/97

RA1001C

DATE: 07/15/1999 STANDARD ASSESSMENT INQUIRY (2)
TIME: 15:14:00

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
05 25 045100	05	2-1	05-00	N	NO		07/07/99

LOT....	BOOK.... 0000	MAP..... 0021	LOT WIDTH.....	199.06
BLOCK..	FOLIO... 0000	GRID.... 0019	LOT DEPTH.....	.00
SECTION..		PARCEL.. 0261	LAND AREA..	1.750 A
PLAT..			YEAR BUILT.....	00

---------TRANSFER DATA--------

NUMBER.....	123346
DATE.....	11/18/97
PURCHASE PRICE.....	229,000
GROUND RENT.....	0
DEED REF LIBER.....	12503
DEED REF FOLIO.....	0651
CONVEYED IND.....	3
TOT-PART TRAN IND.....	T
GRANTOR ACCT NO..	05-25-045100

CRITICAL AREAS CODE	NEW CONST YEAR	CARD NO
		00998

----------EXEMPT DATA----------

STATUS.....	
CLASS CODE.....	000
STATE EXEMPT CODE.....	000
COUNTY EXEMPT CODE.....	000
CURR STATE EX ASMT....	0
PRIOR STATE EX ASMT...	0
CURR COUNTY EX ASMT...	0
PRIOR COUNTY EX ASMT..	0

------STRUCTURE-----

CODE	SQ. FEET

ENTER-INQUIRY3 PA1-PRINT PF2-INQUIRY1 PF4-MENU PF5-QUIT PF7-CROSS REF

RA1001D

DATE: 07/15/1999 STANDARD ASSESSMENT INQUIRY (3)
TIME: 15:14:11

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
05 25 045100	05	2-1	05-00	N	NO		07/07/99

----------STATE----------

REC CREATE DATE..	10/23/92
DELETE CODE.....	
DATE DELETED.....	
LAST FM DATE.....	05/04/99
LAST FM TYPE.....	R
PREV FM DATE.....	
PREV FM TYPE.....	

GEO CODE 81 N/A NO LAND-USE A

--------- COUNTY ---------

LAST LOAD DATE...	07/07/99
PRIOR LOAD DATE..	06/22/99

STATE TAXABLE ASSESS	
99/00 ASSESS:	350
98/99 ASSESS:	9,200
97/98 ASSESS:	9,200

ENTER-INQUIRY1 PA1-PRINT PF2-INQUIRY2 PF4-MENU PF5-QUIT PF7-CROSS REF

BALTIMORE COUNTY FENCE USE PERMIT
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVENUE, TOWSON, MD 21204

Permit No. B 363057
Receipt No. A374883

Fees: $10.00 Residential; $20.00 Commercial
Make checks payable to Baltimore County, Maryland --- PERMIT FEES ARE NON-REFUNDABLE

Type or print in ink:

Work Site Address 16535 YEDDO RD SPARKS 21152 Election District 5

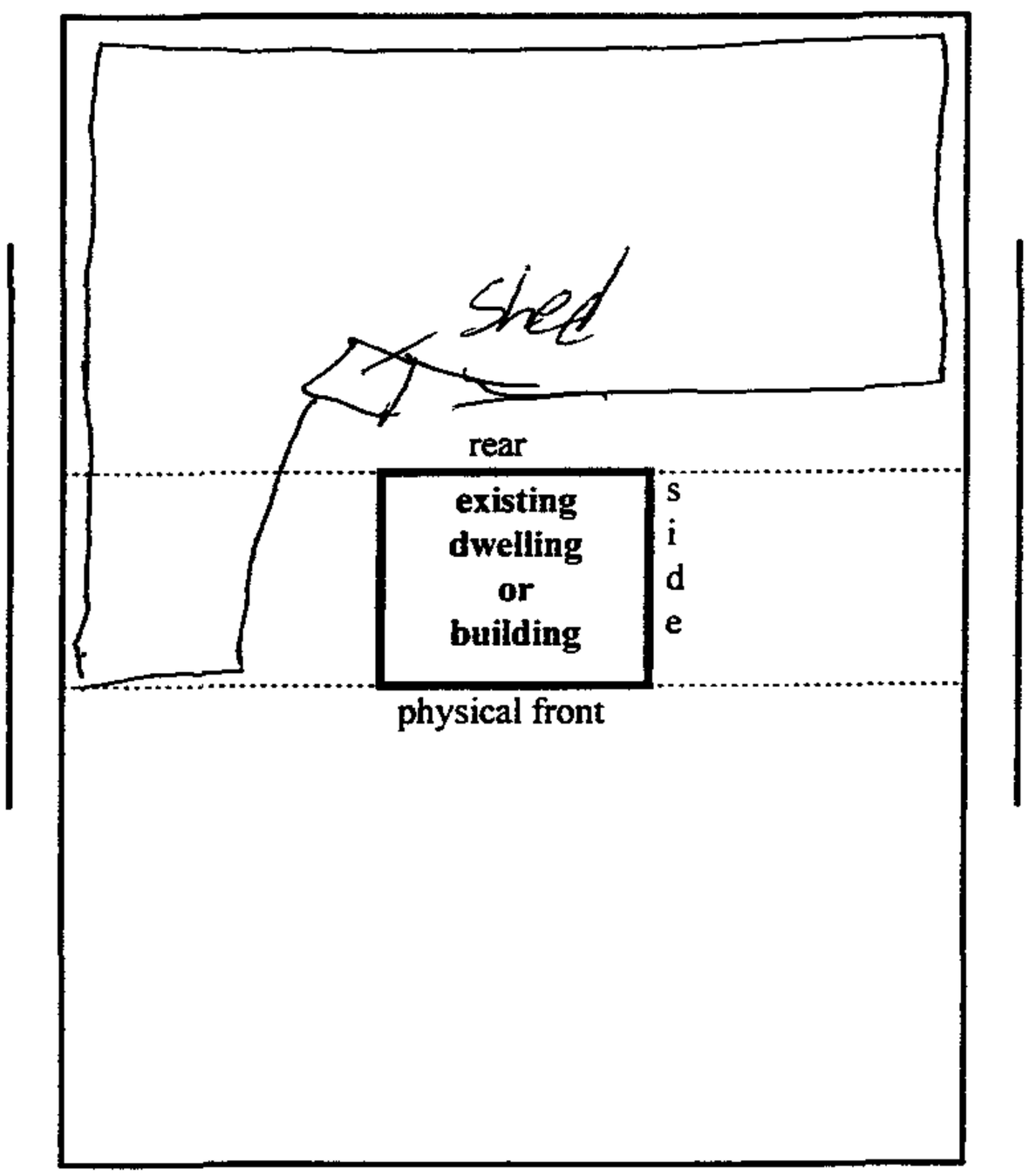
Owner's Name HOWARD H. CONAWAY JR. Phone No. 410 472 2653

Mailing Address 16535 YEDDO RD. SPARKS 21152 9504035090

Owner's Agent SHOATKO FARM SERVICES Phone No. 410-357-2759

COMPLETE BELOW OR ATTACH A PLAN THAT CLEARLY SHOWS: Corner Lot: Yes ☐ No ☒
Property line dimensions, easements, existing buildings, road names, and location of alleys. Historic District: Yes ☐ No ☒
Proposed fence location ~~(XXXXX)~~, total length 1750', height 47", and type STOCK.
Property line setbacks: front —, sides —, and _____, and rear _____.
Property use FARM. Rear/Side yard abuts adjoining front yard: Yes ☐ No ☒

SITE PLAN



Road Name _____

FENCE REGULATIONS

Permit is required for fences over 42 inches high (measured vertical to ground, even if fence is placed on top of wall). Fences erected within easement must be removed at owner's expense, if required.

Building Code, Section 509:

509.1 - Residential Fences -- Maximum height of 42 inches in front yard as determined by BCZR and 6 feet in side and rear yards at the property line. Maximum height of 10 feet in side and rear yards, provided set back 2 feet for every vertical foot over 6 feet.

509.2 - Commercial Fences -- Maximum height of 12 feet. Building's Engineer may approve higher fence for dangerous, hazardous, or athletic field. Electric and barbed wire fences are only permitted for the retention of livestock and when not a safety hazard to the public. No sharp projections less than 4 feet high. Barbed wire and other retarding material may be on top of fence that is at least 6 feet, 9 inches high.

Zoning Code (BCZR) (access easements cannot be fenced)

102.5 - Corner Lot -- No fence or other obstruction to vision is permitted higher than 3 feet within 25 feet of a corner of two streets, 15 feet of a street and alley, and 10 feet of two alleys.

427 - Residential Fences in side or rear yard which adjoins residential front yard (setback and maximum height): zero to 10 feet - 42 inches, 10 to 20 feet - 48 inches, 20 to 30 feet - 60 inches, and over 30 feet - no limit. Required pool fence and houses more than 200 feet apart are exceptions.

CERTIFICATION (OWNER/AGENT)

I have carefully read the above regulations and hereby certify that the proposed fence will be located on private property, will not violate the codes, and that the information supplied is true, complete, and correct.

H H Conaway Jr. _____ Date _____ Howard H. Conaway Jr.
Signature Print or Type Name

Authority under Section 500.4, BCZR **PDM APPROVAL** (FOR FENCE ONLY)

_____ CM 12-21-98
Signature Print Initials Date

Copies: White - Office; Yellow - Applicant

Rev. 3/98 APPLICANT - KEEP THIS COPY FOR YOUR PERMANENT RECORDS

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

DIRECTOR

BUILDING PERMIT

BUILDINGS ENGINEER

PERMIT #: B363057 CONTROL #: MR DIST: 05 PREC: 01
DATE ISSUED: 12/21/98 TAX ACCOUNT #: 0504035090 CLASS: 04

PLANS: CONST PLOT R PLAT DATA ELEC PLUM
LOCATION: 16535 YEOHO RD
SUBDIVISION: 3100 NW BENSON MILL RD

OWNERS INFORMATION
NAME: CONAWAY, HOWARD H JR
ADDR: 16525 YEOHO RD 21152

TENANT: HOWARD H CONAWAY
CONTR: SCHOATKA FARM SERVICES
ENGNR:
SELLR:
WORK: INSTALL 1750LFT X 4FT STOCK FENCE ON FARM

BLDG. CODE:
RESIDENTIAL CATEGORY: OWNERSHIP:

PROPOSED USE: FARM & FENCE
EXISTING USE:

TYPE OF IMPRV:
USE:
FOUNDATION: BASEMENT:
SEWAGE: WATER:

LOT SIZE AND SETBACKS

SIZE: 0000.00 X 0000.00
FRONT STREET:
SIDE STREET:
FRONT SETB:
SIDE SETB:
SIDE STR SETB:
REAR SETB:

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

January 31, 2000

Mr. & Mrs. Howard Conaway
16535 Yeoho Road
Sparks, MD 21152

RE: Petition of Howard Conaway, et ux
CCt Civil Action No. 3-C-11441
Code Enforcement #CC-98-6302

Dear Mr. & Mrs. Conaway:

We have received your check covering the cost of certified documents in the above-referenced case. Enclosed please find a copy of the receipt for your records.

Thank you for your attention to this matter.

Very truly yours,

Charlotte E. Radcliffe

Charlotte E. Radcliffe
Legal Secretary

Enclosure

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on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

January 5, 2000

BILLED TO:

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
305 West Chesapeake Avenue, Suite 113
Towson, Maryland 21204

*Cost of certified documents in Case No. CC-98-6302.....$46.00

(Petition for Judicial Review filed in Circuit Court
Civil Action No. 3-C-99-11441 /Howard Conaway, et ux)

Petition of: Howard H. Conaway, Jr. &
Mai T. Conaway
16535 Yeoho Road
Sparks, Maryland 21152

MAKE CHECK PAYABLE TO: Baltimore County, Maryland

REMIT TO:

County Board of Appeals
Room 49 - Basement
Old Courthouse
400 Washington Avenue
Towson, MD 21204

* PLEASE NOTE THAT THESE COSTS ARE SEPARATE AND DISTINCT FROM ANY AMOUNT PAID BY YOU FOR THE TRANSCRIPT.

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

Inter-Office Correspondence

TO: Arnold Jablon, Director
Permits and Development Management

DATE: December 29, 1999

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Certified Copies - Howard H. Conaway, Jr.
and Mai Tuisk Conaway
CC-98-6302
Petition for Judicial Review /CCT#3-C-99-011441

Please certify that the attached documents originated in your office and return packet to the Board of Appeals. The Board will forward the certified set of documents to the Circuit Court as part of the record of proceedings in this matter.

Thank you for your immediate attention to this request.

Attachments

Baltimore County
Department of Permits and
Development Management

Code Inspections and
Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmenforce@co.ba.md.us
pdminspect@co.ba.md.us

August 17, 1999

Howard H. Conaway, Jr.
Mai Tuisk Conaway
16535 Yeoho Road
Sparks, Maryland 21152

Dear Mr. and Mrs. Conaway:

RE: Case No. 98-6302, 16535 Yeoho Road

A review of the hearing log records maintained by this department indicate that on July 13, 1999, no quasi-judicial hearings before Raymond S. Wisnom, Jr. were recorded. Enclosed you will find a written summary of the testimony I presented to the hearing officer. These facts are being forwarded to the county Board of Appeals. Under existing legislation, the board hearing will be limited to the record of testimony presented to the code official, all exhibits and other papers filed in the code enforcement hearing, and the written findings and order of the code official. If you fail to supply the board with a written summary of your defense, what decision rendered will be based solely on evidence supplied by Baltimore County. If you elect to write to the Baltimore County Board of Appeals, their address is 400 Washington Avenue, Room 49, Towson, Maryland 21204.

Sincerely,

Donna Thompson

Donna Thompson
Code Inspections and
Enforcement Officer
410-887-3351, ext. 7295 (voice mail)

DT/kp
Enclosure

C: Howard L. Alderman Jr., Esquire, Levin & Gavin, Suite 113,
305 W. Chesapeake Ave., Towson, Maryland 21204

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND
InterOffice Correspondence

DATE: August 17, 1999

TO: Board of Appeals

FROM: Donna Thompson

RE: Statement of hearing for July 13, 1999, code violation case 98-6302

On July 13, 1999, I Donna Thompson testified that the property known as 16535 Yeoho Road was in violation of the Baltimore County Zoning Regulations. This property consists of two parcels of land (7.378 acres with improvements and a 1.759 acre lot, which is vacant). Both parcels are zoned R.C.2.

My first and only inspection was completed on March 17, 1999 with animal control. This was done for approval of a kennel license. On this day there were approximately seven dogs (French Bulldogs) in crates and a BullMastiff in the other portion of the basement with puppies. Outside were at least thirty goats.

This department sent the property owner a letter requesting that they file for a public hearing by May 11, 1999 to allow the kennel use at this site. By May 24, 1999, no application has been made.

Subsequently, a citation was issued and sent certified mail for failure to obtain a special exception for a kennel in a R.C.2 zone.

Donna Thompson
Donna Thompson
Code Inspections and Enforcement Officer

8/17/99
Date

DT/kp

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:		Howard H. Conaway, Jr. and Mai Tuisk Conaway Case No. CC-98-6302	
DATE	:	Tuesday, October 12, 1999	
BOARD /PANEL	:	Charles L. Marks Lynn Barranger Margaret Worrall	(CLM) (LB) (MW)
SECRETARY	:	Kathleen C. Bianco Administrator	
PURPOSE:		To deliberate Case No. CC-98-6302 /Howard H. Conaway, Jr., and Mai Tuisk Conaway -Owners /Appellants; limited appeal from decision of the Hearing Officer /Code & Enforcement Citation.	

Appeal from decision of the Code Enforcement officer; publicly deliberated due to land use issue involved.

The issue before the Board: interpretation of what is a "farm" - Appellant appealed the interpretation of whether or not the Appellant is using his property as a "farm" pursuant to the regulations. Noted that Board did not have recording of testimony before Hearing Officer (tape recorder was not operating; button had not been pressed down). Board used statements by parties.

Question is whether or not it is a farm - and if so, it is then in compliance with regulations, except for use of dogs. Board cited the Kahl case (Marzullo); discussed connection between heaving dogs, a kennel and a farm on R.C. 2 property.

Many dogs were housed in crates inside building; Board concluded that dogs were not ancillary to the operation of a farm; that the kennel and the farm use were mutually exclusive.

Reviewed contents of Hearing Officer's file, including correspondence from Carl Richards and Jun Fernando; repeatedly informed Appellant that special exception would be necessary; that if he did not agree with interpretation - special hearing could be filed to enable Zoning Commissioner to determine if interpretation was correct.

Discussed history of this matter; Board concluded that appropriate course of action would be for the Appellant to petition for a hearing to allow the zoning commissioner to make that interpretation by way of special hearing.

Standard of review to be applied by Board -- Did the Hearing Officer below have sufficient material to make a decision?

After further discussion, deliberation and review of all materials

Case No. CC-98-6302 7/13/99 -Final Order (and Addendum to Final Order) of the Code Official /Operating a kennel without required special exception. Property Owners to either (1) apply for required special exception or (2) reduce number of dogs. No civil penalties were imposed.

NOTE: NO RECORDED TESTIMONY OF HEARING OFFICER'S HEARING; RECORDER NOT OPERATED PROPERLY.

8/17/99 -STATEMENT OF HEARING FILED BY DONNA THOMPSON, CODE INSPECTIONS AND ENFORCEMENT OFFICER (Letter from Ms. Thompson to Howard Conaway and Mai Tuisk Conaway providing copy of her written statement; NO STATEMENT FROM APPELLANT AS OF DATE OF HEARING

8/23/99 -Notice of Assignment for hearing scheduled for Thursday, September 16, 1999 at 11:30 a.m. sent to following:

Howard L. Alderman, Jr., Esq.
Howard H. Conaway and Mai Tuisk Conaway
Mr. Joe Verret
Ms. Cindy Frankel
Lawrence E. Schmidt /Zoning Commissioner
Stanley J. Schapiro, Code Official /Hearing Officer
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney
Robert Loskot, Assistant County Attorney

9/16/99 -Board convened for hearing (Marks, Barranger Worrall); Entry of Appearance filed by J. Carroll Holzer on behalf of Protestants prior to hearing; denied by CBA at hearing; case is before the Board on limited standard of review per Section 1-7; hearing limited to argument by the parties; i.e., the Property Owner /Appellant and Baltimore County.

- Argument concluded; Mr. Alderman to file statement of testimony before Hearing Officer, should he desire to do so, by Friday, October 1, 1999. Deliberation to occur prior to October 16, 1999, with notice to be sent to parties.

9/21/99 -Notice of Deliberation sent to parties - scheduled for Tuesday, October 12, 1999 at 9:00 a.m. Copy to C.B.W.

10/01/99 -Summary of Testimony Before County Code Official filed by Howard Alderman, Jr., Esquire; copies sent to L. Barranger and M. Worrall this date by US postal; copy by hand to C. Marks.

10/12/99 - Deliberation concluded; hearing officer AFFIRMED by unanimous decision of the Board; Order to be issued within 15 days. Appellate period to run from date of written Order.

presented, Board unanimously concluded that, based on the facts in this matter, the dogs are not ancillary to a farm; Appellant needs a permit for a kennel.

Hearing Officer to be affirmed; written decision of the Board will be issued in 15 days pursuant to BCC; appellate period to run from date of written Order and not today's date.

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

NOTE: These minutes serve as verification that the subject case was publicly deliberated and will be included as part of the subject file; that the decision of the Hearing Officer was AFFIRMED. Written Opinion /Order to be issued within 15 days; appeals to be filed within 30 days of the date of that written Order.

Respectfully,

Kathleen C. Bianco

Kathleen C. Bianco

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
halderma@bcpl.net

January 13, 2000

Ms. Carolyn Peatt, Court Reporter
County Board of Appeals for Baltimore County
400 Washington Avenue
Suite 49
Towson, Maryland 21204

Re: Circuit Court Case No. 3-C-99-11441

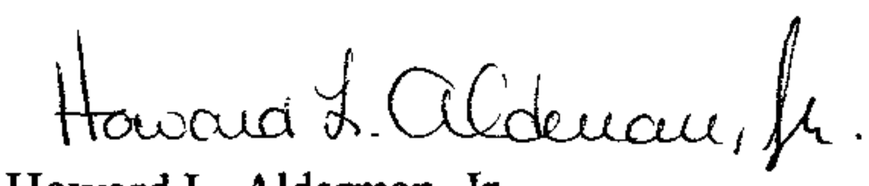
Dear Ms. Peatt:

On November 19, 1999, I filed a petition for judicial review of the Board's October 22, 1999 decision in the above-referenced case. As you know, there is a sixty day time period within which we must transmit the official record to the Circuit Court. It is my understanding that my clients, Mr. and Mrs. Conaway, have paid the Board's fee for certified copies of exhibits and have delivered to you the check necessary for the preparation for the transcript.

Since the deadline for delivery of these materials is fast approaching, I thought it prudent to write to you to determine if there will be any delay in your delivery of the transcript to Ms. Radcliffe and to me. If so, please let me know promptly as I will have to file a motion to have the time extended.

I hope this finds you well and I wish you and your family a healthy and Happy New Year.

Very truly yours,



Howard L. Alderman, Jr.

HLA,Jr./dmh
cc: Mr. and Mrs. Howard Conaway

526-5671

C:\WP\HLA\Conaway\ltr to peatt re crt ct appeal

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
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410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.
halderma@bcpl.net

September 29, 1999

RECEIVED
COUNTY BOARD OF APPEALS
99 SEP 29 PM 3:12

VIA HAND DELIVERY
Charles L. Marks, Chairman
County Board of Appeals for Baltimore County
400 Washington Avenue
Old Court House, Room 49
Towson, Maryland 21204

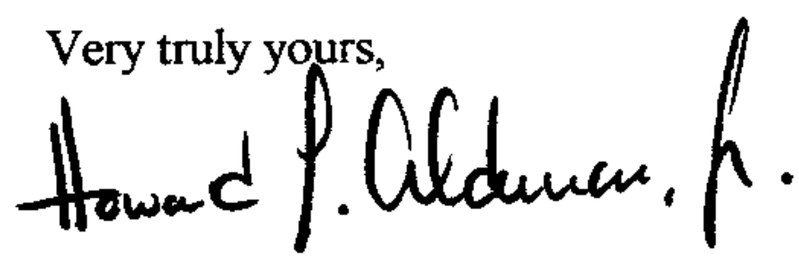
Re: Howard H. Conaway, Jr. et al
Case No. CC-98-6302
Summary of Testimony before County Code Official

Dear Chairman Marks:

At the recent hearing held on the above-referenced **limited appeal** to the County Board of Appeals for Baltimore County, you provided my clients, Mr. and Mrs. Howard H. Conaway, Jr., the opportunity to provide a written summary of testimony that was offered before the County Code Official. I am forwarding the enclosed summary to you, which was prepared using my notes taken during the conduct of the hearing before the Code Official and the notes taken by my clients. This information is being submitted in accordance with the verbal offer of the Board. The submission of the enclosed information in no way waives my clients' position that the issue pending on appeal is solely one of statutory construction. In addtion to reciting the evidence offered before the County Code Official on the construct of the relevant statutes, we have included a summary of testimony related to facts introduced into evidence before this Board by the County (written letter from Ms. Frankel).

Thank you for the opportunity to submit this information and should you or any member of the Board desire additional information, as always, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA,Jr./dmh
Enclosure
cc: Mr. and Mrs. Howard H. Conaway, Jr.
C. Robert Loskot, Assistant County Attorney

C:\WPWIN\HLA.LTR\Conaway\ltr to marks re summ of test

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

LAW OFFICES
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305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
TELECOPIER 410-296-2801

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.

Halderman@counsel.com

June 4, 1999

Mr. James H. Thompson, Chief
Code Inspections and Enforcement
Baltimore County Department of Permits
and Development Management
111 W. Chesapeake Avenue, Room 109
Towson, MD 21204

Re: 16535 Yeoho Road
Mr. and Mrs. Howard Conaway

Dear Mr. Thompson:

I am in receipt of a copy of your memorandum dated April 27, 1999 to Ms. Deborah L. Kendall, Processing Supervisor with respect to County License No. 172-F. In your memorandum, you asked Ms. Kendall to review a letter from you to Mr. Conaway dated April 27, 1999. I am also in receipt of a letter dated May 12, 1999 from Eugene A. Freeman, Chief of the Permits and Licenses Division, addressed to my clients, requesting that the referenced license be returned to Baltimore County.

You will recall that shortly after my receipt of a copy of your letter dated April 27, 1999 to my clients, I provided you written verification from the Baltimore County Department of Permits and Development Management, Development Processing Division, that so long as my client's property remains a *bona fide* farm, any dogs located thereon would "not be considered a kennel." The referenced letter was written in response to my request for zoning verification that dogs housed on a farm were not a "kennel" under the Baltimore County Zoning Regulations.

Since delivering that information to you, I have attempted to contact you by phone and have been unsuccessful in catching up with you. Therefore, I am writing to request that any zoning enforcement action be immediately dismissed and that the letter of recission on the above--referenced license itself be recinded. As I understand it, based on written and oral communications with your office, as long as my client's property is in farm use there is no basis for either action.

Upon your receipt and review of this letter should you need additional information, as always, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA/sjb
Cc: Mr. and Mrs. Howard H. Conaway, Jr.
Ms. Deborah L. Kendall, Processing Supervisor
Mr. Eugene A. Freeman, Chief
Ms. Donna Thompson, Inspector

Baltimore County
Department of Permits and
Development Management

Code Inspections and
Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmenforce@co.ba.md.us
pdminspect@co.ba.md.us

April 27, 1999

Mr. Howard H. Conaway, Jr.
16525 Yeoho Road
Glencoe, Maryland 21152

Dear Mr. Conaway:

Re: Case No. 98-6302, 16535 Yeoho Road, 5th Election District

On February 23, 1999, the County Board of Appeals ordered that the petition filed in Case No. 98-247-XA is withdrawn and dismissed without prejudice and that the Zoning Commissioner's Order of March 31, 1998, including the relief granted therein, is rendered null and void. Therefore, if four or more adult dogs are housed on 16535 Yeoho Road, by zoning definition, this activity would constitute a kennel. With your property having a R.C.2 zoning classification, this use would only be permitted provided a special exception had been granted. Since the zoning commissioner's decision no longer stands, your property is now in violation of Section 1A01.2.C.2 of the Baltimore County Zoning Regulations based upon Inspector Donna Thompson's March 17, 1999 inspection. If you contend that the zoning laws are not applicable in this instance because one's property is in fact a farm, per Director Arnold Jablon, proof of this claim via a special hearing petition would be required.

By May 11, 1999, an appointment review date must be scheduled with Zoning Review (410-887-3391) to file the special hearing petition. Failure to undertake this action will result in the issuance of a citation imposing monetary fines of $200 per day. Finally, code enforcement has notified the Bureau of Miscellaneous Permit Processing that we are withdrawing our original March 17, 1999, approval of your fancier kennel license (No. 172-F) under Title 6, Section 6-8 of the Baltimore County Code.

If further questions remain, please contact this office at 410-887-3352.

Sincerely,

James H. Thompson
Code Inspections and
Enforcement Supervisor

JHT/hek
c: Inspector Donna Thompson

Printed with Soybean Ink
on Recycled Paper

BOA limited to record below which is only the file due to a lack of an audio recording. Thanks to Mr Alderman who submitted the entire file into evidence.

As I went through the file I notice that the Conways obtain their agriculture use as a transfer with they purchased the property from Mr. Willliam Kaufman. There was no real proof that Mr. Conway actually produced the documentation that these goats produce the $2.5K /month requirement as per Maryland code Section 8-209, which Mr. Alderman brought up to us. But this issue is not for us to decide.

Mr. Alderman brought up that under Bill 88-90 Co. Code 4-260(c) after Aug. 13, 1967 all offices shall compile all existing policies rules and procedures within a year. Sec2-4-17(a) statement of any form including interpretation. His opinion was that this was never done. The BCZR regulations were written for the agency that is applying it and any *interpretation of the regulations, one needs to ask the agency utilizing it.*

To determine what happened below I reviewed the file and pulled out of P EX8, 9 and 10 plus a letter from J. Thompson dated Apr27,'99 (Review letters comments)

BCZR 500.7 Z.C. ..or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulatons.

HOLZER

& LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@MAIL.BCPL.LIB.MD.US

June 9, 2000
#7061

Kathy Bianco, Administrative Assistant
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Ave.
Towson, MD 21204

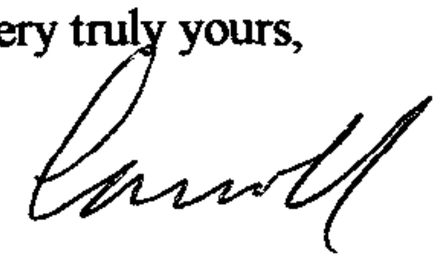
Re: The Matter of Howard Conoway, Jr.
16535 Yeoho Road, Case No. CC-98-6302

Dear Kathy:

As per our discussion today, I am enclosing a copy of Judge Daniels' signed Order as well as the transcript which relates to his reasoning for reversing the Board as to my client's participation.

As I indicated today it may prove to be of some assistance to the Board in future cases.

Very truly yours,



J. Carroll Holzer

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COUNTY BOARD OF APPEALS
00 JUN 12 AM 11:57

C:\My Documents\Letters\Kathy Bianco - Cindy Frankel.doc

HOLZER

& LEE

LAW OFFICES
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J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

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508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX. (410) 825-4923
E-MAIL. JCHOLZER@BCPL.NET

August 30, 1999
7061

VIA FAX 410-887-3182
Kathleen Bianco, Administrator
County Board of Appeals
Old Courthouse, Room 49
Towson, Maryland 21204

Re: The Matter of Howard Conaway, Jr.
16535 Yeoho Road, Case No. CC-98-6302

Dear Ms. Bianco:

Please be advised that I herewith enter my appearance on behalf of my clients Concerned Citizens of Sparks-Glencoe, Melissa and Hugh Bailey, Marlene Siegel and Cynthia Frankel. I have also been notified that the County Board of Appeals has set this case in for a hearing on Thursday, September 16, 1999 at 11:30 a.m.

If you have any questions, you may contact me at 410-825-6961.

Very truly yours,

J. Carroll Holzer

JCH:clh

cc: Howard Alderman, Esquire
Concerned Citizens of Sparks-Glencoe

c:letters\Bianco-Frankel

RECEIVED
COUNTY BOARD OF APPEALS
99 SEP -1 AM 11:52

HOLZER

& LEE

LAW OFFICES
J. CARROLL HOLZER, PA
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December 28, 1998
7061

98 DEC 29 AM 8:19
BOARD OF APPEALS
COUNTY

HAND DELIVERED
Kathleen Bianco, Administrator
County Board of Appeals of
Baltimore County
400 Washington Ave.
Towson, MD 21204

Re: Case No. 98-247-XA
IN THE MATTER OF : HOWARD CONAWAY, JR., ET UX

Dear Ms. Bianco:

Inasmuch as the Petitioners have failed to date to forward an Agreement to the Protestants as agreed on the record before the Board, Protestants, Concerned Citizens of Sparks-Glencoe, et al. respectfully request that the above captioned matter be set before the Board to enforce the Agreement's terms and conditions as set forth on the record before the Board on November 18, 1998.

If the Board has any questions, please call me at 410-825-6961.

Very truly yours,

J. Carroll Holzer

J. Carroll Holzer

JCH:clh
cc: Howard Alderman, Esq.
Concerned Citizens of Sparks-Glencoe

FRANKEL AUTOMOTIVE GROUP

ROBERT E. FRANKEL · PRESIDENT

FRANKEL CADILLAC
LAND ROVER
201 Reisterstown Road
Baltimore, Maryland 21208
(410) 484-8800
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(410) 666-5300
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CADILLAC JAGUAR
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FRANKEL INSURANCE
AGENCY
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RECEIVED
MAR - 3 1998
ZONING COMMISSIONER

March 2, 1998

Commissioner Larry Schmidt
111 W. Chesapeake Avenue
Room 100
Towson, Maryland 21204

Dear Commissioner Schmidt,

I am writing to you because I am greatly concerned about the safety, health and general welfare of my sister Cynde Frankel, who has been a resident of 16548 Yeoho Road, Sparks Maryland for Eleven years.

Currently under consideration are plans for a breeding kennel to be located directly across from my sister's property. For your convenience I refer to Baltimore County Zoning case number 98-247-XA. The proposed Bulldog Kennel intends to house ten to twenty dogs for the purpose of breeding. Naturally these dogs will be in heat during their stay and I cannot begin to imagine the packs of stray and feral dogs that would be drawn to the intended sight; or the danger they may pose to the community. Due to the Topography of the Conaway property the location of the proposed exercise yard will be above Yeoho Road situated on an angle that will cause fecal matter and other infectious waste to erode down onto Yeoho Road. This Bulldog Kennel would be a health hazard to all the neighbors as its infectiousness grows and it becomes a trouble spot where germ carrying parasites breed.

The general health of the community is reason enough not to allow this breeding kennel to become a reality not to mention that this kennel would not be in keeping with the nature of the community. The community needs you to take into consideration all the inconveniences and disturbances that this kennel will cause to all the good neighbors who have lived happily in this community. All of the wonderful reasons that originally drew new residents and held onto the historical residents will be gone if this breeding kennel is allowed. Gone will be the esthetic country beauty, replaced by 20,000 square feet of 6ft high chain link fence that the Bulldog Kennel plans to install around the exercise yard. Gone will be the fresh smelling clean country air, replaced by the stench of wild dogs, dogs in heat, feces and the smell that accompanies infectious germ carrying, bacteria breeding trouble spots. Gone will be the country tranquillity and peaceful quiet nights, replaced by the sound of twenty dogs in heat, amplified by the howling and barking of unmentionable numbers of other dogs drawn to the area.

We appreciate your time and consideration in this matter and hope you can see how approval of this Bulldog Kennel would change the quality of life that my sister and her community hold so dear.

Sincerely,

Robert E. Frankel

Wayne T. Gardner
2201 Benson Mill Road
Sparks, MD 21152
410-472-4001

February 22, 1998

Zoning Commissioner
c/o Docket Clert Case 98247 XA
Zoning Office - Room 111
111 West Chesapeake Ave.
Towson, MD 21204

RECEIVED
FEB 25
ZONING COMMISSIONER

Ladies and Gentlemen:

I repectfully request that you reject the above referenced proposed zoning change.

I have just learned of the proposed zoning change. As I understand it, the petitioner is requesting the change to install a large commercial dog breeding kennel.

Since I live within 1/2 mile of the proposed site, I feel my family's peace, safety, and the property value of our home will be adversely affected by this proposed change. The area already has many homes that raise dogs, although on a much smaller scale than the proposed site, and these dogs create a great deal of noise which, at times, can be very annoying.

My greatest fear, however, is the danger to the community created, not by the breeding dogs themselves, but by the large number of wild dogs that will be attracted to the area by the scent of the breeding dogs in heat. The community already has at least one pack of wild dogs, and my family and I feel that other packs will be drawn to the area creating a real danger for adults, children, pets, and livestock in the area.

Since neither my wife or myself, nor any other family member can attend the zoning hearing on March 3, 1998, we request your consideration in rejecting this proposed zoning change.

Sincerely,

Wayne T. Gardner

February 23, 1998

RECEIVED
FEB 25
ZONING COMMISSIONER

Zoning Commissioner
c/o Docket clerk for Case #98247XA
Zoning Office
111 W. Chesapeake Ave., Room 111
Towson, Maryland 21204

Dear Commissioner:

We are writing to express our concern over the proposal of our new neighbor to establish a commercial enterprise in our neighborhood.

Our primary objection is that the proposed commercial enterprise is to establish a kennel. This neighborhood reminds me of the movie, 101 Dalmatians, in which the dogs spread the alert about missing puppies. If one dog starts barking, it starts a chain reaction up and down Yeoho and across Benson Mill Road. Since everyone around us seems to have at least one dog, possibly as many as three, it is a rare night that we don't wake up hearing the barking--even after all the time we've lived here. I shudder to think how much the noise would increase if there were a kennel with 10 runs up the street.

The establishment of a commercial facility in this residential community is inappropriate. It should be put either where there is little effect on a community or in a commercial setting. After the strict zoning enforcement of the county farms and the Governor's restrictions on development we again feel a facility, as proposed, to be inappropriate.

I have been involved with development projects and do not understand why a variance was not requested prior to purchase.

In closing, we ask that you not allow this request for a zoning change. We love our home and our neighborhood and don't want to see them harmed by a commercial kennel.

Sincerely,

Paul D. Knott

16540 Yeoho Road
Sparks, Maryland 21152
February 15,1997

RECEIVED
FEB 25
ZONING COMMISSIONER

Zoning Commissioner
Zoning Office
111 W. Cheasapeake Avenue
Towson, Maryland 21204

Dear Zoning Commissioner:

Unfortunately I cannot attend the March 3 zoning hearing for case 98247XA because I will be on a trip that was arranged months before the zoning notice was posted. Since I am unable to be present at this hearing, I am conveying to you in writing my strong opposition to the special exception and variance proposed for the property known as 16535 Yeoho Road.

My home is situated directly opposite this property and portions of the two properties are less than 200 feet apart . In fact, the houses near this property are similar to those found in any nice residential area. As a result of this closeness, the proposed special exception and variance changes would provide severe disruption to the lives of my neighbors and myself. Although many people in the area have one or two dogs as pets, the substantial number of dogs that wil be boarded and allowed outside in the runs and the accompanying noise and odors will adversely affect the public welfare, health, and safety of the neighborhood.

The noise from the dogs would be incessant and disrupt the tranquillity of the community. Working in the garden, and sitting outside to read, eat, or relax would be impossible. Even the simple pleasure of opening the windows of the house would be denied to me. The denial of these pleasures would have a devastating effect on my quality of life.

Besides the noise factor, the stench of so many dogs relieving themselves outside would be extremely offensive. One of the benefits of living in my house is the clean fresh air that surrounds it. A kennel so close to my home would destroy this pleasure.

The proprietors knew the zoning rules before they purchased this property. However, before buying the property, they made no attempt to discover how their new neighbors would feel about having a kennel in their midst. Now, after purchasing the property, they want to change the use of the property in our community for their own interest, disregarding the impact it will have on their neighbors and the community. Since the petitioners knew that they wanted to have a kennel, they should have purchased the property subject to obtaining such change. The granting of the requested changes will be detrimental to the neighborhood.

I hope this letter has conveyed how upsetting and distressful this proposed zoning change is to my neighbors and myself and you will deny any changes to the present allowed use of 16535 Yeoho Road.

Sincerely,

Marlene B. Siegel

Marlene B. Siegel

2/23/98
8
TO GS
File now

Yeoho Valley Farm
16429 Yeoho Road
Sparks, Maryland 21152

Zoning Commissioner
c/o Docket Clerk for Case #98247XA
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Commissioner:

My husband and I presently live at 16429 Yeoho Road in Sparks. We purchased our house and acreage in 1977 especially for the agricultural zoning and the rural and peaceful setting. We reared three children who graduated from Hereford High School and presently are out of college and on their own. They appreciate coming home to visit and seeing the neighborhood as when they once lived here.

We understand that the new owners of 16535 Yeoho Road want to change the zoning to include a kennel and an exercise area and breeding facility for dogs plus a six foot chain link fence up to 20,000 square feet. The noise of barking dogs is not enjoyable and sound does travel across the acres. The only flat area for their chain link fence and dog run would be in the front of their house and this is clearly visible as one drives down Yeoho Road and looks toward that property.

My husband and I will be out of town for the March 3 hearing, but we would appreciate if this zoning variance would be denied.

Sincerely,

Mrs. Gene Swackhamer

Mrs. Gene L. Swackhamer

RECEIVED
FEB 23 1998
98-719

Samuel M. Nitzberg
Vicki R. Mermelstein
16803 Yeoho Road
Sparks Glencoe, MD 21152

February 21, 1998

Office of the Zoning Commissioner
Room 407
Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: Zoning Variance Request Case #98-247-XA

To whom it may concern:

This letter is to affirm our deep conviction that we are not in favor of the plans listed in variance request for 16535 Yeoho Road. We object to the plans for the following reasons:

1- The noise level that a projected dog kennel would produce would be disruptive to our neighborhood and to our home.
2- This is a residential community. The limited business in this area of Yeoho Road are all of the in-the-home nature, and for the most part are not visible from the road.
3- A variance to the zoning would inevitably lead to other business-related variance requests by the owners of the above listed property, as well as potentially by other property owners in the area. This would prove detrimental to the overall peaceful and agricultural character of this region of Baltimore County, which was the reason we moved here in the first place.

We strongly ask that you do not approve this variance request.

Sincerely,

Samuel M. Nitzberg

Vicki R. Mermelstein

Mon., 1-5-98
11:25

Item #247

I called Howard & informed him per WCR these petition forms cannot be used! Must use ours w/ seal, etc, etc. on them!

JOHN
HERE ARE THE "OFFICIAL" Petition Forms for Yesko Rd
Please call w/ any questions
Thanks Howard

98-247-XA

12/29/98

Cindy Frankel (410-627-6563 W
Myself 410-771-4748 H

23 minute conversation
stated Mr. Conaway does have a legal permit for a fence for a farm

informed Ms. Frankel that one of our inspectors is looking at the site today (Mark Cantrell) to see if it matches the permit - B363057

informed her of the Jan. 28, 1999 hearing date before the Board

Questioned whether she had contacted E.P.R.M., concerning clearing around the farm?

Ended discussion by telling Ms. Frankel to call back if additional concerns would develop.

C. H. Tyson

Deliberation - Conway

Code official defined "dog" as a "kennel"
- not land-based in any way
- not related to farm use in any way
- BC2 requires a SE for a "kennel"

* By Pet. explanation any farm could also have a "kennel" and raise dogs w/ons a SE
There is definitely a farm use - raising goats
- But not related in any way to their dog raising
- mutually exclusive

Issue of STATUTORY CONSTRUCTION
- what did lawmakers intend?

Issues

What is our standard of review?
Is there a fatal defect bc. of no tape?
- what happens if this is so? Rehead by code official?

Why not get a SE for a kennel?

Marzullo-
p.9 "land based" raising or keeping of animals
p.11 "commercial agric."
distinction provided in BCZR w/ specific provisions for breeding & selling of animals
p.18 "STANDBY Scheme"
p.19 "use of land"
* p.21 SECT. 600 BCC - zoning regs, the specific, or more restrictive, controls the general

CC-98-6302

(1)

Notes from File

July 13, '99 Hearing

Cynthia Frankel's testimony

Special Exception granted

Community Appealed

Agreement & Conditions were made & presented to the BOA by both parties

3 weeks later goats purchased - farm claimed and Special Exception W/Draw.

~~Stated~~ ~~Felt~~ that main purpose is by dog breeding business.

Show dogs housed in crates in the basement of house. Conways claim they are watch dogs for goats yet bark can only be heard in house

8/17/99

No Recorded testimony from hearing officer

Statement filed by Donna Thompson

Donna Thompson - testified

2 parcels 7.378 A w/ improvements & RC2

1.759 A vacant

1st & only inspection Mar 17, '99 done for approval of a kennel license

7 French Bulldogs in crates

1 Bull Mastiff w/ puppies in other part of basement

Sec 100.6 2/1A → @30 goats outside

Animal Code sent letter requesting they file for a public hearing by May 11, '99 to allow the kennel use at this site. May 24, '99 no application has been made

Citation issued - sent certified mail for failure to obtain a special exception for a kennel in a R.C.2 Zone

CC 98-6302

(2)

Appeal filed July 28, '99 by Howard Alderman for Conaway

accolade [redacted]bs.net - Conaway [redacted]ternet

16535 Yeoho Rd
Sparks, MD 21152-3014

Agricultural (Land Use)

Sec 100.6 - 2 ~~go~~ small livestock / per acre
A tract of land used for the accessory stabling and pasturing of animals which is not a commercial agricultural operation.

Sec 101 Agricultural, Commercial -
The use of land - to cultivate plants or raise or keep animals for income. Provided the land also qualifies for farm or agricultural use of assessment pursuant to Sec 8-209 of the Tax Prop. Article of the Annotated Code of MD.

(need RCX1) Rick Warner provided evidence that show property resembled kennel prior to a viable agr. use

"The kennel use does not appear to be an ancillary activity in that it does not originate from the primary agricultural use (the rearing of goats and assoc. animal husbandry practices) the perform no function relative to the goat herd and therefore are not considered ancillary or secondary to the principal agricultural operation.

See nothing wrong w/ 2nd letter
legal post-script

? of appropriateness of "farm" is present in the minds of the Appellants, the appropriate course of action would be in a request for special hearing

This order still does not allow a variance for fence for exercise area due to withdraw without prejudice have the effect of rendering the Z.C Order "null and void"

original falls on that agency that has to decide what they have claim policy

BCRR → interpretation BC Dept of Permit & Dev. Mgmt → if Petitioner doesn't like interpretation → Special Hearing

hasn't shown any evidence that their interpretation was arbitrary

BCZR
101, 102.1, 1A01.2C.2, 502, 421
RC2

CONWAY

- AS PER MD DEPT OF ASSESSMENTS & TAXATION AGRICULTURAL USE WAS TRANSFERRED WITH PURCHASE FROM MR. WILLIAM KAUFMAN. NO REAL PROOF THAT MR. CONWAY TOOK THE LEGAL STEPS

PEX 8 — BC DEPT OF PERMITS & DEV MGMT LETTER DATED JAN 11, 99 SUN FERNANDO
"IF THE SUBJECT PROPERTY IS USED AS A WORKING FARM, AND THE PROPERTY MEETS THE DEFINITION OF A "FARM" AND AS PER CARL RICHARDS, ZONING SUPERVISOR, THE DOGS ARE FARM DOGS USED ON A FARM ONLY, THEN THIS IS NOT A KENNEL AND IS PERMITTED AS A PART OF A FARMING OPERATION. OTHERWISE A PETITION FOR A SPECIAL EXCEPTION IS REQUIRED."

PEX 9 — LETTER DATED JAN 25, '99 SUN FERNANDO.
AMENDMENT & CLARIFICATION TO 1/11/99 DISCUSSION WHICH INCLUDED MITCHELL KREMAN AND CARL RICHARDS
"IF THE PROPERTY IS USED AS A FARM, AS DEFINED IN SEC 101 BCZR AND THE DOGS LIVING ON THE PROPERTY CONTRIBUTE TO THE EVERY DAY OPERATIONS OF THAT FARM (IE: GUARDING THE PROPERTY) THESE DOGS (WHICH MAY BE CORRECT THREE) MAY BE PERMITTED ON THE FARM. THEREFORE, THE FARM OR AMOUNT OF DOGS OVER THREE WILL NOT BE CONSIDERED A KENNEL. AS DETERMINED AND

AGREED UPON AT THE MEETING, THIS DETERMINATION IS BASED UPON PAST AND CURRENT APPLICATION OF THE BCZR RELATING TO DOGS ON A FARM.

EX 10 UNFORTUNATELY . . .

DOGS ARE ACCESSORY ONLY TO THE WORKING FARM, WE DO NOT INTERPRET THE USE AS A KENNEL.

SIMPLY STATED AGAIN, A FARM USE IS NOT A TICKET FOR UNLIMITED DOG USE WITHOUT A SPECIAL EXCEPTION. AS YOU WERE INFORMED AT OUR MEETING, IF YOU DISAGREE WITH THE ZONING STAFF, YOUR CLIENT HAS THE RIGHT TO PETITION THE Z.C FOR AN INTERPRETATION OF THE ZONING REGULATIONS.

(CARL RICHARDS LETTER JUNE 8, '99)

ADDENDUM TO THE FINAL ORDER OF DEPT OF PERMITS & MGMT

[redacted] PG 4 (HEARING ON 7/13/99 - DIVISION)

KENNEL USE DOES NOT APPEAR TO BE AN ANCILLARY ACTIVITY IN THAT IT DOES NOT ORIGINATE FROM THE PRIMARY AGRICULTURAL USE (THE REARING OF GOATS AND ASSOCIATED ANIMAL HUSBANDRY PRACTICES). THE DOGS ARE AN ENTITY UNRELATED TO THE RAISING AND BREEDING OF GOATS. THEY PERFORM NO FUNCTION RELATING TO THE GOATHERD & THEREFORE ARE NOT CONSIDERED ANCILLARY OR SECONDARY TO THE PRINCIPAL AGRICULTURAL OPERATIONS

APR. 27, '99 J. THOMPSON LETTER IN FILE

IF YOU CONTEND THAT THE ZONING LAWS ARE NOT APPLICABLE IN THIS INSTANCE BECAUSE ONE'S PROPERTY IS IN FACT A FARM,

PER DIRECTION ARNOLD JABLON, PROOF OF THIS CLAIM VIA A SPECIAL HEARING PETITION WOULD BE REQUIRED.

~~CBA~~ CC-98-6302 9/16/99

Howard Alderman - atty. for Conaway
C. Robt. Koskot - B. Cty. atty.
J. Carroll Holzer - Sparks - Glencoe

Alderman
Move to strike Holzer's appearance
appeal of civil violation
- must be parties to case to appear
- Holzer's owner & never have been
- B. Cty. v. Conaway
- no one else identified
- Holzer can't even intervene
- can't meet those requirements
Code official has authority to assess penalty
- citizen/violator is only one to appeal
- not a zoning case, nor parties below
- citizens have no standing
- person who testified below doesn't give them standing
Koskot - Cty. has no objection to H's appearance
Holzer Response
Anticipated motion
Hearing officer didn't record the testimony
- her testimony can be submitted
Below Code official used Frankel's testimony to form his opinion
Alderman's motion
- not exclusive to those below
- admins. / public hearing
- as such, law is clear as to who can participate

Morris v. Howard Research
— testimony was sufficient to be party
— plus other cases

CBA admin. hearings meant to encourage public participation
— can become a party
— not a judicial reviewing body
— Judge Elbridge
— threshold for party is low
— even personal appearance not required

General standard of law
— is there anything higher required? NO
SECT. 1-7 Code violation
— nothing that prohibits nor requires citizens a party

Cty. reacted to complaint by Zoning Dept.
— initiated by someone other than cty.
— person was Cynthia Frankel
Sect. 1-7(e)(2) official may compel testimony of witness
— interest & right to participate

2 yrs. ago - Conaways filed for SE 98-247
— granted in part
— appeal taken to CBA
— negotiations but never finalized

CBA Feb. 23, 1999
— petition dismissed by Conaways

Brought grats to property & claimed farm use
Z. C. did not accept

Snake Farm Case - p. 19 & 21 CBA opinion
(Mary Pat Marzullo)
Sect. 606 Charter -
- more restrictive controls over the general
CBA review is limited to record
- no additions or testimonies

Altman Response
CBA review is limited
- this case appellate
Sect 1-7(g)(4) - authority for Frankel letter
- we object
~~Sec~~ - "~~if a tran~~ in lieu of a recording, the violator & the code enforcer may present written testimony"
- code enforcement not here today
Holzer says participation not prohibited
- not relevant
- must show they are permitted
- must show standing
Morris v. Howard - zoning case, not applicable
- not what we have here today
- in zoning or admin. hearing don't even have to show up
- become a party
In appellate case, one does not become a party
- only parties present are Cty. & alleged violator
Snake case - did not involve same issues
Holzer's applicants have no authority to become parties

— stipe appearance & letters submitted by Holzer

Holzer Response

Code enforcement for zoning violation
- deliberation must be public bc it is a zoning case

Sect 1-7 - not a vacuum
- it is a zoning matter
- created by Ms. Frankel

Loskot

While technically comes by virtue of Cty. legislative action
- resulted from Frankel's complaint
- Frankel very much involved
- Cty. will move to include Frankel's testimony

I believe they have standing
- will be affected by result of case

Request CBA allow them to participate

Delib. — Marks

Appellate hearing
- not de novo
- limited by Code

Agree that citizens have right to complain
- But neighbors in wrong place here

Limited to record below
- case relative to use of land as farm or a kennel

In this case, right to be heard is before the Code official, not here

Ballenger - CBA limited in revision per Sect 1-7-5-4

Worrall - agree

Merits

Alderman

Record should be accepted as it has come up from below

Irregularities in this case
- Code official issued final order
  - then issued an addendum to final order
  - w/out violator's request
- Code official can't issue a change w/out request from violator

Clients charged w/ operation of a kennel

Sect. 101 p. 1-21 definition of kennel
- only applies to dogs
- used to house 3 or more dogs
  - incl. pets
  - except a "farm" or a pet shop

What's a farm?
- 3 ac or more
- used for commercial ag or resid. + ag. uses
- Record will show Conaways have 2 parcels = 10 ac.
- have 40± goats
  - Donna Thompson agreed

Comm. ag - definition
- use of land to keep animals for income providing also makes money
Sect. 8-209(g) less than 3 ac.
test must show income $2500 or more
- evidence uncontradicted below
Conaway property qualifies
- make more than $2500/yr. from goats
Asked Jablon for zoning verification
- can have dogs if a farm & they are "farm" dogs
- had mtg. w/ Cty -
- if they contribute to farm operation
incl. barking
- Jablon says dogs are protection
∴ are not a kennel
- didn't need special exception
Exh. 7-10 June 8, 1999 from Clare Richards
- sought to clarify Cty's position
- need to be "working" dogs
- no one can define
Code Official order
- farms entitled to exclusion from kennel definition
- dogs must be secondary to principal use
- based on an interpretation from 1967

Bill 88-90 - became 2-416-c
- City Council mandated
  after Aug. 13, 1990 - 91
- officials must compile all
  existing policies, rules & regs.
  - incl. a STATEMENT of
    INTERPRETATION

Error is relying on something not
codified as part. of regulations
- primary reason for Code Official's
  opinion
- had to be part of regs. to be used
  as interpretation

Code Official apologizes bc. he forgot to
turn on tape of proceedings
- if he had, would have Donna
  Thompson's cross-exam.

HOSKOT OBJECTS - Alderman can present
written testimony; not proffer his
detail of testimony
VIOLATION of SECT 1-7 § 41

ALDERMAN - doesn't say "shall" - says "may"
I'm merely giving oral argument -

Marks - you did have opportunity to see written from
Ms. Thompson - SUSTAINED

Alderman flips - if STATEMENTS from Thompson,
they came in <u>after</u> the case below closed

Overwhelming evidence that Conaways are
a farm -
- have 3 or more dogs in bldg. - yes
- excludes farm or pet shop

Final order of Code Official

- Conaway qualifies as farm

Cty. ignores the law
- applies non-existent regs.
- amend final order when they shouldn't
- conspiracy theory
  - improprieties occurred

Do they operate a kennel in violation of zoning regs?
- no need for SE
- bona fide farm use in RC2

LOSKOT

Code official determined SE needed
- evidence in record supports this
- Schmidt's statements can't hear dogs barking
- DEPRM letters - advisory
  - demonstrate DEPRM regs
  - relate to SE, which Conaways don't want

Definitions needed
- critical to case
- Alderman read "kennel," "farm," "comm. ag"
  - Dep Const. given by officials is contrary to "plain language" of regs

Comm. ag - use of land to cultivate plants or raise or keep animals for income
- must be land based
- CBA 97-494 SPH (snake farm) extensive testimony on farm + comm. ag.
  - incorporated land use

- violator not using land to raise showdogs
- Conaway using basement + proposed kennel + run to raise, breed, sell showdogs
  - not a "land-based" use

Cty. does not dispute that Conaways run a nice kennel
- But doesn't need land for this use
- not a farm when it comes to central question of raising showdogs
- ∴ it's a kennel
  - RC2 requires a SE

Code Official was correct in ~~[illegible]~~ saying SE is required

Subterfuge -
- Conaway sees loophole in regs.
  - obliterates distinction bet. farm & kennel
  - would allow any farm to raise dogs
  - But reg. make the two mutually exclusive

Code Official order
- addendum simply advises violator of his rights of appeal
  - no other charge
  - no irregularity

No evidence of any conspiracy

Conaways admitted they needed a
kennel license to maintain,
raise & breed show dogs
- now say they are farm
animals
Code Official had evidence before
him
- concluded Con. argument
was specious
- dogs do not contribute to
occupation as farm
- nor does the farm contribute
to raising of dogs.
- Conaway wants to exploit
farm use
- all dogs are farm dogs
In prior case, only farm if land-based
use -
It's a kennel in an RC2 zone,
requires SE
Code Official so found —

ALDERMAN

Farm use is raising goats for income
Fewer than 3 dogs, not an issue
If more & breeding dogs, & breeding occurs
on the "land," then has to meet the
definition of commercial ag.
But farm use, comm. ag., is breeding
of goats
- meets the comm. ag. definition
Code Official said dogs were not
a secondary use to goats —

- not what regs. say
- if you ~~are~~ have more than 3 dogs in RC 2, then you need SE

Except on a farm -
- if you qualify as a farm, you don't need an SE for a kennel

Doesn't make any difference whether dogs ~~a~~ bark or not -
~~wh~~ Way Cty. interprets was never codified
- rely on old letters

Farm + kennel mutually exclusive
- not a kennel if a farm

Agree land not used for raising show dogs -
- farm used for goats
- " " for residence
- And, then, there are dogs

If there's a "loophole," then must be changed by law + Cty. Council

Addendum to order - not germane, just an "irregularity"

Dogs do not have to be "farm dogs"
- ~~dogs~~ farm not defined
- no where does Code say dogs have to contribute to farm operation

W/out farm qualification, they would need a SE.
- farm use EXISTS

Ask CBA to reverse
- issue of STATUTORY construction

Code Official decision contrary to law,

outside of his authority based on interpretations never codified by Cty. Council.

KOSKOT

look @ snake case

- esp. w/ regard to CBA's analysis
- only difference is Conaway bought goats
  - not what he's making $ from
  - selling show dogs is real purpose
  - goats is attempt to meet def. of farm
- Kahl's property qualified as farm
  - but CBA held that breeding + selling pythons was not a land-based use

goats are not the purpose of property

- primary use is kennel operation
- if Board reverses Code Official, there is no ~~definition~~ differentiation bet. farm + kennel

CBA may not arbitrarily interpret language

- appears to be farm
- in reality a kennel operation
  - needs a SE

ALDERMAN

State of Md, etc. has determined my clients has a farm

- 40+ goats is a farm

Client also has more than 3 dogs

Kahl had only 4 principal use from snakes
- goats are primary use
- dogs are not a kennel
  - except w/out the goats

Farms are exempt.

Thanks

Issue 1 - fatal defect in order
Issue 2 - Is this a kennel or a farm?

Suggest a deferr bc. no taped transcript
will take in Frankel's letter
Alderman may submit any other
letters of testimony he so chooses
w/in 15 days -
Then delib. w/in next 15 days.

JULY 13, 1999 – CONWAY'S REQ'D SPECIAL EXCEPTION
COMMUNITY APPROVED
CONWAY W/DRAW SPEC. EXCEPTION AND UTILIZED
PROPERTY FOR GOATS W/ DOGS AS ACCESSORY.

PERSONAL OPINION

FOR RT A MAJOR DISADVANTAGE. DUE TO
THIS BEING AN APPELLANT CASE FOR A
CIRCULATION AND LIMITED TO RECORD
BELOW. MAJOR HANDSHIP W/OUT AUDIO CASSETTES
:. ALL OF TESTIMONY NOT

H. ALDERMAN BURNS STATES CLIENT DOES
UTILIZE DOGS AS A KENNEL BUT GOES
BEYOND

CC- 98-6302 (1) SEPT 16, 1999

HOWARD H. CONAWAY JR.

HOWARD L. ALDERMAN JR. -

ROBERT LOSKOT - CO. REP

J. CARROLL HOLZER - COUNSEL FOR PROTESTANTS

MOTION - TO STRIKE APPEARANCES

APPEAL ON CIVIL VIOLATION

ENTRY OF APPEARANCES AS IF PARTIES TO A CASE

MR. HOLZER CLIENTS ARE NOT PARTIES TO

CASE SINCE ACCORDING TO

STATUTE - BALTO CO. & VIOLATOR TWO PARTIES

CITIZENS HAVE NO STANDING HERE. TRUE

I REPRESENTED AS A WITNESS BUT NOT A

PARTY

R. LOSKOT NO PROBLEM w/ MR. HOLZER'S APPEARANCE

C. H SUBMIT

1-76 PERMITS SUMMARIES OF TESTIMONY

RECORDING DIDN'T OCCUR. ∴ SUMMARY OF

HIS TESTIMONY TO BE SUBMITTED. CODE

OFFICIAL UTILIZED HIS TESTIMONY IN DECISION.

S&S - MORRIS v. HOWARD RESEARCH & DEV. CORP - MD COURT OF SPECIAL

APPEALS. ANYONE INTERESTED IN OUTCOME BECOMES

A PARTY.

SUGARLOAF CITIZENS ASSOC. -

B.O.A - APPELLANT REVIEW BODY ∴ ADMINISTRATIVE

SEC. 1-7 NOTHING THAT PROHIBITS NOR REQUIRES THAT

PROTESTANTS OR CITIZENS CAN BE A PARTY.

ZONING VIOLATION - COMPLAINT REC'D FROM C. FRANKER

1-75.2 CODE OFFICIALS AND PROTESTANTS MAY

BY COMPELLED TO TESTIFIED. ∴ A PARTY.

CC-98-6302

SEPT. 16, 1999

(2)

C. HOLZER — 2 YRS AGO. CASE 98-247 GRANTED IN PART DENIED IN PART. APPEALED BY COM.

CONAWAY

FEB 3, '99 — PERMIT TO DISMISS PETITION DUE TO W/DRAWAL

UTILIZED PROPERTY AS A FARM W/ GOATS & UTILIZED DOGS AS

HEARING OFC. FOUND SPE

99-326 BARB COCHRANE DETITIONED GRANTED

MR. PAT MARSOLO — SNACKS FARM.

PG 19 & PG 21 OF B.O.A OF THOSE

UTILIZATION OF LAND FOR BENEFIT OF AGRICULTURE.

B.O.A.

H. ALDERMAN — B.O.A HAS LIMITED REVIEW ON

ORIGINAL — RECORDS NOT HERE TODAY

APPELLANT — MR. HOLZER 1.7(G)(4) TERMS

SEPT 13, '99 SIGNED CHAPTER TRANSCRIPT

SHOULD BE STRICTLY DUE TO B.O.A LIMITED AUTHORITY

IN LIEU OF RECORDING THE VIOLATION & CODE ENFORCER MAY PRESENT SUMMARIES. CODE NOT HERE. ∴

HEARING LIMITED TO RECORDS.

B.O.A NOT

SUFFICIENT STANDING

HEARD NOTHING INVOLVED TO A CIVIL VIOLATION, HOLZER TESTIMONY SUPPORTS ZONING CASES

STRIKES (1) APPEARANCE

(2) PATRONS

C. HOLZER — CODE ENFORCEMENT MATTER INVOLVING A ZONING ISSUE

B.O.A. NEEDS TO PUBLICLY DELIBERATE

R. LOSKOT — TECHNICALLY CASE COMES BEFORE BOA DUE TO REGULATORY ACTION.

CC-98-6302 (3) SEPT 16, 1999

R. LOSKOT + COUNTY MOVES TO SUBMIT C. FRANKOL'S TESTIMONY DUE TO ABSENCE OF TAPE.

REQUESTS C. WOLZEN

C. MARKS - HAS REVIEW ENTIRE FILE & RE THIS AN APPELLANT HEARING

SEC 1.7. SEC. 4

APPELLANTS HAVE RIGHT DUE TO HAND USE BUT THIS IS THE WRONG COURT TO RESOLVE THAT ISSUE

~~EDITING DECISION~~

COUNTY HAS ONLY VESTED THIS BODY TO REVIEW CIVIL VIOLATION - THIS STAGE LIMITED SOLELY & EXCLUSIVELY TO RECORD BELOW

P 1a
1B

SEC 1.7(G)(4) BOA LIMITED TO RECORD CREATED BEFORE CODE OFFICIAL

RECORD SHALL INCLUDE BUT NOT BE LIMITED TO THE RECORDING OF THE TESTIMONY PRESENTED, ALL EXHIBITS & OTHER PAPERS FILED IN THE CODE ENFORCEMENT

IN LIEU OF A RECORDING - THE LIEU OF A RECORDING THE VIOLATION & THE DIVISION OF CODE INSPECTION & ENFORCEMENT MAY PRESENT WRITTEN SUMMARIES OF THE TESTIMONY PRESENTED

DECISION OF BOA TO LIMIT & ACCEPT WRITTEN TESTIMONY NOT ORAL -

~~A. ADMINISTRATIVE~~

A 1 ENTIRE FILE SUBMI

CODE ORDER

1.7.E.3. AT CONCLUSION - A FINAL ORDER

CC-98-6302 (4) SEPT 16, 1999

H. ALDERMAN - C.O. MAY MODIFY OR ADOPT ORDER BUT A FINAL ORDER MUST BE SUBMITTED.

4 ISSUES

PRIMARY - OPERATION OF KENNEL

SEC 1.0.1 PG 1-21 KENNEL DEFINITION

3 OR 4 DOGS 4 MOS OR OLDER

FOR SHOW BREEDER FOR TRAIN OR PET STORE

SEC. TRACT 3 ACRES OR MORE

USED FOR AGRICULTURE

CLIENT HAS @ 10 ACRES W/ 2 PARCELS.

40 ± GOATS

DONNA THOMPSON STATED

SEC 1.0.1 PG 1-5 AGRICULTURE USE AS

SEC 8-209 AND STATE

SEC 8-209 (G) FARM 20 ACRES LESS

THAN

OWNER MUST SHOW INCOME $2.5K/MO

MD DEPT OF TAX ASSESSMENT QUALIFIES

UNDER SEC 8-209 (G)

PROPER WAS MADE BEFORE FOR A KENNEL

CLIENTS APPROACH WANTED ULTIMATE USE OF

FARM. WROTE TO MR. JABLON. FARM DOG DEF.

NOT LOCATED. HAD A MEETING W/ MR. JABLON

ABOUT DEFINITION. IF DOG USED FOR FARM

NOT A KENNEL

DISMISSED APPEAL FOR SPECIAL EXCEPTION

JUNE 8, '99 MR RICHARDS IN ZONING NO

LONGER JUST FARM MUST BE WORKING

DOG

SEE SERIES OF WRONG EXHIBITS 7-10

CC-98-6302 (5) SEPT 16, 1999

SUCH AN ~~EXEMPT~~ EXEMPTION

INTERPRETATION SINCE 1967 ABOUT WORKING DOG.

BILL 88-90 CO. CODE 4-260 (C) AFTER AUG 13, 1967 ALL OFFICES SHALL COMPILE ALL EXISTING POLICIES RULES & PROCEDURES W/IN 1 YR.

SEC 2-4-17 (a) STATEMENT OF ANY FORUM INCLUDING INTERPRETATION.

COMMENT THAT THIS WAS NEVER DONE CODE OFFICIAL

X-EXAMINATION OF DONNA THOMPSON

NO TAPES

R. LOSKOT 1.7-G.4 VIOLATION MAY PRESENT TESTIMONY

H. ALDERMAN ARGUING AGAINST TESTIMONY BELOW

R LOSKOT CO. HAS NO WAY TO CHALLENGE TESTIMONY PROVES ANYTHING CAN BE FABRICATED

C. MARKS BY PASS ARGUMENTS AGAINST TESTIMONY OF D. THOMPSON

H. ALDERMAN ~~[illegible]~~ DOGS DOES MATCH KENNEL DESCRIPTION BUT DOES BELONG.

CLIENTS HAVEN'T VIOLATED ZONING REGULATION DUE TO FARM USE BUT

R. LOSKOT 1.7.G.4 MOVES TO PERMIT SUMMARY OF WRITTEN TESTIMONY OF C FRANKEL AS TESTIMONY BELOW

H. ALDERMAN MUST BE JOINT AGREEMENT AS PER SEC 1.7(G)(4)

R. LOSKOT YES, NO JOINT AGREEMENT BUT D. THOMPSONS TESTIMONY WAS SUBMITTED INTO FILE AFTER DISCOVERY OF TAPES MISSING. MR ALDERMAN SUBMIT ENTIRE FILE ∴ PART OF EVIDENCE AND MR. SCHMIDT'S TESTIMONY SUBMITTED AS WELL.

CC-98-6302 (6) SEPT 16, 1999

R. LOSCUT SEC 1.7(G)(J)

"AND" ~~[illegible]~~ DOES NOT MEAN A JOINT REQUEST.

H. ALDERMAN THERE IS NO REASON FOR A REMAND THAT THIS IS A DEFINITION OF "LAW" IS THIS A KENNEL UNDER SPECIAL EXCEPTION OR IS THIS A WORKING FARM.

R. LOSCUT LETTERS FROM AGENCIES ARE FOR GUIDANCE NOT LEGAL OF LAW.

~~[illegible]~~ FARM & KENNEL MUTUALLY EXCLUSIVE.

FARM - COMMERCIAL AGRICULTURE -

USE OF LAND TO CULTIVATE PLANTS OR RAISING OF ANIMALS

MARK ~~[illegible]~~ PAT MARZULLO CASE

DEF. OF FARM & AGRICULTURE IS LIMITED TO LAND USE LAND NOT BEING USED TO BREED SHOW DOGS. THIS BASEMENT IS BEING FOR USED FOR THIS PURPOSE.

~~[illegible]~~

IF NOT A FARM IS A KENNEL - IN RC 4.4 CAN ONLY USE AS A KENNEL W/ A SPECIAL EXCEPTION ONLY DIFFERENCE BETWEEN FINAL AND ADDENDUM IS THE NOTE AT THE BOTTOM OF A RIGHT TO APPEAL.

CONAWAYS ADMITTED NEED FOR KENNEL LICENSE TO BREED & MAINTAIN SHOW DOGS NOW STATING FARM ANIMALS.

DOGS DOES NOT CONTRIBUTE IN ANYWAY TO FARM AND FARM DOES NOT NURTURE THE FARM.

IT'S A KENNEL IT'S IN RC2 ZONE AND IT NEEDS A SPECIAL EXCEPTION.

CC-98-6302 (7) SEPT 16, 1999

H. ADDIMAN FARM USE – RAISING OF GOATS
IF FEWER THAN 3 DOGS NON-ISSUE
IF 3 OR MORE & BREEDING THEN &
BREEDING OCCURS ON LAND AS A USE
OF LAND HAS TO MEET DEFINITION OF
AGRICULTURE USUAGE OR COMMERCIAL AGRICULTURE.
HEARING OFFICER SAYS DOG NOT A
SECONDARY USE TO FARM. IF 3 OR MORE
IS CONSIDERED A KENNEL EXCEPT ~~AS A~~ WITH
A FARM.
DEFINITION OF FARM & KENNEL IS MUTUALLY
EXCLUSIVE.

* LOOP-HOLE

LAND IS USED AS A RESIDENCE BALANCE
AS A FARM.
KENNEL LICENSE V. FARM
REVIEW DEFINITIONS. NO WHERE STATES HAS
TO BE FARM DOGS. CO. SAYS HAS TO
CONTRIBUTE TO USE OF FARM. NO WHERE
DOES IT SAY THEY NEED TO CONTRIBUTE.

ASKS TO REVERSE DECISION. STATUTORY LAW
CO. NOW ASKING THAT ANYONE W/A FARM
MUST REGISTER FOR A KENNEL.

R. LOSKOT

MARY PAT MARZULLO'S CASE A DIFFERENCE IS THAT
MR. CONAWAY BOUGHT GOATS AND PUT ON
LAND. AFTER W/DRAW OF SPECIAL EXCEPTION. COUNTY
FEELS INCOME IS FOR BREEDING, RAISING &
SELLING SHOW DOGS. – NOT PURPOSE OF USE
OF LAND

CC-98-6302 (8) SEPT 16, 1999

H. ALDERMAN - 40 PLUS GOATS IS A FARM. DOGS NOT NEGATED A FARM USE. MR. CULL ONLY HAS SNAKES IN BLDG NO ANIMALS.

C. MARKS B.O.A.

1) AMENDMENT FATAL DEFECTIVE

2) DEFINITION IS THIS A FARM OR A KENNEL.

PUBLIC DELIBERATION.

C#1 HOUSEKEEPING TAKING IN LETTER. GIVE MR. ALDERMAN OPPORTUNITY TO SUBMIT TESTIMONY - NEXT 15 DAYS.

(52) signatures opposed

CONCERNING CASE 98247XA WHICH IS A REQUEST FOR A SPECIAL EXCEPTION AND VARIANCE FOR THE PROPERTY KNOWN AS 16535 YEOHO ROAD, I AM STRONGLY OPPOSED.

NAME	ADDRESS	TELEPHONE NO.
R.E. Lunn	3 Singletree Ct.	357-4149
Mrs Alma Woolen	1 Snoopers Ct.	357-4284
EDWARD B. & JUDITH A. LORENZ	6 Singletree Ct	343-1347
Evelyn Aldrich	2 Singletree Ct, Parkton	343-1197
Matthew Aldrich	2 Singletree COURT, Parkton	410.343.1197
Barbara Collison	16702 SINGLETREE LN PARKTON	410 343 3557
James E. Bailey	16704 Singletree Lane Parkton MD	410 357 5068 21120
Philip Kenney	16706 Singletree Lane Parkton, MD	410 357-5208 21120
Peggy Royston	16708 Singletree Lane, Parkton, MD	21120
Barbara Sollers	2201 Mt. Carmel Rd. Parkton, MD 21120	410-357-8281
Newell T. Sollers	2201 Mt. Carmel Rd. Parkton, MD 21120	410-357-8281
Donna Flowers	16709 Singletree Ln. PARKTON Md.	21120
Raymond Lunn	3, singletree ct Parkton Md.	21120 410-357-4149
Buck + Chris Moran	5 Singletree Ct Parkton	21120 410 343 0316
Michael + Mary Nourk	2115 MT CARMEL PARKTON	21120
Austin M. Fisher	2121 Mt. CARMEL RD. PARKTON	21120
Mary Louise Fisher	2121 MT. Carmel Rd Parkton	21120
Allen Turnbaugh, SR.	3131 TRACEYS STORE Rd PARKTON,	21120

Lou Fischer Mt Carmel Rd. 2nd house on Rt. from Singletree
2nd driveway.

Duvall & Barbara Sellers Yellow house @ Singletree
& Mt Carmel

CONCERNING CASE 98247XA WHICH IS A REQUEST FOR A SPECIAL EXCEPTION AND VARIANCE FOR THE PROPERTY KNOWN AS 16535 YEOHO ROAD, I AM STRONGLY OPPOSED.

NAME	ADDRESS	TELEPHONE NO.
Richard Goldstone	16501 Yeoho RD	410 771-4485
Remi Goldstone	16501 Yeoho RD	410 771-4485
Marsha LeBrun	15701 Yeoho Rd	472-0218
Janice Lendak	15714 Yeoho Rd	472-9299
Undecided Donna Laughton	15716 Yeoho Rd	472-2925
Henry Lindgren	15807 Yeoho Rd	472-4581
Robert Lee Powell Sr.	15813 Yeoho RD	771-8238
Jean L. Powell	15813 Yeoho Rd.	771-8238
Sylvia Hughes	15807 Yeoho Rd.	472-4581
Kathi Thompson	15808 Yeoho Rd	771-4286
Y Okley (Daniel Green)	15719 Yeoho Rd	329-3695
P. [illegible]	2021 IDEL RD	771-4416
[illegible]	16400 Yeohowl	329-3121
Regina Eck	16316 Yeoho Rd	329-5217

Proposed Rinaldi at 16535 Yeoho Road.

	Name	Address	Telephone No.	Position
	Paul ~~Trent~~	16341		opposed
1. 7 prop.	PARKER SUTTON	16329 YEOHO RD	410-472-9413	opposed
2.	Eric A. DeVille	16309 Yeoho Rd	410-472-4175	opposed
3. 4.	EDWARD A. DEVILLE	16309 YEOHO RD	410-472-9262	OPPOSED
4.	Kelly Meehan	2318 Tracey Rd	410-771-4129	opposed
5.	Debbie Price	2315 Tracey Rd	410 472-2051	?
6. p.	Walter Fivitz	2130 Tracey Rd	410 472-2469	opposed
7	Doug Simon	16312 Yeoho Rd	410 329 3983	opposed
possibility	Paula Simon	16312 Yeoho Road	410-329-3982	OPPOSED
9.	Jack G. Rogers	16405 Yeoho Rd	410-771-4726	
property	Doug L. S. Lane	2220 Benson Mill Rd	410-472-4235	opposed
	~~Bo~~ Varner			
	Tenney			
Yes	STEVEN E. BARTENFELDER	2205 BENSON MILL RD	410-~~3~~329-5336	opposed
yes.	WAYNE T. GARDNER	2201 BENSON MILL RD	410-472-4001	
	Lydia Turnbaugh	2125 Benson Mill Rd	410 472 2824	opposed

GLORIA STEWART - 410-3
MS Sheats. Beg
Seeing the future of the dog
Board Lie on Proximity

Holy Cross

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
William G. Bonas	16521 Yeoho RD
Melissa Bailey	16534 Yeoho Rd
Hugh S. Bailey	16534 Yeoho Rd.
Charles L. Cassidy	16410 Yeoho Rd.
David W. Buck	16428 Yeoho Rd
Ann Buck	16428 Yeoho Rd
Janet Garrett	16321 Yeoho Rd.
Lilly Smith	16701 Yeoho Rd
Billy L. Bell	Sparks MD Yeoho Rd
Elaine Foster	16505 Yeoho Rd. Sparks Md.
Gary B. Foster	16505 Yeoho Rd.
Albert H. Perry	16515 Yeoho Rd
Jack G. Kamps Jr.	16400 Yeoho Rd
JACK G KAMPS SR	16405 Yeoho Rd
Harriet Kamps	16405 Yeoho Rd, Sparks. MD.
Elizabeth B. Kamps	16400 Yeoho RD.
ROBERT G BALLENGEE	16307 YEOHO RD
ELI RENN	16833 YEOHO RD.
CYNTHIA FRANKOL	16548 Yeoho Road
Joseph VERRET	16548 Yeoho Road
Dana Bailey	820 E. Belvedere Ave.
Carl E Bailey	" " "
Kathryn Bailey	4709 Ebenezer Rd.
Diana Noesche	1706 Oakmont Rd
Eileen Van Poppel	8 Cape Ct
Kathleen Frangiotti	8939 Kilkenny

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Elizabeth Schweitzer	16924 Yeoho Rd.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Howard H. Callaway Jr.	16535 Kerrhill Rd. 21152
Howard L. Alderman Jr Esq	315 W. Chesapeake Ave #113 Towson 21204

Printed with Soybean Ink
on Recycled Paper

Verified 1-500 for CCT Ow

Vaughn Kels

~~CBA~~ CC-98-6302 Exhibits

Protestants

id. A. Intervention of Cynthia Frankel, etc.
only B. Letter Sept. 13, 1999 from Cynthia Frankel
id. only C. Sign-in sheets

Baltimore City

A. Sept. 13, 1999 Letter from Cynthia Frankel.

Appellant

1. Complete file from below - (TO CCT CERTIFIED)
(Resp. Exh. 1-10)

1 IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY, MARYLAND
2

3 IN THE MATTER OF:
HOWARD H. CONAWAY, JR., ET AL.
4

5 CASE NO.
03C99-011441

6 _____/ Tuesday,
May 9th, 2000
7

8 REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
(***EXCERPTED TRANSCRIPT***)
9

10 BEFORE THE HONORABLE LAWRENCE R. DANIELS, JUDGE
11

APPEARANCES:
12

13 ON BEHALF OF HOWARD AND MIA CONAWAY:

14 HOWARD ALDERMAN, ESQUIRE

15

ON BEHALF OF BALTIMORE COUNTY:
16

DOUGLAS SILVER, ESQUIRE
17

18 ON BEHALF OF: CYNTHIA FRANKEL
MELISSA AND HUGH BAILEY
19 MARLENE SIEGEL:

20 J. CARROLL HOLZER, ESQUIRE

21

22

REPORTED BY:
23 DEBORAH K. LAMBERT
Official Court Reporter
24 401 Bosley Ave., M-08
Towson, Maryland 21204
25 (410) 887-2635

1 P R O C E E D I N G S

2 * * * *

3 THE COURT: Well, having reviewed the

4 file and having heard counsels' arguments, I will

5 address the issue of the right of the neighbors to

6 intervene.

7 First, Mr. Alderman makes a very tightly

8 designed and compelling argument for the -- to support

9 the position that citizens don't have a right to

10 intervene in this particular matter because it

11 involves the -- well, I suppose because it involves

12 the County's will to enforce its statutory and

13 political will in connection with what is an

14 underlying zoning issue.

15 And again, quite frankly, that argument

16 has some appeal on its face, especially when made to a

17 trial judge. I certainly don't think it would be

18 appropriate for a victim to tell me how much time

19 should be imposed as a jail sentence if I convict a

20 person of having injured the victim.

21 Certainly, that would set the criminal

22 system -- the criminal justice system on its head, if

23 in fact the victim would have the standing to object

24 to a Court's sentence.

25 But, when one looks into the issues in

1 this matter a little bit further, what we see,
2 basically, is a different dynamic, in terms of the
3 societal interests that are being vindicated.
4 In the criminal case we have the
5 society's interests to protect itself from criminal
6 behavior. And certainly, that process, by definition,
7 protects the individual citizens who may become the
8 victims of crime.
9 In land use cases -- and the underlying
10 issue in this case is a land use issue -- the societal
11 interests are a bit different.
12 We have, on one hand, the right of the
13 government to enact laws in this case, local laws that
14 affect land use by way of our zoning laws, and all of
15 the provisions that are multitudinous provisions that
16 are contained in those zoning laws.
17 But we note, and in fact, I believe, that
18 those zoning laws take into account the fact that,
19 unlike criminal law, land use involves politics, in
20 that there are often political issues involved in land
21 use, in terms of planning and implementation of zoning
22 rules and regulations.
23 And it seems to me that it is for that
24 reason that the citizens are allowed to participate in
25 these governmental processes, because what may be

1 politically expedient for the county executive, the
2 County Council, or the county government, may be
3 inimicable to the interests of the citizens who are
4 affected by the decisions made by these governmental
5 entities.
6 And it would seem to me that it is that
7 reason which the courts use in the plethora of cases
8 that Mr. Holzer has cited in his client's memorandum
9 for allowing citizens to intervene in the civil
10 proceedings, to give the citizens the right -- or the
11 opportunity, to vindicate what they believe their
12 rights are vis-a-vis what the county believes is not
13 only its right, but also what is politically expedient
14 at the time for the government agencies involved.
15 Now, Mr. Alderman brings up the dire
16 consequences of the Court finding that intervention
17 appropriate in this case, and says, what if -- what if
18 the County wants to prosecute me for not having
19 water-saving devices, can these people come into the
20 proceeding; and my answer would be yes.
21 If in fact they happen to be next-door
22 neighbors and the well, the water involved, is well
23 water, so that Mr. Alderman's usage of water affects
24 the six adjoining landowners that use and get the
25 benefit from their property because they draw water

1 from the same water table, then certainly they should
2 have standing to be involved in a civil -- in a civil
3 proceeding involving the County's right to enforce
4 laws that are on the books to protect them. I mean,
5 that's why the zoning laws are on the books, to
6 protect the individual landowners.
7 So it only makes common sense, and
8 certainly, again, it appears to be in tune with the
9 tenor of all of the cases sited by Mr. Holzer, to give
10 citizens the opportunity to, quote-unquote, help
11 government to come to a just decision which involves
12 them personally.
13 Obviously, Mr. Alderman is correct, to
14 the extent that if a person has no interest in the
15 issue they shouldn't allow -- they should not be
16 allowed to intervene merely as gadflies, someone who
17 just wants to have a soapbox to speak about a
18 particular issue.
19 In the case that we have just discussed,
20 or the example that we have just discussed regarding
21 Mr. Holzer's water, if everyone is on city water and
22 he is wasting water, really it doesn't have any
23 affect, his usage doesn't have a direct effect, even,
24 on his next door neighbor. Perhaps in that situation
25 they shouldn't intervene.

1 But when a citizen does have a direct and
2 substantial interest in a civil proceeding, whether
3 it's the County's establishing rules and regulations
4 like the zoning regulations, or enforcing them, it
5 would appear to me that the law in our state falls
6 clearly in favor of the interested, involved citizens
7 in having the right to attempt to vindicate their own
8 individual positions, and not to rely necessarily on a
9 county government, which is not only, admittedly, but
10 almost boastfully, political in nature from time to
11 time.
12 So I find that the County Board of
13 Appeals did in fact rule incorrectly in denying the
14 neighbors, the neighbors in question, the opportunity
15 to intervene.
16 The Court certainly, as both sides agree,
17 is required to give factual -- or to give deference to
18 factual findings made by these administrative
19 fact-finders, the hearing officer and the County Board
20 of Appeals, but the Court is not required to give them
21 any deference at all with regard to legal findings and
22 conclusions.
23 If in fact they -- these fact-finders
24 misapplied the law, it's the Court's responsibility
25 and obligation to step in and to correct the

1 misapplication. So I find in this case that the
2 County Board of Appeals did misapply the law in
3 denying the neighbors an opportunity to intervene in
4 the case.
5 So then we get to the actual underlying
6 issue, and that is, if in fact one has a kennel, which
7 is not properly zoned, can one legitimize that kennel
8 by commencing a farming operation. That's really the
9 issue in the case.
10 Mr. Alderman's policy is, he says that he
11 always represents himself as a -- I think his words
12 were a dumb, country lawyer.
13 MR. ALDERMAN: A poor, dumb, country
14 lawyer.
15 THE COURT: A poor, dumb, country
16 lawyer. Well, it's my policy, and it has been ever
17 since I was a shave tail captain in the Army JAG
18 Corps, to tremble in great trepidation when I heard
19 those words spoken by any lawyer, and to make sure
20 that I counted my fingers after I shook that person's
21 hand; in that, the lawyers who say that are generally
22 the most shrewd, and anything but -- or anything but
23 unsophisticated in their knowledge and practice of the
24 law.
25 And certainly, the Court has had the

1 pleasure of having Mr. Alderman before it on several
2 occasions, and I know that he, like Mr. Holzer, are
3 recognized, is recognized, as being a preeminent
4 zoning lawyer in Baltimore County.
5 In looking at Mr. Alderman's argument, he
6 does what a good lawyer attempts to do in terms of
7 taking the law, which is a construct, a whole, and to
8 try to break it down into its smallest and most atomic
9 parts, to show that it doesn't apply, as the whole
10 would appear that it should be applied, or would make
11 it be applied.
12 Quite frankly, I don't believe that there
13 is an ambiguity in the law as it stands. The law says
14 that one cannot have a kennel in an RC-2 zone except
15 for a farm and a pet shop.
16 Now, it seems to me that the two
17 exceptions speak volumes as to the meaning of the
18 law. So, why would one be allowed to have more than a
19 dog for -- more than three dogs if one owned a pet
20 shop? Well, it's simple. If you owned a pet shop
21 your business is to sell pets. Obviously, the dogs
22 are ancillary to the operation of the business.
23 Also, it would seem to me that that same
24 thought process, that analysis, applies to the
25 exclusion of a farm.

1 Now, everyone agrees that one could have
2 as many dogs as are necessary to herd sheep on a sheep
3 farm. However, can one have as many pets, that is,
4 pet dogs in a kennel, as one would like on a sheep
5 farm, if those dogs aren't herding sheep? I don't
6 believe so. It seems to me that then we have a
7 kennel, which, it does not comply with the exclusions,
8 or the spirit of the exclusions, and that is, that
9 they have some sort of ancillary -- that they have
10 some sort of ancillary meaning to the underlying
11 operation.
12 You know, we all know that junkyards,
13 which I suppose could be found on an RC -- which could
14 be found in an RC-2 zoning area, oftentimes junkyards
15 have dogs, and they have dogs for the purpose of
16 protecting the junkyard.
17 It seems to me that in crafting the
18 statute as it has, that the County Council has said we
19 are not going to let you have more than three dogs
20 even if you have a junkyard because if you are in an
21 RC-2 zone you don't -- you are not a farm, you are not
22 a pet shop, you can't have more than three dogs, even
23 if you zone a junkyard and they are ancillary to that
24 use.
25 The County Council still appears to have

1 carved out two very, very narrow exclusions from the
2 general prohibition against a kennel in an RC-2 zone,
3 and it's for those two very limited purposes; if you
4 have a pet shop or if you have a farm.
5 So accordingly, the law does not appear,
6 to me, to be at all ambiguous. The law is clear, in
7 that, if you have an RC-2 zone that you can only have
8 a kennel, if in fact the kennel is there for the
9 support of the use as a farm or the use as a pet shop.
10 So accordingly, I find that the County's
11 Board of Appeals did not commit error in upholding
12 Mr. Wisnom's (phonetic) finding that there was a civil
13 violation of the zoning laws by -- in the Conaways
14 maintaining their kennel on their property.
15 So accordingly, the Court does affirm the
16 Board as to its finding on the underlying issue, but
17 overturns the Board on the issue of intervention.
18 Mr. Holzer, who you be good enough to
19 draft an order that embodies the Court's ruling here
20 today?
21 MR. HOLZER: Yes, I will, Your Honor.
22 THE COURT: And for appeal purposes, the
23 appeal in this -- the period of appeal in this case
24 will not begin until I have signed the order, which
25 you will, or you should, of course, pass by counsel.

1 MR. HOLZER: I will send a copy to
2 Mr. Alderman.
3 THE COURT: Please pass it by
4 Mr. Alderman and by the County as well, the County's
5 attorney's office as well.
6 Thank you very much, Gentlemen, for your
7 participation here today.
8 MR. ALDERMAN: Thank you.
9 MR. SILVER: Thank you.
10 MR. HOLZER: Thank you.
11 (Whereupon, the proceedings were
12 concluded.)
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1 REPORTER'S CERTIFICATE

2

3 I, Deborah K. Lambert, an Official
4 Court Reporter of the Circuit Court for Baltimore
5 County, do hereby certify that I recorded
6 stenographically the proceedings In The Matter Of:
7 Howard H. Conaway, Jr., et al., Case Number
8 03C99-011441, on Tuesday, May 9th, 2000.
9 I further certify that the aforegoing
10 pages numbers 53 through 64 constitute the official
11 transcript of proceedings as transcribed by me to the
12 within typewritten matter in a complete and accurate
13 manner.
14 In Witness Whereof, I have hereunto
15 subscribed my name this 9th day of May, 2000.
16
17
18
19 Deborah K. Lambert
Official Court Reporter
20
21
22
23
24
25

may be amended only during a required public hearing proceeding on the petition. When a proposed amendment to such a petition is introduced, the hearing proceedings shall immediately be suspended, and, within two (2) business days thereafter, the hearing authority shall transmit a copy of the proposal to the director of planning and zoning, who:

(1) In any case where a petition has been exempted under provisions of subsection (i) of this section, shall promptly refer the amendment to any agency that he considers appropriate, together with a request that the agency provide him with comments on the amendment. Within forty-five (45) days after the amendment has been transmitted to the director of the office of planning and zoning, he shall transmit to the hearing authority a report on the amendment.

(2) In all other cases, the director of the office of planning and zoning shall promptly transmit copies to the members of the planning board. The director of planning and zoning shall also promptly refer the amendment to the office of the zoning commissioner and any other agency that he considers, upon reviewing files on the petition, to have an interest therein, together with a request that the agency provide him with comments on the amendment for distribution to the planning board, by a time he shall specify. Within forty-five (45) days after the copy of the amendments has been transmitted to the director of planning and zoning, the planning board shall adopt and transmit to the hearing authority a resolution embodying a report on the amendment.

(3) Any documentation that relates to the proposed use of the property upon petition and that is submitted by the petitioner or his authorized agent after the first public newspaper advertisement of the filing of the petition as required in Period I shall be considered an amendment to the petition, whether or not documentation of that nature was included within the original petition, and shall be subject to the provisions of subsection (m)(1) as well as this subsection.

(n) *Use of property.* Property may be reclassified under this section only upon making the findings required under subsection (j) of this section. Property may not be reclassified solely on the basis of documentation relating to the property's proposed use. However, any provision of section 26-122 of the contrary notwithstanding, if the petition to reclassify the property does include such documentation and is granted, the property may be used only in accordance with the plan included within that documentation; the zoning classification of any such property will revert to the previous classification unless, within three (3) years after the date of the final order granting the petition, the property is being used in accordance with the plan or, in a case where development is necessary to implement the plan, unless the development either is completed or has been substantially undertaken and is being diligently pursued to completion. The requirement that such a property be utilized in accordance with a plan and the provision that otherwise the classification of the property will revert will not be affected by the subsequent enactment of a zoning map, pursuant to section 26-124 or 26-125 of this Code unless the zone classification of the property is further changed by that map.

(o) *Considerations in making determination.* In its hearing on any zoning reclassification petition, the county board of appeals shall consider in evidence without testimony thereto, absent objection by any party to the case, any report of the planning board of comments from the director of planning and zoning or other officer of the office of planning and zoning relating to the petition or any duly submitted relevant report or comments from any other county agency. If an objection is made by any party to the case, the item shall be entered by testimony of a proper witness, who shall be notified by the board of appeals.

(p) *Special exceptions and variances.* The board of appeals, subject to the appropriate principles, standards, rules, conditions, and safeguards as set forth in the zoning regulations, shall have original jurisdiction for the purpose of hearing and deciding petitions for special exceptions and/or variances, the granting of which is dependent upon the reclassification of the property involved in the petition for reclassification. Such special excep-

Sec. 1-5. Continuing validity of preexisting transactions.

Any transaction affected by or flowing from any statute herein amended, repealed, or transferred by virtue of Code revision and every right, duty, or interest flowing therefrom, provided such is or has been validly entered into before the effective date of said Code revision, remains valid after the effective date of Code revision and may be terminated, completed, consummated, or enforced pursuant to law.
(Code 1978, § 1-4.1)

Sec. 1-6. Provisions construed as continuations of existing ordinances, etc.

The provisions appearing in this Code, so far as they are substantially the same as those of the local laws, ordinances, rules, and regulations existing at the time of the adoption of this Code, shall be construed as a continuation thereof and not as new enactments.
(Code 1978, § 1-5)

Sec. 1-7. Code enforcement.

(a) *Definitions.* As used in this section, the following terms have the meanings indicated:

(1) *Code* means the building, electric, mechanical, permits and licenses, plumbing, or livability code, or the zoning regulations, or any code, regulation, or standard administered by the department of permits and development management, as applicable.

(2) *Code official* means the director of permits and development management or his designee.

(3) *Final order* means the order issued by the code official: (1) upon the conclusion of the code enforcement hearing; (2) upon the failure of the violator to request a code enforcement hearing in a timely fashion; or (3) upon the failure of the violator to appear at a requested code enforcement hearing. The final order may include reasonable conditions as to the time and manner of correction and a requirement to reimburse the county for any fees or costs incurred.

(4) *Violator* means the person charged with a code violation.

(b) *Authority.* In addition to any other remedy allowed by law, the code official may enforce and seek the correction of a violation of the code in accordance with the provisions of this section.

(c) *Correction notice.* If, after inspection, the code official determines that a violation has occurred, he shall issue a correction notice to the violator directing compliance with the requirements of the code. The notice shall be in writing and shall describe with particularity the nature of the violation and the manner of correction. The notice shall be posted on the property, sent by first class mail, or hand delivered to the violator. The violator shall make the correction within the time required by the correction notice. An appeal is not permitted from the issuance or receipt of a correction notice.

(d) *Code enforcement citation.* If a violator fails to comply with a correction notice within the time allowed, the code official may pursue any authorized remedy. If the code official elects enforcement under this section, he shall issue a citation to the violator. The citation shall be served pursuant to the Maryland Rules of Procedure on a form prescribed by the code official. The citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the code provision alleged to have been violated, and include the civil penalty, if any, proposed to be assessed. The citation shall advise the violator that he has fifteen (15) days within which to contest the citation or proposed civil penalty by filing with the code official a written request for a code enforcement hearing. If the violator does not request a code enforcement hearing, the citation and civil penalty, if any, shall be a non-appealable, final order of the code official.

(e) *Code enforcement hearing.*

(1) The code official shall schedule a hearing to be conducted within thirty (30) days of the filing of the request. If the violator

fails to appear at the requested hearing, the citation and civil penalty, if any, shall be a non-appealable, final order of the code official.

(2) For good cause only, the code official may compel the attendance of witnesses or the production of documents by subpoena.

(3) At the conclusion of the hearing, the code official shall issue a final order. On the violator's written application to the code official within ten (10) days from the date of the final order, the code official may modify or amend the order.

(f) *Lien; repairs.*

(1) If a final order assesses a civil penalty which is not satisfied within the time allowed, the code official shall certify to the director of budget and finance the amount owed. The amount shall become a lien on the violator's property upon which the violation existed in the manner provided in section 1-7.1(b).

(2) Repairs or alterations ordered to a structure or premises shall be made in accordance with the procedures and provisions of the code.

(3) If a violator fails to comply with a final order, the code official may procure the performance of the work needed to correct the violation in accordance with the procedure authorized in section 1-7.1(b).

(g) *Appeal.*

(1) Within fifteen (15) days of a final order issued at the conclusion of a code enforcement hearing, a violator may appeal to the board of appeals.

(2) The violator shall file a petition to accompany the notice of appeal setting forth with reasonable particularity the grounds for the appeal, including the error committed by the code official in taking the final action, the relief sought, and the reasons why the final order should be reversed or remanded. The notice of appeal and the petition shall be filed with the code official, who shall then forward the file to the board of appeals. In addition to the required one hundred fifty dollar ($150.00) filing fee, if a civil penalty has been assessed, the person so affected shall post security in the amount of the civil penalty with the director of permits and development management in a form acceptable to the director. The security shall be transmitted by the director to the department of budget and finance. An appeal is not permitted unless each of these procedural requirements is satisfied. If, after all appeals are exhausted, the civil penalty is reduced or vacated, the security shall be reduced proportionately, and any surplus returned to the appellant and the balance used to satisfy the penalty. If not reduced or vacated, the security shall satisfy the penalty assessed and accrue to the benefit of the county.

(3) The appeal shall be heard in accordance with the rules of procedure adopted by the board of appeals.

(4) The board hearing shall be limited to the record created before the code official. The record shall include, but not be limited to, the recording of the testimony presented to the code official, all exhibits and other papers filed in the code enforcement hearing, and the written findings and order of the code official. The unavailability of a recording is not grounds for dismissal of the final order. If a transcription of the recording is requested by the appellant, the appellant shall pay the cost. In lieu of a recording, the violator and the division of code inspection and enforcement may present written summaries of the testimony presented to the code official.

(5) If the violator and the division of code inspection and enforcement agree that the questions presented for board review can be determined without an examination of the entire record, they may file a statement stating the issues and how they were decided, and setting forth only those facts or allegations that are essential to a decision of the issues presented.

The statement, any exhibits to it, and the final order shall constitute the record in the action for board review.

(6) In a proceeding under this section, the board may:

a. Remand the case to the code official;

b. Affirm the final order of the code official; or

c. Reverse or modify the final order if a finding, conclusion or decision of the code official:

1. Exceeds the statutory authority or jurisdiction of the code official;

2. Results from an unlawful procedure;

3. Is affected by any other error of law;

4. Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or

5. Is arbitrary or capricious.

(7) The board of appeals hearing shall take place within sixty (60) days from the date of the filing of the appeal from the final order of the code official. Any continuation of the hearing shall be concluded within thirty (30) days after the first hearing date, and any order of the board shall be issued within fifteen (15) days following the conclusion of the hearing.

(Bill No. 39-97, § 1, 6-6-97)

Sec. 1-7.1. Equitable relief.

(a) In addition to all other remedies provided by law, the county may maintain an action in any appropriate court for an injunction enjoining the violation of any provision of this Code relating to health, housing, fire, building, electric, licenses and permits, plumbing, animal control and zoning and requiring the restoration of any property, to the extent possible, to its condition prior to the violation, including removal of the source of the violation.

(b) The building's engineer, the zoning commissioner, the code official, the board of appeals or a court of competent jurisdiction may include in any order passed pursuant hereto that upon the failure of any property owner to comply with a final order to correct a violation within the time limited by the order, the director of permits and development management may procure the performance of such work by county employees or by contract to correct the violation, and the cost and expense of such work shall be certified to the director of budget and finance and shall be a lien on the property of the owner upon which the violation exists in the same manner as taxes, and shall be collectible in the manner provided for the collection of real estate taxes, except that such costs and expenses are to be considered as benefit charges and are not subject to any limitation. A county employee or contractor authorized by the director of permits and development management may enter upon any private lands for the purpose of correcting a code violation pursuant to an order passed hereunder, and no owner, occupant or agent shall obstruct, impede or harass such employee, or contractor or their agents or employees, in the performance of their work under this section.

(c) Upon notice to the property owner, the county attorney may correct or amend any citation or other document charging a violation under subsection (a).

(Bill No. 181-95, § 1, 12-28-95; Bill No. 46-96, §§ 1, 2, 1-1-97; Bill No. 39-97, § 3, 6-6-97)

Sec. 1-8. General penalties; continuing violations.

(a) Whenever in this Code or in any ordinance, law, rule, or regulation of the county any act is prohibited or is made or declared to be unlawful or an offense or whenever in such Code or ordinance, law, rule, or regulation the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance, law, rule, or regulation shall be punished by a fine not to exceed two hundred dollars ($200.00) or imprisonment for not more than ninety (90) days.

County Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

HOWARD L ALDERMAN JR ESQUIRE
LEVIN & GANN PA
305 W CHESAPEAKE AVENUE SUITE 113
TOWSON MD 21204

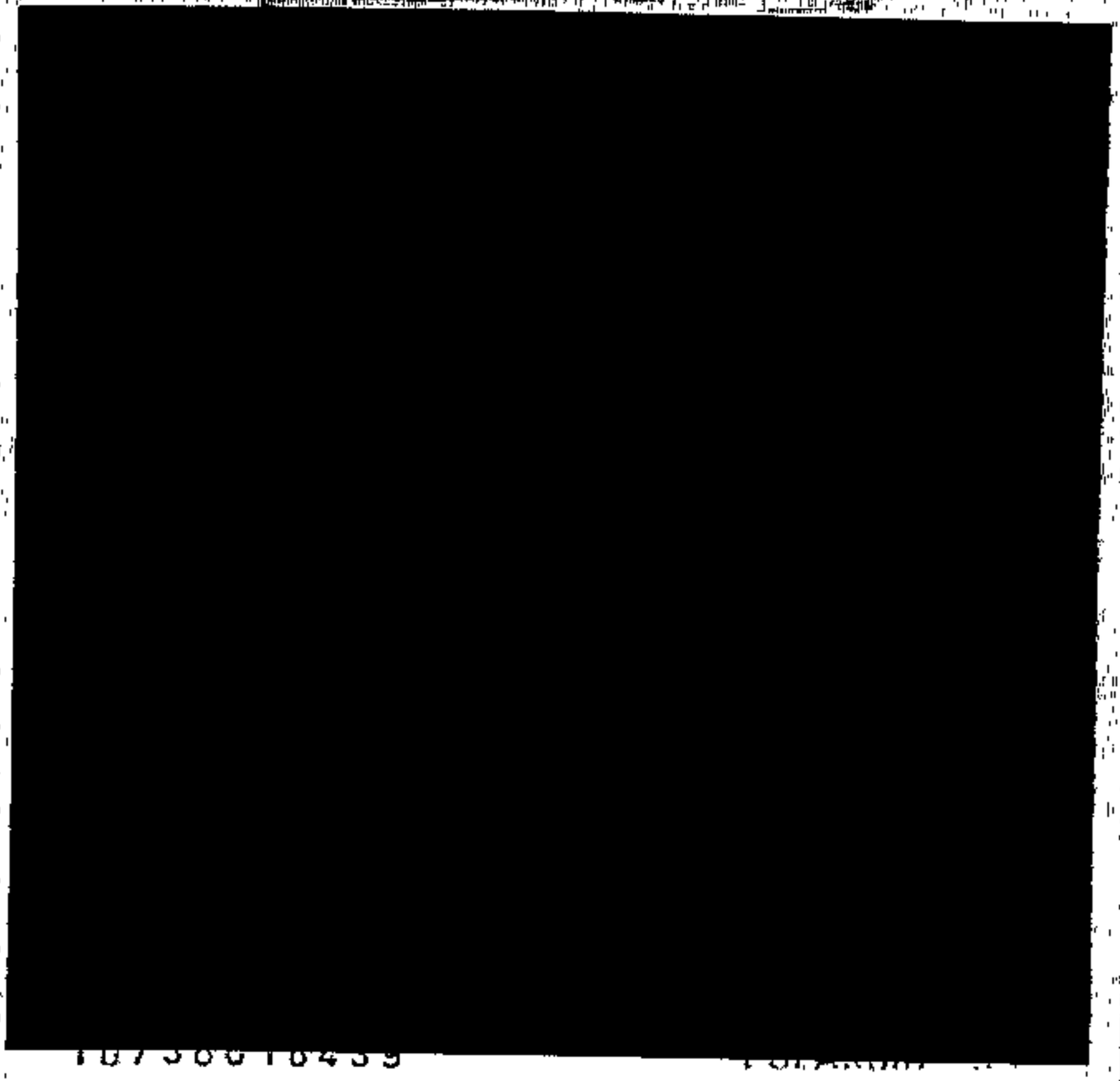
VIEW FROM Front door at
16534 Yeoho unto Kennel +
Chain link Fence + Bulldogs

10/360164 39

Photo #1 A

16534 PROXIMITY to Rd

32' – Kennel to be directly
ACROSS Rd – Sound resonates

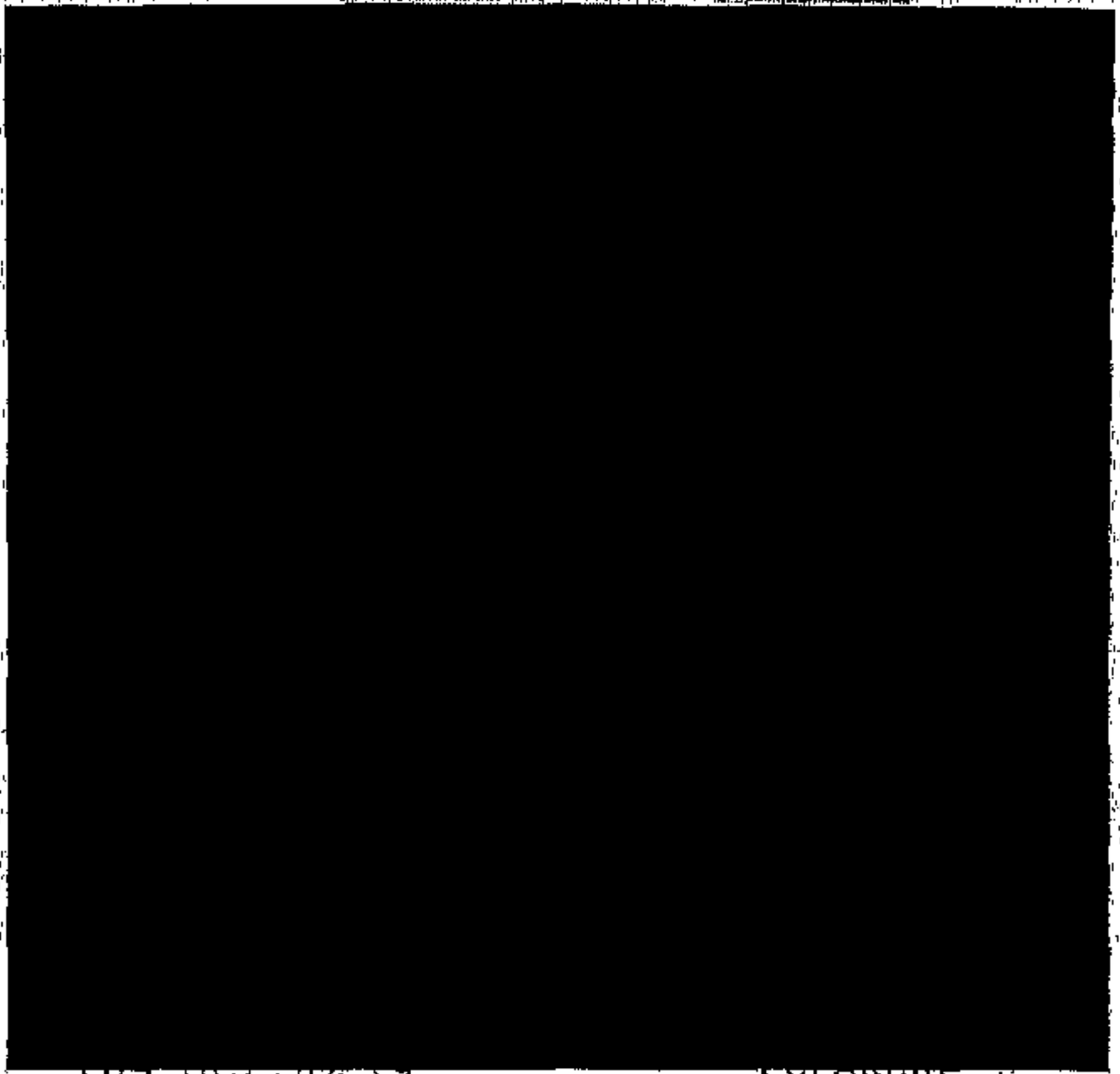


POLARIOD® 3 W

13

105 34 7 House

House
PROXIMITY to Rd +
Kennel - 32' FROM Home
to ROAD



POLAROID® 3 W

1C

View FROM property in Front of 16534 Yeoho looking up to Kennel + Fence + dogs

1E

16535

16535

Baltimore County Zoning Commissioner
Office of Planning
Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204

Photographs
Case #
98-247-XA
Prot. Ex. 1A-L
12 PHOTOGRAPHS

Printed with Soybean Ink

-Kennel- Fence

10736016439

Baltimore County
Department of Permits and
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Return Service Requested

98-247-XA
Pet. Ex. 2A-J
10 PHOTOGRAPHS

Printed with Soybean Ink

Refer to Gen Manager

Looking South, from gate
Toward Pecho Rd.

Pet 23

Looking East, 1886 gulley

Pl 2c

Pd 28

Treeline, bordering
Susquehanna Power property

Southern view towards
Yeeno Rd, Across field

Pd 2E

View of field from front of house

Pd 2F

backed, with Temporary facing.

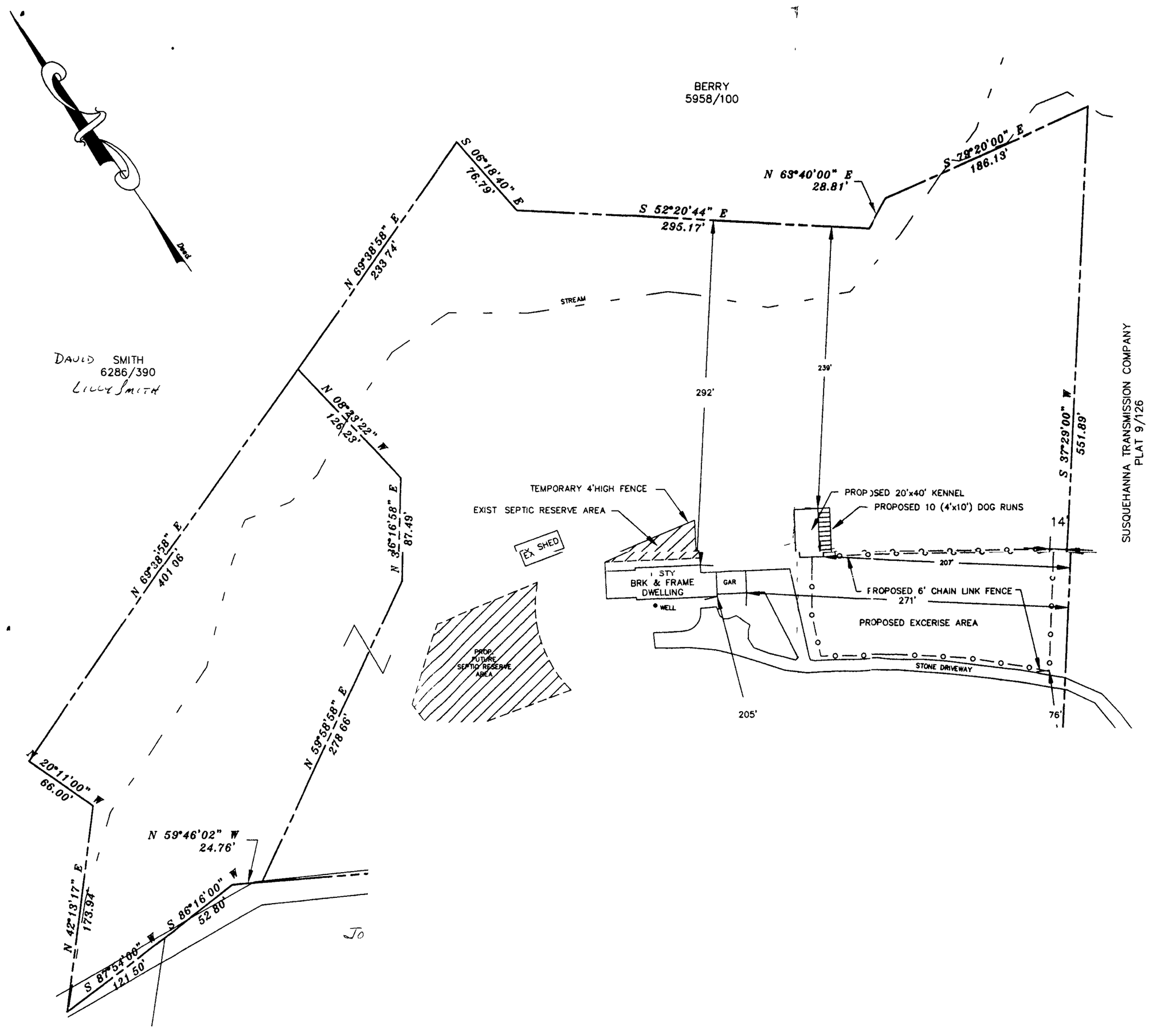
Ref 2G

Pd 21

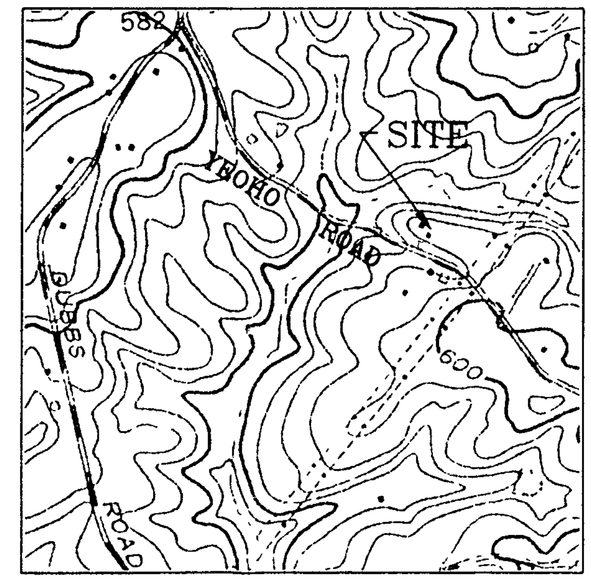
Chemistry Fair
1994

DRIVEWAY, YEOVIL RD.

Pat 2J



NOTE
THE PROPERTY LINES SHOWN HEREON WERE NOT DETERMINE BY A ACTUAL FIELD SURVEY AND REFLECT THE MOST PROBABLE CONFIGURATION AS THE DEEDS DID NOT MATHEMATICALLY CLOSE



VICINITY MAP
SCALE 1" = 1000'

BILL BONAS

SITE DATA:

1) OWNERS/APPLICANTS MR & MRS HOWARD CONAWAY
2) ADDRESS 16535 YEOHO ROAD
   BUTLER, MARYLAND 21152
3) DEED REFERENCES 5816/978 & 5985/623
   NOTE PROPERTY RECENTLY TRANSFERRED
4) ZONING RC 2
5) PREVIOUS COMMERCIAL PERMITS NONE
6) PREVIOUS ZONING HEARING, SPC OR WAIVERS NONE
7) FAR REQUIRED NONE
8) AMENITY OPEN SPACE REQUIRED NONE
9) ELECTION DISTRICT 5th
10) COUNCILMANIC DISTRICT 3rd
11) DATE DECEMBER 2, 1997

STATE OF MARYLAND
KENNETH JAMES WELLS
No. 22363
REGISTERED
PROPERTY LINE SURVEYOR

PERMIT AN EXERCISE AREA,
ITH A 6 FOOT FENCE AND
LINE

KENNELS AS PER SECTION

kjWellsInc
Surveyors & Site Planners
7403 New Cut Road
ngsville, Maryland 21087
410-592-8800

16535 YEOHO ROAD
SPARKS MARYLAND

PLAN TO ACCOMPANY A PETITION FOR A VARIANCE AND SPECIAL EXCEPTION

Billy & Edith Heath
410 472-4751

Vicky & Sam
Nitzberg
771-8131

Paul Bucci } Marlene
321-3151

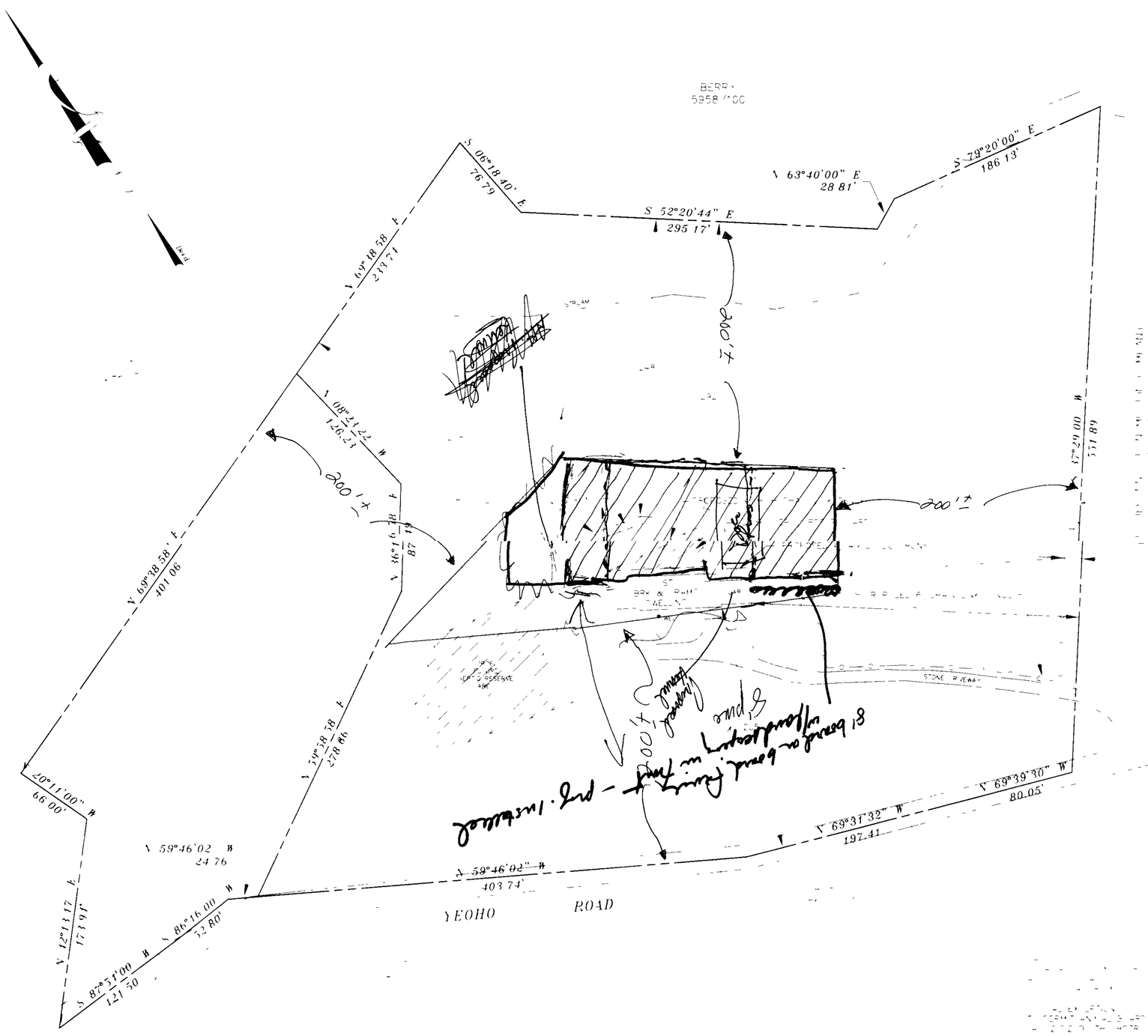
Bob Erlick

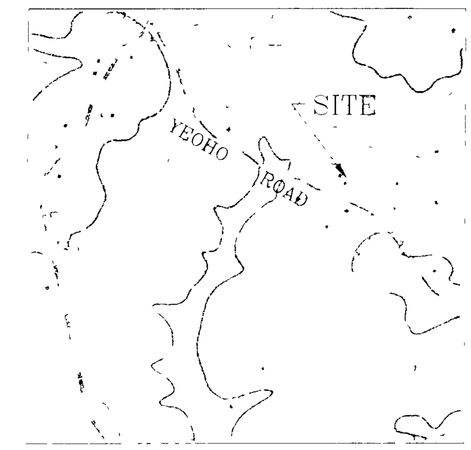
Remi Richard Goldstone
16501 Yeoho Rd
Sparks MD 21152
410 771-4485

Swakhammer-Marlene

J. Carroll Holzer P.A.
Howard & Mac Connell -
→ Alderman P.A.

Hearing Date
March 3 @ 2:00 P.M
Room 407 Courts Bldg.
401 Bosley
Towson, MD 21204





VICINITY MAP
SCALE 1 1000

SITE DATA

GRAPHIC SCALE

(IN FEET)
1 inch = 60 ft

kjWellsInc
Land Surveyors & Site Planners
7403 New Cut Road
Kingsville, Maryland 21087
410-592-8800

16535 YEOHO ROAD
SPARKS, MARYLAND

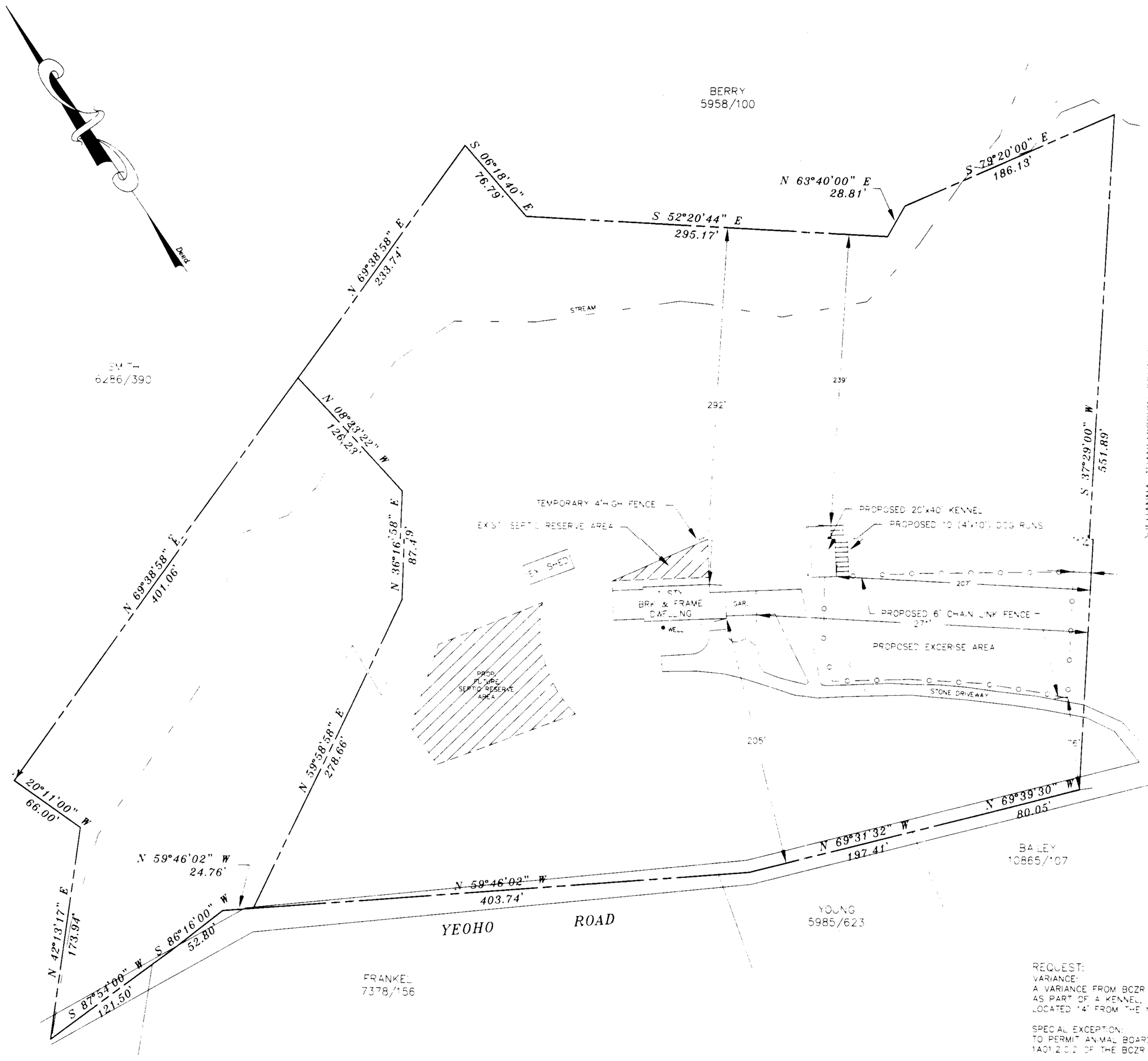
PLAN TO ACCOMPANY A PETITION FOR A
VARIANCE AND SPECIAL EXCEPTION

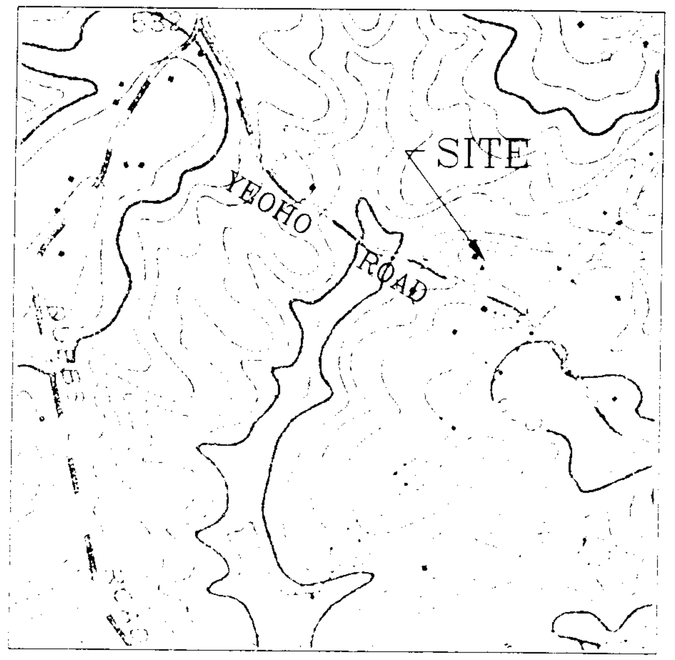
HEA 11/18/98

JFA 11/18/98

STATE OF MARYLAND ★ JAMES K. WELLS ★ REGISTERED PROFESSIONAL LAND SURVEYOR

Pet. Exh. #1





VICINITY MAP
SCALE: 1" = 1000'

16535 YEOHO ROAD
SPARKS, MARYLAND

SUSQUEHANNA TRANSMISSION COMPANY
PLAT 9/126

SITE DATA:

1) OWNERS/APPLICANTS: MR. & MRS. HOWARD CONAWAY
2) ADDRESS: 16535 YEOHO ROAD
BUTLER, MARYLAND 21152
3) DEED REFERENCES: 5816/978 & 5985/623
NOTE: PROPERTY RECENTLY TRANSFERRED
4) ZONING: RC 2
5) PREVIOUS COMMERCIAL PERMITS: NONE
6) PREVIOUS ZONING HEARING: ORG OR WAIVERS: NONE
7) FAR REQUIRED: NONE
8) AMENITY OPEN SPACE REQUIRED: NONE
9) ELECTION DISTRICT: 5th
10) COUNCILMANIC DISTRICT: 3rd
11) DATE: DECEMBER 2, 1997

STATE OF MARYLAND
KENNETH JAMES WELLS
No. 23648
REGISTERED
PROPERTY LINE SURVEYOR

REQUEST:
VARIANCE:
A VARIANCE FROM BCZR SECTION 421.1 TO PERMIT AN EXERCISE AREA, AS PART OF A KENNEL, TO BE ENCLOSED WITH A 6 FOOT FENCE AND LOCATED 14' FROM THE NEAREST PROPERTY LINE.

SPECIAL EXCEPTION:
TO PERMIT ANIMAL BOARDING PLACES AND KENNELS AS PER SECTION 1A01.2.C.2 OF THE BCZR

NOTE:
THE PROPERTY LINES SHOWN HEREON WERE NOT DETERMINE BY A ACTUAL FIELD SURVEY AND REFLECT THE MOST PROBABLE CONFIGURATION AS THE DEEDS DID NOT MATHEMATICALLY CLOSE.

GRAPHIC SCALE
60 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

kjWellsInc
Land Surveyors & Site Planners
7403 New Cut Road
Kingsville, Maryland 21087
410-592-8800

PLAN TO ACCOMPANY A PETITION FOR A VARIANCE AND SPECIAL EXCEPTION

98-247-XA